

The Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion  
Act of 7 January 1993

(OJ 1 March 1993 No 17 item 78, OJ 95 No 66 item 334, OJ 1996 No 139 item 646, OJ 1997 No 141 item 943, OJ 1999 No 5 item 32, OJ 2001 No 154 item 1791)

Recognizing that life is a fundamental right of a human being, and that life and health care shall be subject to special protection by the State, society and citizen; recognizing the right of everybody to decide responsibly about having children and to have access to information, education, counseling and the means that ensure the enjoyment of this right, it is decided as follows:

**Article 1.** The right to life shall be subject to protection, including in the prenatal phase, to the extent provided in the Act.

**Article 2.** 1. Public administration and local self-government bodies, within the limits of their respective competences, as specified in particular regulations, shall be obliged to provide medical, social and legal aid to pregnant women, in particular, through:

- 1) prenatal care for the fetus and medical care for the pregnant woman,
- 2) financial support and care for pregnant women, who are in a difficult financial situation, according to the Social Assistance Act of 29 November 1990 r. (OJ 1998 r. No 64, item 414, No 106, item 668, No 117, item 756 and No 162, item 1118 and 1126, z 1999 r. No 20, item 170, No 79, item 885 and No 90, item 1001, z 2000 r. No 12, item 136 and No 19, item 238 and 2001 r. No 72, item 748, No 88, item 961, No 89, item 973, No 111, item 1194, No 122, item 1349 and No 154, item 1792),
- 3) access to detailed information on entitlements, benefits and allowances for pregnant women, mothers, fathers and their children and to information concerning institutions and organizations that provide assistance to resolve psychological and social problems and to deal with adoption.

2. Public administration and local self-government bodies, within the limits of their respective competences, as specified in particular regulations, shall be obliged to provide citizens with free access to methods and measures for conscious procreation.

2a. Public administration and local self-government bodies, within the limits of their respective competences, as specified in particular regulations, shall be obliged to provide free access to information and prenatal examinations, especially when there is an increased risk or suspicion about the occurrence of a genetic or developmental fetal defect or an incurable illness that imperils the fetus's life.

3. A school shall be obliged to grant leave to a pregnant pupil and to provide other forms of assistance necessary for her to complete her education, without, to the extent possible, any delays in completing the subjects of the curriculum. If, because of pregnancy, delivery or confinement, it is not possible for the woman to pass the examinations that are important for the continuation of her studies, the school shall be obliged to set an additional examination date that is convenient for the woman, within a period not exceeding 6 months.

4. The scope, form and mode of assistance referred to in paragraphs 1 and 2, shall be set forth in a regulation adopted by the Council of Ministers.

**Article 3.** 1. Public administration and local self-government bodies shall cooperate with and offer help to the Catholic Church, other churches and religious organizations, as well as social organizations that organize care for pregnant women, arrange foster families or contribute to the adoption of children.

2. The scope, form and mode of assistance referred to in paragraph 1, shall be set forth in a regulation adopted by the Council of Ministers.

**Article 4.** 1. Courses on the sexual life of an individual, principles of conscious and responsible parenthood, the value of the family, life in the prenatal phase, as well as on methods and measures of conscious procreation shall be introduced into school curricula.

2. (repealed).

3. The Minister of Education will determine, by regulation, a detailed core curriculum, which includes the manner of teaching and the scope of the curriculum referred to in paragraph 1, and will introduce a system of teacher training on the topics referred to in paragraph 1.

**Article 4a.** 1. A termination of pregnancy may be performed only by a doctor, when:

- 1) The pregnancy poses a threat to the life or health of the pregnant woman,
- 2) Prenatal examinations or other medical conditions indicate that there is a high probability of a severe and irreversible fetal defect or incurable illness that threatens the fetus's life,
- 3) There are reasons to suspect that the pregnancy is a result of an unlawful act,
- 4) (repealed).

