

**Written Comments on Protection of the Right to Life from the Moment of Conception in the  
General Principles Guiding Hungary's Constitution and the proposal of the constitution issued by  
Fidesz-KDNP  
March 2011**

**I. Introduction**

The Hungarian Women's Lobby and the Center for Reproductive Rights respectfully submit the following comments to esteemed members of the Hungarian Parliament for their consideration and deliberation on the "General Principles Guiding Hungary's Constitution" issued by the parliamentary committee responsible for drafting the Constitution<sup>1</sup> and the agreed upon language of the joint proposal of the constitution of Fidesz-KDNP published on 9<sup>th</sup> March 2011. The comments focus on the provision under the section Freedom and Responsibility, "Every person has the right to life and dignity, the life of the fetus deserves protection from the moment of conception."

The Hungarian Women's Lobby is a member organization of the European Women's Lobby whose mission is to achieve equality between women and men, to promote women's empowerment in all spheres of public and private life, including in the area of sexual and reproductive health and rights, and to eliminate all forms of violence against women.<sup>2</sup> The Center for Reproductive Rights is an international human rights non-governmental legal advocacy organization that provides international and comparative legal analysis on reproductive health –related issues to governments, inter-governmental bodies, including the United Nations and the Council of Europe and European Union, and to non-governmental organizations around the world.<sup>3</sup>

International and European national law and jurisprudence support the position that protecting life from the moment of conception, as a fundamental human right would interfere significantly with women's basic human rights. International and comparative standards recognize that the state interest in protection of prenatal life as a legitimate interest. This interest, however, must be pursued through proportionate means that give due consideration for the human rights of pregnant women. Hence, no country in Europe, extends any form of the right to life in their constitution from the moment of conception and only one constitution, Ireland's, grants the right to life prenatally. Czech and Slovak Constitutions are the only other Constitutions in Europe that have language recognizing prenatal life, but this language only states that human life is worthy of protection before birth and this protection is provided in a separate sentence from the provision granting the right to life, indicating its lesser value than the right to life. The remaining 44 other Council of Europe member state constitutions do not have any language protecting life prenatally. The adoption of a provision in the Hungarian Constitution recognizing the right to life or protection of life from conception would make Hungary the ONLY European Union and Council of Europe member state to do so. Similarly, international and regional human rights treaty provisions and the official bodies that interpret their provisions protecting life do not extend such protections prenatally. (see Appendix for examples of constitutional and international and regional treaty language on protecting the right to life and below for Slovak and other European Constitutional Court interpretation of the right to life). International and European standards, however, do importantly support numerous state measures that support the development of prenatal life and that guarantee women's human rights.

Constitutional recognition of the right to life as a fundamental human right from the moment of conception or Constitutional recognition that is worthy of protection can have severe impact on women's life and health and create legal uncertainty as it conflicts with other constitutional protections and women's human rights. It can create challenges with regards to women accessing lawful abortion, emergency obstetric care, medically assisted reproduction, or even diagnostic health care services that have a slight chance of being harmful to the pregnancy. An issue would arise, for example, whether a doctor faced with such a constitutional protection would be entitled to provide appropriate treatment, including treatment for a life threatening condition, to a pregnant woman which would result in fetal demise. Such a provision would remove crucial decision- making authority from the woman and from her physician in evaluating and deciding the best course of treatment. Recently, in Poland, a woman was denied treatment for an infection because her doctors feared the needed treatment might pose a risk to the fetus she was carrying. The woman and fetus both died as a result.<sup>4</sup> In addition, since accepted medical science recognizes that pregnancy begins with the implantation of the fertilized egg in the uterine wall, .<sup>5</sup>conception arguably occurs before that. Thus, any perceived harm done to the 'conceived', even before a pregnancy occurs, resulting from, for example, use of emergency contraception<sup>6</sup> or medically assisted reproductive technology, such as in vitro fertilization, could raise serious constitutional issues, and trigger ongoing national court and legislative battles, as has recently occurred in Italy<sup>7</sup> and Poland,<sup>8</sup> and the ongoing challenges in Ireland.<sup>9</sup>

As the constitutional principles and any provision governing the right to life and protection from the moment of conception are considered, we urge Members of the Hungarian Parliament participating in the constitutional process to examine the impact the adoption of such a proposal could have on women in Hungary, particularly in accessing safe abortion and other health care services needed by pregnant women. We urge Hungarian policymakers to take into consideration its own constitutional law, the experiences of its fellow European countries, as well as its obligations under international human rights law before adopting such a provision and to consider less restrictive means of pursuing an interest in protection of prenatal life. What follows is an analysis regarding relevant provisions in constitutions and constitutional jurisprudence of Hungary and of other European countries, and international and regional human rights treaties to which Hungary is a party.

## **II. In Guaranteeing the Right to Life, National Constitutions of Europe Do Not Address When Life Begins**

States have consistently chosen to use language in their constitutions that affirms the right to life without qualifications, reinforcing the approach taken by all major international human rights instruments. No European constitution extends the right to life or any prenatal protection from conception. In addition, no European constitution extends the right to life prenatally, with the exception of the Irish Constitution, which recognizes the 'right to life of the unborn' (resulting in the most restrictive abortion regulations in any European Union member state, with the exception of Malta which bans abortion altogether. The Czech and Slovak Constitutions are the only other Constitutions in Europe that have language recognizing prenatal life, but this language only states that human life is worthy of protection before birth and this protection is provided in a separate sentence from the provision granting the right to life, indicating its lesser value than the right to life). Every other European constitution protects the right to life without addressing when the right to life begins. **The adoption of a provision in the Hungarian Constitution recognizing the right to life or protection of life from conception would make Hungary the only European Union and Council of Europe member state to do so.** In addition, recent attempts

in Europe to amend constitutions or even recognize absolute fetal rights in legislation have also failed, in part because of the conflict it would create in constitutional and international guarantees of women's health and rights, including access to abortion.

