



Alliance for Choice: written evidence to the UK All-party Parliamentary Group on Population, Development and Reproductive Health (APPG) on abortion in Northern Ireland

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Introduction

Alliance for Choice (AFC) is a civil society organisation that campaigns for safe, free and legal abortion in Northern Ireland. We are made up of women and men who reflect the diverse population of Northern Ireland and who want to see equality and self-determination for women in the area of sexual and reproductive rights.

The aim of this written evidence is to brief the APPG on the daily discrimination and inequality experienced by women in Northern Ireland with an unplanned or crisis pregnancy. It is important that the APPG is aware of the strong anti-choice socialisation process that pervades Northern Ireland churches, schools and the political sphere makes choosing to have an abortion a more emotional decision for Northern Ireland women¹. Being forced to leave one's own country because abortion is defined as a criminal act, and being called 'murderers' by politicians and protestors stigmatises these women as criminals and inevitably leaves them with emotional scars which many of their British counterparts are spared.

Our contact details are on the front of this submission and we are happy to provide the APPG with more information and can give oral evidence.

Context

The Good Friday/Belfast Agreement 1998, was framed within concepts of equality, rights and safeguards and an acceptance of the full and equal participation of women. Abortion was then a reserved matter and despite being devolved to the Northern Ireland Assembly in 2010, abortion is constructed a moral and ethical issue and not one of rights.

The Northern Ireland Assembly has the power to legislate for abortion law reform but continually refuses to do so. Despite the devolved legislature the UK Government has overall responsibility for ensuring that all of the UK meets its obligations with regard to international conventions and treaties. Westminster, through the Legislative Consent Motion can legislate on abortion if the Northern Ireland Assembly continues to refuse to amend its antiquated laws.

Furthermore we have recently seen the Government and Equalities Office, stating that it will pay for women from Northern Ireland to access abortions in England. However it is not clear

¹ Bloomer, F and O'Dowd, K (2014) *Restricted access to abortion in the Republic of Ireland and Northern Ireland: exploring abortion tourism and barriers to legal reform*. Culture, Health & Sexuality, 16 (4). pp. 366-380.

how this will happen and if travel and accommodation costs will be covered also. Guidance to date has not been provided for women or health professionals.

Practice – past, present and future

Northern Ireland continues to rely on the 1861 Offences Against the Person Act, making abortion a criminal issue, unlike other parts of the United Kingdom where abortion is legal, free and safe and governed by the 1967 Abortion Act. The Bourne case, where a London gynaecologist was found not guilty of an offence under this Act for performing an abortion on a 14-year-old girl who was pregnant as the result of rape, was based on the interpretation of the word “unlawfully.” It was held that the Infant Life (Preservation) Act 1929 gave protection from prosecution if the act was carried out, in good faith, “for the purpose only of preserving the life of the mother.” In the Bourne case, this was said to cover cases where continuing the pregnancy would leave the woman “a physical or mental wreck.” Thus, in the absence of legislation, the courts in Northern Ireland are left with the task of interpreting the word “unlawful” in the 1861 Offences Against the Person Act using the Criminal Justice (Northern Ireland) Act 1945 (which applies the Infant Life (Preservation) Act 1929 to Northern Ireland) and the precedent set in Bourne. In the judgment in ‘A’, the judge clarified the legality of abortion: “The doctor’s act is lawful where the continuance of pregnancy would adversely affect the mental health or physical health of the mother... The adverse effect must, however, be a real and serious one and it will always be a question of fact and degree whether the perceived effect of non-termination is sufficiently grave to warrant terminating the unborn child.”

There are a number of **problems** with this legal framework which make it unsatisfactory:

- **Lack of clarity on ‘physical or mental wreck’ as per Bourne.**
More recent case law elaborating on this term engages women who are either minors or suffer from mental disability. See, for example, *Northern Health and Social Services Board v F and G* [1993] NI 268; *Northern Health and Social Services Board v A and Others* [1994] NIJB1; *Western Health and Social Services Board v CMB and the Official Solicitor* [1995].
- **No guidance for medical professionals.**
Ongoing judicial review since 2003, most recently heard again in 2013.
The courts have recognised that medical professionals require assistance navigating an ad hoc legal framework and determining when provision of abortion services will be lawful. DHSSPS stated in November 2015 that the latest draft of guidelines will be brought before the Executive ‘shortly’.
- **Serious criminal consequences which affect medical provision of lawful abortion within the law.**

Procurement of an abortion carries a sentence of up to life imprisonment.