2. In the cases referred to in paragraph 1(2), the termination of pregnancy shall be permissible until the fetus is capable of living independently outside the body of the pregnant woman; in the cases referred to in paragraphs 1(3) or 1(4), if not more than 12 weeks have elapsed since the beginning of the pregnancy.

3. In the cases referred to in paragraphs 1(1) point 1(2), the termination of the pregnancy shall be performed by a doctor at a hospital.

4. The written consent of woman is necessary to terminate the pregnancy. In the case of a minor or fully incapacitated woman, the written consent of her legal representative is required. In the case of a minor over 13, her own written consent is also required. In the case of a minor under 13, the consent of the guardianship court is required, and the minor has the right to express her own opinion. In the case of a fully incapacitated woman, her written consent is also required, unless her mental state renders her incapable of consenting. In the absence of the consent of the legal representative, in order to terminate the pregnancy, the consent of the guardianship court is required.

5. A doctor, other than the one who terminates the pregnancy, ascertains that the circumstances referred to in paragraphs 1(1) and 1(2) have occurred, unless the pregnancy is a direct threat to the woman's life. The circumstances referred to in paragraph 1(3), shall be ascertained by the public prosecutor.

6. In the case referred to in paragraph 1(4), the woman shall submit a written statement, and, moreover, certification of consultation with a primary care doctor, other than one terminating the pregnancy, or another qualified person of her choice. The pregnancy may be terminated if three days after the consultation, the woman still maintains her intention to terminate the pregnancy.

7. The objective of the consultation referred to in paragraph 6, shall be, in particular, to determine the health and life situation of the woman, to help solve her problems by presenting, among other things, accessible forms of assistance for women in relation to pregnancy and after giving a birth to a child, informing the woman about the legal protection of life in the prenatal

phase, medical aspects of pregnancy, termination of pregnancy, as well as methods and means of contraceptives. With the consent of the woman, her partner, family members or another close person may participate in the consultation.

8. Separate regulations shall apply to private clinics where termination of pregnancy is performed, with respect to professional and sanitary requirements for the premises and the equipment of the private clinics, as well as with respect to the medical documentation and management of those clinics.

9. The Minister of Health and Social Welfare after consultation with the Polish Chamber of Physicians and Dentists will determine, by regulation, the professional qualifications of doctors that entitle them to perform a termination of pregnancy, as well as the qualifications of doctors referred to in paragraph 5.

10. The Minister of Health and Social Welfare in consultation with the minister competent for social security will determine, by regulation, the qualifications of persons other than a doctor, who are entitled to serve as consultants, as referred to in paragraph 6, the way to establish a list of consultants and the manner and mode of performing consultations.

**Article 4b.** Persons covered by social insurance and persons entitled to free health care on the basis of other regulations shall be entitled to free pregnancy termination in a public health care institution.

**Article 4c.** 1. Persons that perform actions that follow from the Act shall be obliged to keep confidential all that they have come to know in connection with performing those actions, in accordance with separate regulations.

2. In the case of any intentional disclosure of the information specified in paragraph 1, the Court may award the injured person an adequate amount of money as cash compensation by way of damages for the injury suffered.

**Article 5.** In the Act of 28<sup>th</sup> October 1950 on the doctor's profession (OJ No 50, item 458 and No 53, item 489, z 1956 r. No 12, item 61 and 1989 r. No 30, item 158) paragraph 2(4) of Article 15 shall be repealed.

**Article 6.** The Civil Code shall be amended as follows:

1) in Article 8:

a) the content that was hitherto binding is marked as § 1,

b) the following wording shall be inserted in § 2:

“§ 2. A conceived child shall also have legal capacity; however, it shall enjoy its property rights and obligations provided it is born alive.”

2) After Article 446, Article 446<sup>1</sup> shall be inserted:

“Article 446<sup>1</sup>. Upon being born, the child may demand redress for damages suffered before birth.”