Countries around the world that do grant protections on the right to life prenatally in their Constitutions generally have very restrictive abortion laws.<sup>10</sup> These restrictions on abortion do not lead to fewer abortions or to higher birth rates, but in fact lead to higher rates of unsafe, clandestine abortions, and to abortion tourism.<sup>11</sup> For example, with regards to Ireland, its constitutional provision and resulting restrictions on abortion has not prevented abortions from occurring, in fact, over 5,000 women travel outside of Ireland every year to undergo abortions.<sup>12</sup> And, although Poland voted against a constitutional amendment recognizing the right to life from conception, it has one of the most restrictive abortion laws in Europe and as a result, an estimated 80,000 to 200,000 underground abortions are performed every year in Poland, posing a considerable risk to the lives and health of women. Many other Polish women travel to neighboring countries to obtain abortions.<sup>13</sup> In addition, Poland's abortion law has failed to improve or stabilize fertility rates; its birth rate has steadily decreased each year since the introduction of its restrictive abortion legislation in 1993.<sup>14</sup>

### **III. Hungarian and Other European Constitutional Jurisprudence Do Not Support Protecting Life From Conception**

Constitutional courts throughout Europe, including Hungary's, have affirmed that state interests in prenatal life are legitimate but not absolute, recognizing that granting protection of the right to life prenatally or from conception, could seriously compromise women's health and human rights. In fact, almost all these courts while recognizing a state *interest* in protecting prenatal life have not recognized that such life is a holder of *rights that are constitutionally protected*, and have upheld their abortion laws in the face of such legal challenges. A constitutional provision granting protecting life from conception would raise serious constitutional battles in Hungary.

*Hungary.* Following the establishment of the Constitutional Court in 1989, a case based on a fetus' "right to life" was filed in the Court seeking to overturn women's access to abortion. In deciding this case in 1991, the Constitutional Court balanced a women's right to self-determination with a fetus' "right to life" and the state's obligation to provide protection to the fetus. The Court concluded that banning abortion would be unconstitutional, as it would disregard women's right of self-determination; however, an unrestrained freedom to terminate pregnancies would also be unconstitutional because the life of the fetus deserves protection. The Court reasoned that the state's obligation to protect the life prenatally is not absolute and therefore can be limited by the human rights of the pregnant woman. The obligation of the state to protect life means that granting the right to abortion without reason cannot be permitted. The Court stated that the question of the legal status of the fetus is a primary pre-condition in deciding on the constitutionality of abortion, which should be decided by the lawmakers and not the Constitutional Court. The Court found that "If the lawmaker decides that the fetus is deemed to be a human being, thus a subject of the right to life and dignity, then abortions are permitted to be performed only in those cases, in which the law allows to choose between human lives and as a result does not punish termination of human life. Such a case is, for example, if abortion is needed in order to save the mother's life"<sup>15</sup>

As a result of this 1991 Hungarian Constitutional Court decision, the Parliament, in 1992, enacted a new abortion provisions.<sup>16</sup> Under the law, a woman can obtain an abortion if she or the fetus can expect life-

threatening health problems, if the pregnant woman is a victim of a rape or if she states she is in a “situation of serious crisis” as a result of the pregnancy.<sup>17</sup> Parliament defined a “situation of serious crisis” as “the presence of factors liable to cause profound physical or mental disarray or to create unacceptable social circumstances.”<sup>18</sup> Under the law, a woman can obtain an abortion on request in “situations of serious crisis” during the first 12 weeks of pregnancy as long as she undergoes counseling and waits three days after the submission of an application for abortion before the abortion is performed.<sup>19</sup>

The 1992 law was challenged before the Constitutional Court by anti-abortion groups which claimed that the law was unconstitutional because: (i) it lacked an explicit definition of the legal status of the fetus and (ii) granted unrestricted access to abortion based on the “situation of serious crisis” clause.<sup>20</sup> In its 1998 decision, the Constitutional Court rejected the idea that the Court should define the legal status of the fetus. It stated that even though there is no *expressis verbis* clarification in that matter, the law, by recognizing that the right of self-determination of the pregnant woman is prioritized over the fetus, took the standpoint that the fetus is not a human being. As such, the Court ruled that the condition that a “situation of serious crisis” exists is not unconstitutional. However, the Court found that: (i) the phrase “situation of serious crisis” was not sufficiently well defined and (ii) Parliament may only define the existence of a serious crisis situation if, at the same time, it establishes provisions “creating adequate counterbalance with a view to protecting fetal life.”<sup>21</sup> In explaining its decision, the Constitutional Court noted that the Constitution did not contain any express rule regarding the legal subjectivity of the fetus and that, as the fetus is not a subject of law, the law cannot provide for the rights of the fetus.<sup>22</sup> The Court stated that:

Any regulation allowing abortion...to choose between human lives must be based on the concept of the fetus not being a human in legal terms and, as a consequence not being a subject of law...Thus, the life and dignity of the fetus do not enjoy the absolute protection applicable to men born based on Article 54 para. (1) of the Constitution.

However, the lack of granting legal subjectivity of the fetus does not mean that fetal life is not protected by the Constitution... the fetus must enjoy protection – which is not absolute – resulting from the right to life (Article 54 para (1) of the Constitution), to be secured by the State for conceived human life during its formation. This protection is not questioned by the [Act], and, in line with the above concept, the legislator stated in the Preamble of the [Act] that ‘fetal life which starts in the moment of conception must be respected and protected’ and repeated it in the text of the legal norm in the following form ‘the fetus formed by the unification of an ovum and spermatozoon and developing in the womb, as well as the pregnant woman must be supported and protected.’<sup>23</sup>

*Slovakia.* In 2007, the Constitutional Court of *Slovakia* declared the law permitting abortion on request in the first 12 weeks of pregnancy constitutional. The Court found that while the prenatal life has constitutional value and may be worthy of some state protection, it is not on par with women’s rights to life. It held that “[t]he constitutional value of unborn human life can therefore be protected only to such extent, that this protection did not cause an interference with the essence of woman’s freedom and her right to privacy and consequently did not mean entailing an obligation that is exceeding the ambit of the Constitution.”<sup>24</sup>

*Portugal.* The Constitutional Court of Portugal has consistently upheld laws permitting abortions under limited circumstances. Finding that the fetus cannot outweigh the fundamental rights of women to life, health and dignity, the Court emphasized that: "...the constitutionally protected good, which is prenatal life, has to give way where it conflicts, not only with other constitutional values or goods, but above all with certain fundamental rights (specifically the rights of a woman to life, health, good name and reputation, dignity, voluntary maternity, etc.)".<sup>25</sup> In a subsequent case, the Court ruled that the constitution does not require the criminalization of abortion in the first ten weeks of pregnancy.<sup>26</sup>