Evidence suggests this leads to a reluctance of medical professionals in Northern Ireland to exercise judgment and carry out abortion which may fall within law for fear of prosecution. For example, in *Northern Health and Social Services Board v F and G* [1993] NI 268, a case involving pregnancy due to sexual crime against a minor, even though the termination was determined as lawful the minor was still required to travel to England for the procedure due to what was described as ‘the reluctance of obstetricians in Northern Ireland to carry out the operation.’

Since 2000 the Police Services of Northern Ireland have investigated 28 cases of individuals suspected of procuring an abortion. One man was convicted in 2010².

The continued exclusion from the 1967 Abortion Act means that the issue of abortion continues to be governed by confusing and threatening legal ambiguity and the continuing criminalisation.

Abortions: Monitoring data³

- **Abortions in Northern Ireland**
 - An average of 39 abortions are carried out per year on NHS premises in Northern Ireland.
 - Little is known of the profile of those obtaining abortions on NHS premises in Northern Ireland aside from their age. Most are women aged 30+.
 - No published data exists on those who obtain abortions from the Marie Stopes International Clinic in Belfast.
 - No published data exists on those who obtain the abortion pill from internet based providers.

- **Abortions Obtained In England**
 - Data is available on those who travel to England for abortions, though this data is thought to be under-reported.
 - Since 1970 to 2015 a total of 61,314 abortions were provided to women from Northern Ireland.
 - A profile of those travelling over the last 10 years indicates most are in a relationship and most are white/Irish or white/ British.

² McNeilly, K., Pierson, C., & Bloomer, F. (2016). Moving Forward From Judicial Review on Abortion in Situations of Fatal Foetal Abnormality and Sexual Crime: The Experience of Health Professionals. Queen's University Belfast.

³ Bloomer, Fiona and Hoggart, Lesley (2016) Abortion Policy Challenges and Opportunities: Briefing paper, Knowledge Exchange Seminar Series. RAISE /NI Assembly

- A wide range of ages travel to obtain abortions in England. The most common ranges being typically within the categories of 20-24 and 25-29. Teenagers represent less than 20% of all who travel.
 - The majority of abortions carried out in clinics in England on residents of Northern Ireland are within the time period of 3-9 weeks gestation, with overall almost 90% within 12 weeks gestation.
 - The gestation time is generally higher than that observed elsewhere in the UK. This is thought to be the result of limited access to information, time needed to arrange travel plans and time needed to raise funds for the procedure / travel.
- **Sexual Crime**

The international community has consistently called for the immediate decriminalising of abortion in instances of rape and incest. Again the State Party has continued to refuse to legislate for the provision of abortion in these circumstances. A WHO Report on *Safe Abortion* argues that prompt, safe abortion services should be provided on the basis of a woman's complaint rather than requiring forensic evidence or police examination. Administrative requirements should be minimized and clear protocols established for both police and health-care providers as this will facilitate referral and access to care."⁴ The decision to terminate should lie with the woman. Any woman or girl that becomes pregnant as a result of a criminal act should have the same access to support services, including abortion as their counterparts in other UK countries.

- **Foetal Abnormality**

Foetal abnormality is not a grounds for a legal abortion under the 1861 Act and women in those situation are left in very difficult situations. Recently a young woman bravely told her story of finding out that her foetus had the fatal condition of anencephaly and was informed that she either had to carry the foetus to term or travel to England to access safe and legal abortion.

The situation can be further complicated for those women who are forced to travel to England for a termination but wish to bring their baby's remains back to Northern Ireland for burial or cremation, or even to have a post mortem examination carried out which may benefit them in a future pregnancy.

A report by the Royal College of Obstetricians and Gynaecologists (RCOG), Royal College of General Practitioners (RCGP), Royal College of Midwives (RCM), British Paediatric Association, the British Medical Association and the Clinical Genetics Society clearly stated

⁴ World Health Organisation (2012) *Safe abortion: technical and policy guidance for health systems (2nd ed)*, WHO, pages 92-93. Available at www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/

that, “it would be inhumane to these mothers, their babies and families to insist on the continuation of a pregnancy when the foetus was known to be seriously abnormal”.⁵

The decision to proceed or not should lie with the woman with support from her clinician. If the decision is to terminate the pregnancy then this should proceed as soon as possible with the necessary support and aftercare in place. This is not the case for women in Northern Ireland.