**Article 7.** The Criminal Code shall be amended as follows:

1) after Article 23a, Article 23b shall be inserted:

“Article 23b. § 1. A conceived child may not be the subject of actions other than those that aim to protect its own and its mother's life and health, except for the actions described in § 2.

- § 2. Prenatal examinations that do not significantly increase the risk of miscarriage shall be allowed where:
- 1) the conceived child is from a family with genetically transmitted defects,
  - 2) there is a suspicion that the fetus suffers from a genetic disease the effect of which can be cured, controlled or limited during the fetal period,
  - 3) there is a suspicion that the fetus is seriously injured.”,
- 2) after Article 149, Article 149a and 149b shall be inserted:
- “Article 149a. § 1. A person who causes the death of a conceived child shall be subject to imprisonment for up to 2 years.
- § 2. The mother of a conceived child shall not be subject to punishment.
- § 3. A doctor acting in a public health care institution does not commit the crime specified in § 1 where:
- 1) the pregnancy constituted a threat to the mother’s life or serious threat to the mother’s health, as diagnosed by two doctors other than the one performing the action specified in § 1, but the diagnosis is not necessary if the need to eliminate the threat to the mother’s life was urgent,
  - 2) when the conceived child’s death happened as a result of actions undertaken in order to save the life of mother or to counteract severe damage to mother’s health, the threat of which was confirmed by a diagnosis of two other doctors,
  - 3) prenatal examinations, confirmed by a diagnosis of two doctors other than the doctor undertaking an action specified in § 1, show severe and irreversible damage to the fetus,
  - 4) there is a justified suspicion, confirmed by the certification of the public prosecutor that the pregnancy was the result of an unlawful act.
- § 4. In particularly justified cases, the court may refrain from imposing a penalty against the perpetrator of the crime specified in § 1.
- Article 149b. Whoever, by use of violence against a pregnant woman causes the death of the conceived child or causes the conceived child’s death in another way without the woman’s consent or by use of violence, by an unlawful threat or deceit, leads the mother of the conceived child to take the child’s life, shall be subject to imprisonment for a period of 6 months up to 8 years.”,
- 3) Article 153 and 154 shall be repealed,
- 4) after Article 156, the following Article shall be inserted:
- “Article 156a. § 1. Whoever causes bodily injury to a conceived child or any life imperiling threat to its health, shall be subject to a imprisonment for a period of up to 2 years.
- § 2. A doctor does not commit an offense, if the bodily injury to a conceived child or any impairment of fetal health is a consequence of medical treatment necessary to avert a threat to the health and life of the pregnant woman or conceived child.
- § 3. A mother of a conceived child who commits an act specified in § 1 shall not be punished.”,
- 5) in Article 157:
- a) § 1 shall be replaced by the following:
- “§ 1. If an act specified under Article 156 § 1 results in the death of a human being, the perpetrator shall be a subject to imprisonment for up to 10 years.”,

b) A new § 2 shall be added as follows:

“§ 2. The perpetrator of the act specified in Article 149a § 1, Article 149b or 156a § 1 shall be subject to the same penalty if the result of this act is the death of the mother of the conceived child.”

c) § 2 shall become § 3.

**Article 8.** In the Local Self-Government Act of 8 March 1990 (OJ No 16, item 95, No 32, item 191, No 34, item 199, No 43, item 253 and No 89, item 518, z 1991 r. No 4, item 18 and No 110, item 473 and 1992 No 85, item 428 and No 100, item 499), subparagraph 16 in Article 7.1 shall be replaced by the following:

“16) ensuring social, medical and legal aid for pregnant women.”

**Article 9.** Every year, by 31 July, the Council of Ministers shall present to Sejm<sup>1</sup> a report on the implementation of the Act and the effects of its application.

**Article 10.** The Conditions of Permissibility of Abortion Act of 27 April 1956 (OJ No 12, item 61 and z 1969 r. No 13, item 95) shall be repealed.

**Article 11.** The act shall enter into force fourteen days after its promulgation.

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<sup>1</sup> Sejm is one of the chambers of Parliament.