*Germany.* While the German Constitution protects the right to life, it, like all but one European constitution, it does not extend that right prenatally. Article 2 of the German Basic Law guarantees that "[e]veryone has the right to life and bodily integrity."<sup>27</sup> Nevertheless, the Constitutional Court of Germany has recognized the constitutional right to pre-natal life and the state duty to protect this right.<sup>28</sup> The Court has, however, recognized that the right to pre-natal life must be weighed against the rights of pregnant woman. And in 1975, the Court affirmed the authority of the legislature to permit lawful abortion where necessary to protect a woman's right to life and health. In such cases, the Court reasoned that a woman's "'right to life and bodily inviolability' [] is at stake, the sacrifice of which cannot be expected of her for the unborn life."<sup>29</sup> The Court emphasized that in these cases "another interest equally worthy of protection, from the standpoint of the constitution, asserts its validity with such urgency that the state's legal order cannot require that the pregnant woman must, under all circumstances, grant precedence to the right of the unborn."<sup>30</sup> In 1993, the Court recognized that the legislature could permit lawful abortion during the first 12 weeks of pregnancy upon request provided the woman participate in counseling services and be subject to a waiting period.<sup>31</sup> In 1995, the legislature enacted a law decriminalizing abortions during the first trimester with these procedural requirements.<sup>32</sup>

If the right to life from the moment of conception or any explicit constitutional protection prenatally is recognized in the new Constitution, the Hungarian Constitutional Court will likely be faced with deciding the constitutionality of its current abortion law. Critically, the Court's 1991 decision indicates that if a fetus is recognized as a subject of law, abortions could potentially only be permitted in cases when a pregnant woman's life is in danger (see above).<sup>33</sup> Such a decision would be inconsistent with almost all other European countries, creating one of the most restrictive abortion regimes in the world. In addition, it would be inconsistent with international and regional human rights treaties.

#### **IV. International and Regional Instruments Do Not Extend Human Rights Protections Before Birth**

International and European human rights treaties that Hungary has ratified **reject** granting human rights protections at conception or prenatally, recognizing that granting such rights could hinder access to reproductive health services, in violation of women's human rights.

#### **The Universal Declaration of Human Rights**

Article 1 opens the Universal Declaration of Human Rights with the fundamental statement of inalienability: "All human beings are *born* free and equal in dignity and rights" (Art.1).<sup>34</sup> Significantly, the history of the negotiations (*travaux préparatoires*) indicates that the word "born" was used

intentionally to exclude the fetus or any antenatal application of human rights. An amendment was proposed and rejected that would have deleted the word “born”, in part, it was argued, to protect the right to life from the moment of conception. One of the drafters, a representative from France, explained that the statement “All human beings are born free and equal...” meant that the right to freedom and equality was “inherent from the moment of birth.”<sup>35</sup> Article 1 was adopted with this language by 45 votes, with nine abstentions.<sup>36</sup> Thus, a fetus is not a holder of rights under the Universal Declaration of Human Rights.

### **The International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR)<sup>37</sup> likewise rejects the proposition that the protecting the right to life, in Article 6(1), applies before birth. The history of the negotiations indicates that an amendment was proposed and rejected that stated: “the right to life is inherent in the human person from the moment of conception, this right shall be protected by law.”<sup>38</sup>

Subsequently, the Human Rights Committee, which interprets and monitors States parties' compliance with the International Covenant on Civil and Political Rights, has repeatedly emphasized the threat to women's lives posed by prohibitions on abortion that cause women to seek unsafe abortions. It has also repeatedly called upon states to liberalize laws on abortion,<sup>39</sup> a position that would be problematic if the Covenant's protection of the right to life extended before birth.<sup>40</sup> In an authoritative interpretation of the principle of equality protected by the Convention, the Committee has also emphasized the states' responsibility to reduce maternal mortality from clandestine abortions and recognized that restrictive abortion laws could violate women's right to life.<sup>41</sup>

A decision by the Human Rights Committee established that denying access to therapeutic abortion violated woman's most basic human rights. In *K.L. v. Peru*, the HRC reasoned that state failure to enable the applicant to benefit from a therapeutic abortion caused the depression and emotional distress she experienced, and thus constituted a violation of Article 7 (freedom from torture or cruel, inhuman or degrading treatment or punishment).<sup>42</sup> This finding did not depend on the lawfulness of therapeutic abortion. Article 7 under the ICCPR may therefore be interpreted as requiring a state guarantee of lawful abortion where necessary to protect the woman's physical or mental health. The Human Rights Committee ordered the state to provide the complainant with an effective remedy, including compensation, and take steps to prevent the future occurrence of similar violations.<sup>43</sup> This decision highlights the conflict that would arise between a constitutional provision protecting life from the moment of conception and a country's commitment to protecting key civil and political rights.

### **The Convention on the Rights of the Child**

Likewise, both the negotiations (*travaux préparatoires*) and the interpretation by its expert treaty body make clear that the Convention on the Rights of the Child (Children's Rights Convention)<sup>30</sup> does not grant protection of the right to life until birth. An argument to the contrary is erroneously built upon Paragraph 9 of its Preamble, which provides: “Bearing in mind that, as indicated in the Declaration of the Rights of the Child, ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.’”<sup>44</sup>

The *travaux* make clear that these safeguards “before birth,” which are generally interpreted to involve providing nutrition, health and support directed to the pregnant woman, must not affect a woman's choice to terminate an unwanted pregnancy. As originally drafted, the Preamble did not contain the reference to protection “before as well as after birth,” although this language had been used in the earlier Declaration on the Rights of the Child. The Holy See led a proposal to add this phrase, at the same time as it “stated that the purpose of the amendment was not to preclude the possibility of an abortion”.<sup>45</sup> Although the words “before or after birth” were accepted, their limited purpose was reinforced by the statement that “the Working Group does not intend to prejudice the interpretation of Article 1 or any other provision of the Convention by States Parties”<sup>46</sup> The reference is to the definition of “a child”. Article 1 states: “For the purposes of the present Convention a child means every human being below the age of 18 years....”

The Committee on the Rights of the Child, the expert treaty body that interprets and applies the Child Rights Convention, likewise has not recognized a right to life to the fetus. The Committee has expressed repeated concern over adolescent girls' access to safe abortion services and the need for states “to provide access to sexual and reproductive health services, *including... safe abortion services*”.<sup>47</sup> (emphasis added) In its Concluding Observations on various State reports, the Committee has also recognized that safe abortion is part of adolescent girls' right to adequate health under Article 24, noting that “high maternal mortality rates, due largely to a high incidence of illegal abortion” contribute significantly to inadequate local health standards for children.<sup>48</sup> It has also explicitly called for “review of [state practices]... under the existing legislation authorising abortions for therapeutic reasons with a view to preventing illegal abortion and to improving protection of the mental and physical health of girls”<sup>49</sup> Based on the above noted information, the definition of “a child” for purposes of the Convention does not include a fetus.