- **Prohibitive Costs**

The Government and Equalities Office have recently announced that women from Northern Ireland wishing to access abortion in England will not have to pay for this. However, there are many women and girls still unable to travel for various reasons e.g. women in domestic violence relationships, BME women with insecure immigration status, women with serious health problems, and those with disabilities to name but a few. The **cost of accessing abortion** ranges from £70 from organisations who provide the abortion pill online to £500–£3000 for those who travel to England (this includes clinic fees and flights/ ferry costs). Such costs create a significant burden to women with low incomes and can also lead to delays in obtaining an abortion, thereby increasing its cost. Families who wish to have a burial or cremation (or an autopsy) after an abortion in England are also faced with the task of having to organise how they can bring the foetal remains home. This might include using specialist services (at a cost of approx. £400), a parcel courier or as some have done, bringing the remains home themselves, in their hand-luggage if flying, or in a car if travelling by ferry (Bloomer, Hoggart 2016). Those wishing to have an autopsy conducted in Northern Ireland have no clear pathway to request this, resulting in clinic staff liaising with local health settings in Northern Ireland to arrange tests or tests being conducted in England, which the families would have to pay for.

- **The Guidance on the Termination of Pregnancy**

The Family Planning Association in 2002 brought a judicial review against the Department of Health in Northern Ireland to produce guidelines for health professionals on when a termination could legally proceed. They argued that the law was complex and difficult for healthcare professionals to navigate. A number of legal challenges took place and various versions of the guidance published. During this time countless women and families have been affected by the subsequent delays and subjected to a system in which health professionals have been working in fear and confusion and women have been refused support and left in a state of crisis.

⁵ Royal College of Obstetricians and Gynaecologists, Royal College of Midwives, Royal College of General Practitioners, British Medical Association, British Paediatric Association, Clinical Genetics Society. *Report on the advantages and disadvantages of imposing an 18 week gestational age limit on legal abortion*. 27 November 1987: para 3.1.

In **March 2016** the Northern Ireland Executive approved and published [Guidance on the Termination of Pregnancy in Northern Ireland for Health and Social Care Professionals](#).

While the current Guidance is a marked improvement from the 2013 version there are still serious deficiencies: the government has not adequately addressed the chill factor that was generated by the language and approach of the 2013 document; communication and interpretation of the content of the guidance varies across government departments and Health and Social Care Trusts, leading to a continuing lack of clarity on the circumstances in which an abortion can legally be carried out in Northern Ireland and on the responsibilities and accountability of health professionals.

- **Interdepartmental Working Group on fatal fetal abnormality**

The previous Health and Justice Ministers established a Working Group (July 2016) to consider the issue of fatal fetal abnormality. The first meeting was held on 14 July and a report was expected by the end of September 2016. We are still waiting on the publication of this report.

- **Influencers: The Northern Ireland Assembly**

There have been several debates in the Northern Ireland Assembly in recent years, centering on Guidance for health professionals, the opening of the Marie Stopes Clinic and legal reform in cases of fatal foetal (FFA) abnormality or sexual crimes. The first debate in the Assembly in 2000 was characterised by language that women having abortions were 'selfish', in more recent times this has moved to women seeking abortion being labelled as 'vulnerable' and in need of 'protection'. The terminology used to refer to the foetus varies, with 'unborn/ child/ baby' being much more common than 'foetus'. More nuance in the debates has reflected heightened awareness of the issue of FFA, with terminology referring to the act of abortion typically using 'termination' as opposed to 'kill/ murder' observed in earlier debates. The overall sentiment amongst many of the politicians is to support reform only in very limited cases, whilst a notable minority, many from the DUP and the SDLP remain deeply hostile to any reform (Pierson and Bloomer⁶).

- **Public and Professional Opinion**

The UK government have failed to respond to calls from the CEDAW committee to have a public consultation on reforming the law. This remains the case. In the absence of government consultation public opinion polls provide insight into support for legal reform. Two large scale polls have been conducted in recent year, both of which have demonstrated broad support for reforming the law. In a poll conducted by Amnesty International (2014)

⁶ Bloomer F, and Pierson C. (in press) Anti-abortion myths in political discourse. In: McQuarrie C, Pierson C, Bloomer F, editors. *Abortion in Anti-Choice Islands: Crossing Troubled Waters*. Prince Edward Island: Prince Edward University Press.

respondents were asked if abortion should be legal in cases of⁷:

- Rape: 69% yes, 19% no, 18% unsure
- Incest: 68% yes, 16% no, 13% unsure
- Fatal foetal abnormality: 60% yes, 16% no, 12% unsure.