### **Convention on the Elimination of All Forms of Discrimination Against Women**

While the text of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>50</sup> does not explicitly protect the right to life or refer to abortion at all, its Preamble does however reaffirm the Universal Declaration of Human Rights' recognition that “all human beings are born free and equal in dignity and rights” and states that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex...”. The Convention also provides the general foundation for reproductive rights in Article 16(e) guaranteeing women “the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights”.

Because of the inextricable inter-relationship between the right to make reproductive decisions and women's equal right to life, the CEDAW Committee has frequently addressed abortion in the context of women's equality. In General Recommendation on health,<sup>51</sup> the CEDAW Committee recognizes the importance of women's right to health during pregnancy and childbirth as closely linked to their right to life. The Committee explained that coverage of reproductive health services is an essential aspect of women's equality, stating that “it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women.” Barriers to realizing women’s health include “laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures.”<sup>52</sup> Further, when considering State reports, the Committee has repeatedly expressed great concern about maternal mortality due to unsafe abortion, framed the issue as involving a woman's right to life, and called upon states to eliminate restrictive laws and other barriers restricting access to safe abortion.<sup>53</sup>

## **The European Convention for the Protection of Human Rights and Fundamental Freedoms**

The drafters of the European Convention for the Protection of Human Rights and Fundamental Freedoms relied heavily on the Universal Declaration of Human Rights and, according to the history, did not even debate the question of dating rights from conception.<sup>54</sup> They based the European Convention's protection of everyone's right to life in Article 2 on parallel language in the Universal Declaration.<sup>55</sup> The Preamble to the European Convention repeatedly cites the Universal Declaration and declares that the purpose of the Convention is to "take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration."<sup>56</sup> In this light, it is manifest that the term "everyone" used throughout the European Convention as well as in Article 2 protecting the right to life likewise does not apply before birth.

The long-standing jurisprudence of both the European Commission on Human Rights and the European Court of Human Rights establish that the fetus nor embryo is not legally considered a person entitled to the "right to life" under Article 2(1) and, further, that granting the fetus human rights would place unreasonable limitations on the rights of women.

In 1980, *Paton v. United Kingdom*,<sup>57</sup> a case by a husband seeking to prevent his wife from undergoing an abortion, explicitly rejected the claim that the right to life in Article 2 covered the fetus. The European Commission held that the word "everyone" in Article 2, and elsewhere in the Convention, did not include fetuses. Further, recognizing the inseparability of the fetus and the pregnant woman, it gave precedence to the woman's rights under Article 2.<sup>58</sup>

*"The life of the fetus is intimately connected with, and it cannot be regarded in isolation of, the life of the pregnant woman. If Article 2 were to cover the fetus and its protection under this Article were, in the absence of any express limitation, seen as absolute, an abortion would have to be considered as prohibited even where the continuance of the pregnancy would involve a serious risk to the life of the pregnant woman. This would mean that the "unborn life" of the fetus would be regarded as being of a higher value than the life of the pregnant woman."* (Para.19)

*Paton* was followed in *R.H. v. Norway* (1992)<sup>59</sup> and *Boso v. Italy* (2002),<sup>60</sup> also cases brought by male partners seeking to prevent their female partner's abortions based on the right to life of the fetus. In both of these cases, the Commission, in line with its decision in *Paton*, sustained the permissive abortion laws at issue.

In *Court* recognized that states have discretion or a margin of appreciation as to whether to protect the fetus it noted that "there is no European consensus on the scientific and legal definition of the beginning of life,"<sup>61</sup> and declined to treat the fetus as a "person" even where there is no conflict with the rights of the woman. The Court, in essence, ruled that France had no obligation under the Convention to criminalize the doctor's conduct as a form of homicide.<sup>62</sup> In a broader sense, the *Vo* judgment, by refusing to treat malpractice as a form of homicide, protected doctors and providers from being deterred from providing abortions *Vo v. France* (2004),<sup>63</sup> the Court again refused to extend the right to life to fetuses under Article 2. The female applicant, who lost a wanted pregnancy due to the negligence of the doctor, contended that criminal sanction against the doctor based on unintentional homicide was required to vindicate the fetus' claimed right to life.<sup>64</sup> The Court recapitulated the earlier jurisprudence, and concluded that "the unborn child is not regarded as a 'person' directly protected by Article 2 of the Convention, and that, if the

unborn do have a ‘right’ to ‘life’, it is implicitly limited by the mother’s rights and interests.”<sup>65</sup> While the for fear of such additional sanction and, thus, indirectly protected women’s access to reproductive health care, including abortion as well as the broad range of obstetrical health care.

The *Vo* judgment was reaffirmed in *Evans v. The United Kingdom* (2006)<sup>66</sup> where the applicant complained violation of her rights under the European Convention due to her partner’s withdrawal of consent for use of embryos they had created and frozen for future implantation. The applicant claimed in part, that the provisions of English law requiring the embryos to be destroyed once her partner withdrew his consent to their continued storage violated the embryos’ right to life, contrary to Article 2 of the Convention. The Court, recalling its decision in *Vo v. France*, once again refused to extend Article 2 protection to the embryos. Referring to the lack of any European consensus on the scientific and legal definition of when human life begins the Court left this decision to the states’ margin of appreciation. In that regard, it recalled English law under which “...an embryo does not have independent rights or interests and cannot claim – or have claimed on its behalf – a right to life under Article 2 [of the Convention].”<sup>67</sup> In addition, in the Court’s extensive analysis and balancing of the rights of the applicant to preserve the embryos and the rights of her partner to have them destroyed, the Court did not include any “embryonic interests” into this balancing test, thus, indicating that the Convention does not require protection of embryos.

If the fetus, embryo or zygote was as a subject under Article 2, all cases described above would have been wrongly decided, and the rights to reproductive health care would have been in jeopardy. The Court and the Commission have never recognized a fetus’s right to life under Article 2 of the European Convention nor permitted the claimed interest in preservation of fetal life to annul a permissive abortion law. We note as well that the Charter of Fundamental Rights of the European Union,<sup>68</sup> which is also part of the EU Constitution, reaffirms in its Preamble the rights of the European Convention and its jurisprudence.

These decisions are entirely consistent with the history of the European Convention on Human Rights. As discussed above, history indicates that it adopted the approach of the Universal Declaration on Human Rights which accorded rights only after birth.

## **V. International and Comparative Standards Support Procedural and Other Measures to Balance State Interests in the Protection of Prenatal Life and Women’s Human Rights**<sup>69</sup>

International and comparative standards, however, do support numerous state measures that both protect state interests in prenatal life and guarantee women’s human rights, but not through recognition of right to life from conception or similar recognition in constitutions nor through restrictive abortion laws. International standards support prenatal life through ensuring safe pregnancies and supporting family planning and many Council of Europe member state have procedural measures in abortion regulation which balance state interest in protection of prenatal life with women’s human rights.<sup>70</sup>

### **International Standards**

CEDAW recognizes that measures to protect prenatal life must be pursued consistently with the human rights of women.<sup>71</sup> These measures include state provision of safe motherhood services and prenatal

assistance, the reduction of spontaneous miscarriages, including recurrent miscarriages,<sup>72</sup> and welfare provisions to ease the social and economic burdens of pregnant women.<sup>73</sup>

States may also enact measures to reduce the need for abortion by ensuring the appropriate family planning and contraceptive services are available and accessible.<sup>74</sup> The United Nations Human Rights Treaty Monitoring Bodies consistently reference achieving reductions in the rate of abortion through increased access to family planning services and education.<sup>75</sup>

### **Comparative Standards**

Most Council of Europe member states have enacted procedural and other measures to balance state interest in protection of prenatal life and women's human rights in abortion regulation.<sup>76</sup> The following measures, while nevertheless burdening women's access to lawful abortion, offer a less burdensome means to pursue a state interest in the protection of prenatal life than restrictive laws or harsh criminal penalties.

In 2007, the Slovak Constitutional Court in reviewing the constitutionality of its abortion law recognized that the state already has in place procedures which consider the interests of the 'unborn human life' '... the woman has to request artificial interruption of pregnancy in writing. Then she undergoes a medical examination and consults a physician ... The valid regulation hence ensures that the woman's will outweighs the protection of the unborn human life only after a due deliberation based also on relevant medical information provided in an accessible form.'<sup>77</sup>

Authorization or approval from qualified commissions or health professionals are common procedures among Council of Europe member states. These procedures are intended to ensure that abortion decision-making is undertaken in a serious manner, reflecting due regard for the interests of prenatal life. Approximately twenty-six member states require that a woman receive formal certification of medical need for pregnancy termination from health professionals to qualify for exceptions beyond the abortion on request period or for a therapeutic abortion.<sup>78</sup>

### **VI. Conclusion**

A constitutional provision protecting life as a fundamental human right from the moment of conception or granting protection any time prenatally, would be inconsistent with prevailing international and regional human rights law, the jurisprudence of their interpretive bodies, and European national constitutions and jurisprudence, including Hungary's own. Moreover, it lays the foundation for interference with women's health and autonomy. Human rights bodies have addressed this interference in the context of abortion, considering women's human rights to dignity, autonomy, private life, to life and security of the person, and to equality and non-discrimination. In its signature and ratification of a range of regional and international human rights treaties, the Hungarian state has repeatedly committed itself to protecting the human rights of women; any new Hungarian constitution should affirm and honor those commitments.

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1 Magyarország alkotmányának szabályozási elvei, <http://www.parlament.hu/biz/aeb/orsz/munkaanyag.htm>

2 Detailed information on the Hungarian Women's Lobby available at [www.noierdek.hu](http://www.noierdek.hu)

3 Detailed information on the Center for Reproductive Rights available at <http://reproductiverights.org/>

4 *Z. v. Poland*, App. No. 46123/08 (European Court of Human Rights). In early 2004, a Polish woman in her second month of pregnancy was diagnosed with a painful and serious colon disease. But when she sought medical treatment, the woman found that doctors were more concerned with harming the fetus than with her medical needs. One after another, doctors in her hometown and nearby cities refused to treat her, even though it was unlikely that the fetus would be harmed. By September 2004, the woman had miscarried. Shortly after, she died.

5 According to accepted medical science, pregnancy begins with the implantation of the fertilized egg in the uterine wall. *Obstetrics: Normal and Problem Pregnancies* pg.31 (Steven G. Gabbe et al. eds., 1996) (1986); *Williams Obstetrics* pg. 86 (F. Gary Cunningham et al. eds., 21st ed. 2001).

6 WHO defines emergency contraception as 'contraceptive method which can be used in the first few days following unprotected intercourse to prevent an unwanted pregnancy.' Emergency contraception may prevent pregnancy by delaying or inhibiting ovulation, by stopping fertilization of an egg, or by inhibiting the implantation of a fertilized egg in the uterus. Once implantation has begun, however, EC pills are ineffective as they cannot interfere with an existing pregnancy. See WHO, Fact sheet number 244, *Emergency Contraception*, available at <http://www.who.int/mediacentre/factsheets/fs244/en/index.html>

7 In 2004, Italy passed a highly restrictive law regulating IVF that bans freezing and destroying embryos and requires that all embryos created by IVF, limited to three, must be transferred into the woman, regardless of any medical risks this may pose to the woman. Notably, the law's stated purpose is to regulate the use of medically assisted procreation with the objective of "ensure[ing] the rights of all stakeholders, including conception." The law was deemed unconstitutional by Italy's Constitutional Court in 2009 on the grounds that it limited a woman's right to have access to the best possible medical treatment and reduce any possible harm to women's health and lives that can result from the higher risk of complications arising from multiple pregnancies that such a law posed. The Court also reaffirmed the need to empower the attending physician with the means to carry out a full medical evaluation. *Italia. Sentenza. 151. Anno.2009. Corte Costituzionale. 1° de abril de 2009.*

8 In Poland, since the passage of the 1993 abortion law, there have been numerous attempts by both liberal and conservative parliamentarians to amend and reform the 1993 law, none of which have ultimately been successful, and which have heightened hostility in Polish society over abortion issues. One amendment was adopted by Parliament, but was challenged in Poland's Constitutional Tribunal and ultimately overturned. See, e.g., Department of Economic and Social Affairs, United Nations Population Division, *Poland, Abortion Policies: A Global Review* at 39 (2002); Adriana Lamackova and Christina Zampas, *Sexual and Reproductive Rights and Gender Equality: Fundamentals of Demography Policies in Europe*, Astra Network, Aug. 2007.

9 In Ireland, there have been numerous legislative and court battles regarding the constitutionality of abortion in certain circumstances, the right to distribute and receive abortion information, and the right to travel to obtain an abortion, since the passage of an amendment to the Constitution in 1983, which grants the right to life to the 'unborn'. See e.g. Department of Economic and Social Affairs, United Nations Population Division, *Ireland, Abortion Policies: A Global Review* at 69 (2002); *Attorney General v. X and Others* [1992] 1 IR (case granting right of suicidal pregnant teenager to have abortion under Constitutional right to life of pregnant 'mother'); *Roche v Roche* [2009] (case rejecting that embryos are protected by the Constitutional provision granting the right to life of the 'unborn').

10 See for example countries in Latin America, which extend right to life protections prenatally or from conception in their constitutions also have very restrictive abortion laws, based on the Constitutional protection of the right to life. For laws on abortion in Latin America and around the world, see *World Abortion Laws Fact Sheet*, Center for Reproductive Rights, <http://reproductiverights.org/en/document/world-abortion-laws-2008-fact-sheet>.

11 See UN analysis Section IV of these comments; Reed Boland and Laura Katzive, *Development in Laws on Induced Abortion: 1998-2007*, *International Family Planning Perspectives*, volume 34, number 3, September 2008, page 110, available at <http://www.guttmacher.org/pubs/journals/3411008.pdf>

12 Council of Europe Commissioner for Human Rights, Report on his visit to Ireland (2008) paras 78-79 available at [https://wcd.coe.int/wcd/ViewDoc.jsp?id=1283555#P352\\_82866](https://wcd.coe.int/wcd/ViewDoc.jsp?id=1283555#P352_82866)

13 See Polish Federation for Women and Family Planning, *Women in Poland: Sexual and Reproductive Health and Rights*, Independent Report submitted to the U.N. Human Rights Committee (Sept. 2004), available at <http://www.federa.org.pl/?page=article&catid=808&lang=2>. See generally, UN Special Rapporteur on the Right to the Highest Attainable Standard on Health, Report on Mission to Poland (2010), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.Add3>.

14 In 1990, the Polish birth rate was 2.04; in 1995, the birth rate was 1.61; in 1996, 1.58; in 1997, 1.51; and in 2006, 1.23. Main Statistical Office, *Basic Information about demographic development of Poland*, Information Brief (Warsaw).

15 Alkotmánybíróság Decision 64/1991 (XII. 17) (1991)

16 Act LXXIX/1992 on the Protection of Foetal Life", December 18, 1992.

17 Id. paragraph 6 section 1

18 Súlyos válsághelyzet az, amely testi vagy lelki megrendülést, illetve társadalmi ellehetetlenülést okoz., paragraph 5 section 2

19 Id.

20 Alkotmánybíróság Decision 48/1998. (XI. 23)

21 Id. at 1.

22 Id. at 7, 10.

23 Id. at 8.

24 Nález Ústavného súdu Slovenskej republiky, sp. zn. (Decision of the Constitutional Court of the Slovak Republic, No.) PL. ÚS 12/01-297, Part II.A.2.4. December 4, 2007.

25 Tribunal Constitucional Portugal (TCP), May 29, 1985 (D.R., No. 85, p. 58442) (Port.).

26 Tribunal Constitucional Portugal (TCP) Apr. 18, 1998, (D.R., No. 288, ¶ 47), available at <http://www.tribunalconstitucional.pt/tc/acordaos/19980288.html> (last visited October 22, 2008).

27 German Basic Law, Article 2, available at <http://www.iuscomp.org/gla/statutes/GG.htm>

28 Entscheidungen des Bundesverfassungsgerichts [BverfGE] 39, 1 (F.R.G.) (explaining that life exists "in any case, from the 14th day of conception") translated in Robert E. Jonas & John D. Gorby, trans., *West German Abortion Decision: A Contrast to Roe v. Wade*, 9 *John Marshall J. Prac. & Proc.* 605, 637 (1976).

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- 29Id., at 648.
- 30 Id.
- 31 Id., at 282–283, 285.
- 32 Penal Code, art. 218 (C.H. Beck, 1997) (unofficial translation.). Nanette Funk, *Abortion Counseling and the 1995 German Abortion Law*, 12 *Conn. J. Int'l L.* 51–52 (1996); (Grosse Mehrheit für das neue Abtreibungsrecht. Fristenregulierung mit Beratungspflicht beschlossen, *Frankfurter Allgemeine Zeitung*, June 30, 1995).
- 33 Alkotmánybíróság Decision 64/1991 (XII. 17) (1991).
- 34 United Nations Universal Declaration on Human Rights, UN GAOR, Art.1, G.A. Res.217, UN Doc. A/810, 1948.
- 35 UN GAOR 3rd Comm., 99th mtg. at 110–124, UN Doc. A/PV/99, 1948.
- 36 UN GAOR 3rd Comm., 183rd mtg. at 119, UN Doc. A/PV/183, 1948.
- 37 International Covenant on Civil and Political Rights, 16 December 1966, 993 UNTS 171, entered into force 23 March 1976.
- 38 UN GAOR Annex, 12th Session, Agenda Item 33, at 96, UN Doc. A/C.3/L.654; UN GAOR, 12th Session, Agenda Item 33, at 113 UN Doc. A/3764, 1957. The Commission ultimately voted to adopt Article 6, which has no reference to conception, by a vote of 55 to nil, with 17 abstentions.
- 39 Concluding Observations of the Human Rights Committee, UN Doc. CCPR/C/79/Add.104; Concluding Observations of the Human Rights Committee Chile, 30/3/1999, UN GAOR, Hum. Rts. Comm., 65th Session, 1740th mtg. Para.15e: Argentina, 15/11/2000, UN Doc. CCPR/CO/70/ARG, Para.14; Concluding Observations of the Human Rights Committee: Costa Rica, 08/04/99, UN Doc. CCPR/C/79/Add.107, Para.11; Concluding Observations of the Human Rights Committee: Peru; Concluding Observations of the Human Rights Committee: United Republic of Tanzania, 18/08/98, UN Doc. CCPR/C/79/Add.97, Para.15; Concluding Observations of the Human Rights Committee: Venezuela, 26/04/2001, UN Doc. CCPR/CO/71/VEN, Para.19; Concluding Observations of the Human Rights Committee: Poland, 05/11/2004, UN Doc. CCPR/CO/82/POL, Para.8; Concluding Observations of the Human Rights Committee: Bolivia, 05/05/97, UN Doc. CCPR/C/79/Add.74, Para.22.
- 40 Concluding Observations of the Human Rights Committee: Colombia, 03/05/97, UN Doc. CCPR/C/79/Add.76, Para.24; Concluding Observations of the Human Rights Committee: Ecuador, 18/08/98, UN Doc. CCPR/C/79/Add.92, Para.11; Concluding Observations of the Human Rights Committee: Mongolia, 25/05/2000, UN Doc. CCPR/C/79/Add.120, Para.8(b); Concluding Observations of the Human Rights Committee: Poland, 29/07/99, UN Doc. CCPR/C/79/Add.110, Para.11; Concluding Observations of the Human Rights Committee: Senegal, 19/11/97, UN Doc. CCPR/C/79/Add.82, Para.12.
- 41 Human Rights Commission, Gen Comment 28: Equality of Rights Between Men and Women (68th Session 2000) at Para.10, reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, 12/05/2004, UN Doc. HRI/GEN/Rev.7.
- 42 Human Rights Committee, Communication No. 1153/2003, *K.L. v Peru*, U.N. Doc. CCPR/C/85/D/1153/2003 (2005) [hereinafter *K.L. v Peru*].
- 43 *K.L. v. Peru*, United Nations Human Rights Committee, Communication No. 1153/2003, Views adopted on Oct. 24, 2005.
- 44 Convention on the Rights of the Child, GA Res. 44/25, Annex, UN GAOR 44th Session, Suppl. No.49 at 166, UN Doc. A/44/49 (1989) (entered into force Sept. 2, 1990).
- 45 UN Commission on Human Rights, Question of a Convention on the Rights of a Child: Report of the Working Group, 36th Session, UN Doc. E/CN.4/L/1542 (1980).
- 46 UN Commission on Human Rights, Report of the Working Group on a Draft Convention on the Rights of the Child, 45th Session, E/CN.4/1989/48 at p.10 (1989), quoted in Jude Ibegbu, *Rights of the Unborn in International Law* 145 (2000); LJ LeBlanc, *The Convention on the Rights of the Child: United Nations Lawmaking on Human Rights*, University of Nebraska Press, London (1995), p. 69; J Ibegbu, *Rights of the Unborn Child in International Law*, E Mellen Press, Lewiston NY (2000), pp. 146–147.
- 47 Committee on the Rights of the Child, General Comment No.4: Adolescent health and development in the context of the Convention on the Rights of the Child (33rd Session 2003) at Para. 31, reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, 12/05/2004, UN Doc. HRI/GEN/Rev.7.
- 48 Concluding Observations of the Committee on the Rights of the Child: Guatemala, 9/7/2001, UN Committee on the Rights of the Child, 27th Session, p.40, UN Doc. CRC/C/15/Add.154; Concluding Observations of the Committee on the Rights of the Child: Chad, 24/8/1999, UN GAOR, Committee on the Rights of the Child, 21st Session, 557th mtg. Para.30, UN Doc. CRC/C/15/Add.107; Concluding Observations of the Committee on the Rights of the Child: Nicaragua, 24/8/1999, UN GAOR, Committee on the Rights of the Child, 21st Session, 557th mtg. Para.35, UN Doc. CRC/C/15/Add.108.
- 49 Concluding Observations of the Committee on the Rights of the Child: Chad, 24/8/1999, UN GAOR, Committee on the Rights of the Child, 21st Session, 557th mtg. Para.30, UN Doc. CRC/C/15/Add.107; Concluding Observations of the Committee on the Rights of the Child: Nicaragua, 24/8/1999, UN GAOR, Committee on the Rights of the Child, 21st Session, 557th mtg. Para.35, UN Doc. CRC/C/15/Add.108.
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- 51 Committee on the Elimination of Discrimination against Women, General Recommendation 24: Women and Health (20th Session, 1999), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 274, Para.14, U.N. Doc. HRI/GEN/1/Rev.7 (2004).
- 52 Committee on the Elimination of Discrimination against Women, General Recommendation 24: Women and Health (20th Session, 1999), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 274, Para.14, U.N. Doc. HRI/GEN/1/Rev.7 (2004).
- 53 Center for Reproductive Rights and University of Toronto International Programme on Reproductive and Sexual Health Law. *Bringing Rights to Bear: An Analysis of the Work of the U.N. Treaty Monitoring Bodies on Reproductive and Sexual Rights*, New York: CRR, 2002.
- 54 Committee on Legal and Administrative Questions Report, Section 1, Para.6, 5 September 1949, in *Collected Edition of the Travaux Préparatoires*, Vol. 1 (1975), p.194.
- 55 United Nations Universal Declaration on Human Rights, UN GAOR, Art.1, G.A. Res.217, UN Doc. A/810, 1948; Committee on Legal and Administrative Questions Report, Section 1, Para.6, 5 September 1949, in *Collected Edition of the Travaux Préparatoires*, Vol. 1 (1975), p.194.
- 56 European Convention on Human Rights and Fundamental Freedoms, 312 UNTS 221 (entered into force on 3 September 1953), as amended by protocols 4, 6, 7, 12 and 13 to the Convention.
- 57 *Paton v. UK*, App. No. 8317/78, European Commission on Human Rights, 13 May 1980, 3 European Human Rights Rep.408 (1981), (Commission report), also cited as *X. v. UK*.

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58 *Paton v. UK*, App. No. 8317/78, European Commission on Human Rights, 13 May 1980, 3 European Human Rights Rep.408 (1981), (Commission report), also cited as *X. v. UK*.

59 *RH v. Norway*, Decision on Admissibility, App. No.17004/90, 73 European Commission on Human Rights Dec. & Rep. 155 (19 May 1992).

60 *Boso v. Italy*, App. No.50490/99, European Commission on Human Rights (September 2002). American Declaration, OAS Off. Rec. OEA/Ser.L/V/II.82, Doc.6, Rev.1(1948).

61 *Id.* at para. 84.

62 The Court did find that France’s civil malpractice damages and regulatory laws protecting the public health were sufficient remedy to the plaintiff’s injury. *Id.* at paras. 89, 92-93.

63 *Vo v. France*, App. No. 53924/00, Eur. Ct. H.R., (8 July 2004).

64 *Id.* at para. 50.

65 *Id.* at para. 80.

66 *Evans v. the United Kingdom*, App. No. 6339/05, Eur. Ct. H.R. (7 March 2006).

67 *Id.* at para. 46.

68 Charter of Fundamental Rights of the European Union, OJ 2000/C 364/01.

69 Information in this section is primarily taken from the amicus brief submitted to the European Court of Human in the case of *ABC v Ireland* (Application no 25579/05) by the Center for Reproductive Rights and the University of Toronto, submitted October 31, 2008.

70 Albin Eser and Hans-Georg Koch, *Abortion and the Law-From International Comparison to Legal Policy 259-267* (The Hague Asser Press 2005).

71 See e.g., CEDAW Gen. Rec. No. 24, supra note 8, para. 31(c).

72 See Raj Rai and Lesley Regan, *Recurrent Miscarriage*, 368 LANCET 601 (2006); R.J. Cook & S. Howard. “Accommodating Women’s Differences under the Women’s Anti-Discrimination Convention” (2007) 56 Emory L.J. 1039, 1050.

73 Véronique Filippi et al., *Maternal Health in Poor Countries: The Broader Context and a Call for Action*, 368 LANCET 1535 (2006).

74 See e.g., Concluding Observations of the CEDAW Committee: Ireland, para. 186, U.N. Doc. A/54/38 (1999).

75 See e.g., Concluding Observations of the Human Rights Committee: Ecuador, para. 11, U.N. Doc. CCPR/C/79/Add.92 (1998); Concluding Observations of the CEDAW Committee: Burundi, para. 62, U.N. Doc. A/56/38 (2001); Concluding Observations of the CEDAW Committee: Chile, para. 229, U.N. Doc. A/54/38 (1999); Concluding Observations of the CEDAW Committee: Chile, para. 20, U.N. Doc. CEDAW/C/CHI/CO/ (2006); Concluding Observations of the CEDAW Committee: Georgia, para. 112, U.N. Doc. A/54/38 (1999); Concluding Observations of the CEDAW Committee: Greece, para. 208, U.N. Doc. A/54/38 (1999); Concluding Observations of the CEDAW Committee: Ireland, para. 186, U.N. Doc. A/54/38 (1999); Concluding Observations of the CEDAW Committee: Kazakhstan, paras. 76 and 106, U.N. Doc. A/56/38 (2001); Concluding Observations of the CEDAW Committee: Lithuania, para. 159, U.N. Doc. A/55/38 (2000); Concluding Observations of the CEDAW Committee: Mongolia, para. 274, U.N. Doc. A/56/38 (2001); Concluding Observations of the CEDAW Committee: Nicaragua, para. 301, U.N. A/56/38 (2001); Concluding Observations of the CEDAW Committee: Slovenia, para. 119, U.N. Doc. A/52/38/Rev.1 (1997).

76 Albin Eser and Hans-Georg Koch, *Abortion and the Law-From International Comparison to Legal Policy 259-267* (The Hague Asser Press 2005).

77 *Nález Ústavného súdu Slovenskej republiky, sp. zn. (Decision of the Constitutional Court of the Slovak Republic, No.) PL. ÚS 12/01-297*, December 4, 2007.

78 Albania, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Georgia, Hungary, Iceland, Luxembourg, Macedonia, Moldova, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Slovenia, Spain, Sweden, Turkey, and United Kingdom all require the approval of two or more medical professionals before a woman may undergo a therapeutic abortion, in many countries it is once her pregnancy has progressed to a certain point. The point at which this condition is imposed generally marks the end of the “abortion of demand” period and varies by country. For example, Albania, Belgium, Bulgaria, Denmark, Finland, Georgia, Luxembourg, Moldova, and Norway all require approval after the twelfth week; Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia, and Turkey require approval after the tenth week; France and Romania require approval after the fourteenth week; Iceland the sixteenth week; Sweden the eighteenth week; and Cyprus, Hungary, Poland, Portugal, Spain, and the United Kingdom require such certification at all times. See e.g., Law No. 8045 of Dec. 7, 1995 on the interruption of pregnancy, Arts. 9, 11 (Albania); Law on termination of pregnancy of Apr. 3, 1990, sec. 350(4) (amending Penal Code, secs. 348, 350-352) (Belgium); Population Div., United Nations, *Abortion Policies: A Global Review*, vol. 1, at 65 (2001), available at <http://www.un.org/esa/population/publications/abortion/index.htm> (summarizing Law of Oct. 7, 1977 (Bosnia-Herzegovina)) (last visited October 30, 2008); Decree No. 2 of Feb. 1, 1990, Art. 14 (Bulgaria); Law No. 1252-1978 of April 21, 1978, Arts. 15, 24, 35–37 (Croatia); Penal Code, sec. 169A(b) (Cyprus); Law on the termination of pregnancy, No. 350 of June 13, 1973, sec. 4 (Denmark); Law on the interruption of pregnancy, No. 239 of March 24, 1970, sec. 6 (Finland); Law on Voluntary Interruption of Pregnancy and on Contraception, No. 2001-588 of July 4, 2001, Art. 11 (France); Law about artificial termination of pregnancy 2000, paras. 14(1), 15(4), 8(3) (Georgia); Law on the Protection of the Life of the Fetus, No. 79, of Dec. 17, 1992, Art. 12 (Hungary); Law No. 25, of May 1975, Arts. 10–11 (Iceland); Law Concerning Sexual Education, Prevention of Clandestine Abortion, and the Regulation of Voluntary Interruption of Pregnancy, of Nov. 15, 1978, Art. 353(3) (Luxembourg); Population Div., United Nations, *Abortion Policies: A Global Review*, vol. 3, at 184 (2001), available at <http://www.un.org/esa/population/publications/abortion/index.htm> (summarizing content of Law of April 22, 1977 (Macedonia), and Law of July 31, 1979 (Montenegro)) (last visited October 30, 2008); Law on Health Care, No. 411-XIII, of Mar. 28, 1995, Art. 32(2), (3) (Moldova); Termination of Pregnancy Act, Law No. 50 of June 13, 1975, Art. 7–8 (Norway); Royal Decree, Dec. 1, 1978, (laying down regulations for implementation of act dated 13 June 13, 1975), secs. 12, 17 (Norway); Law on Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion of Jan. 7, 1993, Art. 4a(5) (Poland); Penal Code, sec. 142(2) (Portugal); Penal Code, art. 185(c) (Romania); Act Concerning Conditions of and Procedures for the Termination of Pregnancy, Law of June 29, 1977, Arts. 12, 20, 25 (Serbia); Law on medical measures to implement the right to a free decision regarding the birth of children of 20 April 1977, sec. 25 (Slovenia); Organic Law No. 9, July 5, 1985 (amending Penal Code, sec. 417 bis.), Art. 1(1) (Spain); Act of May 18, 1995 (amending Abortion Act of 1974), sec. 3 (Sweden); Regulations concerning the administration and control of womb evacuation and sterilization, Dec. 18, 1983, Art. 5 (Turkey); Abortion Act of 1967, sec. 1(1) (United Kingdom).