A poll conducted by the BBC/ RTE in 2015 provided further indication of support for reform, with respondents indicating support for access to abortion in the following cases⁸:

- Woman's life at risk 84%
- Rape 84%
- Incest 75%
- Fatal foetal abnormality 67%
- Woman's health at risk 62%

The Northern Ireland Life and Times Survey in 2017⁹ reported similar findings:

- Where woman's life at risk 83%
- Threat to a woman's physical and mental health 76%
- Fatal or serious foetal abnormality 81%
- For rape and incest 54% definitely legal and 24% say it should probably legal
- 77% felt it was unfair that women in Northern Ireland cannot have an abortion on the NHS
- 70% stated that abortion should be a matter for medical regulation and not criminal law

Amongst gynaecologists, there is also broad support for reform, with survey results mirroring that of the public (Francome & Savage, 2011).

International context

The ongoing grave and systematic human rights violations that occur on a daily basis for many women and young girls in Northern Ireland is well documented. The CEDAW Committee since 1999 and latterly other UN Committees such as IPPR, CRC, particularly General Comment No 20, CRPD and ESRC have been highly critical of the failure of the State Party to legislate to ensure that women and girls can access safe, free and legal abortion in Northern Ireland.

⁷ <https://www.amnesty.org.uk/abortion-poll-research-majority-people-northern-ireland-want-decriminalise>

⁸ http://downloads.bbc.co.uk/tv/nolanshow/RTE_BBC_NI_Cross_Border_Survey.pdf

⁹ <http://www.ark.ac.uk/publications/updates/update115.pdf>

AFC along with two other civil society organisations, the Family Planning Association and the Northern Ireland Women's European Platform submitted evidence to the Committee on the Elimination of All Forms of Discrimination Against Women in 2010 under the Optional Protocol and detailed the grave and systematic discrimination faced by women in Northern Ireland. We can provide the APPG with a copy of this report. Appendix 1 provides an overview of the legal context of abortion in Northern Ireland and Great Britain and an outline of case law which the APPG may find useful.

- **The Northern Ireland Human Rights Commission Judicial Review**

In November 2015 the Northern Ireland High Court heard a judicial review application from the Northern Ireland Human Rights Commission challenging the legality of the current legal framework for abortion in cases of serious malformation of the foetus, fatal foetal abnormality and pregnancy due to sexual crime on human rights grounds (*The Northern Ireland Human Rights Commission's Application* [2015] NIQB 96).

The High Court ruled that prohibition of abortion in cases of fatal foetal abnormality and sexual crime (up until date when foetus becomes capable of existing independently) violated UK human rights commitments, specifically the right to private and family life under **Article 8** of the European Convention on Human Rights.

After further submissions the Court found it was not possible to read the present legal framework in a way that protected Article 8 and so section 4 of the Human Rights Act 1998 was used to [issue a declaration of incompatibility](#) which places the onus on the legislature to remedy the incompatibility through legislative reform. **The Northern Ireland Assembly now has the onus** to introduce reforms.

ENDS

Appendix 1: Legal Position in Northern Ireland and UK Regarding Abortion

1. Legal Position on Abortion in Great Britain

a. Abortion Act 1967

The legal framework pertaining to abortion in Great Britain (England, Scotland and Wales) is found in the Abortion Act 1967. Section 1(1) of the Abortion Act lays down the circumstances in which an abortion can be provided:

‘Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if two registered medical practitioners are of the opinion, formed in good faith -

- (a) that the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family; or
- (b) that the termination of the pregnancy is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman; or
- (c) that the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated; or
- (d) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.’

b. Offences Against the Person Act 1861 and Infant Preservation Act 1929

Outside of this framework sections 58 and 59 of the Offences Against the Person Act 1861 continue to apply and criminalise the procurement of abortion (subject to the *Bourne* exception outlined below).

Abortion outside of the framework of the 1967 Act after twenty-eight weeks engages section 1(1) of the Infant Preservation Act 1929 which states that any person acting with intention to cause a ‘child’ to die, unless acting in good faith to preserve the life of the mother, will be convicted of the crime of child destruction.

Conviction under both the 1861 Act and the 1929 Act carry a sentence of up to life imprisonment.

2. Legal Position on Abortion in Northern Ireland

The Abortion Act 1967 was not extended to Northern Ireland at the same time as the rest of the UK mostly due to the contentious political context of Northern Ireland in the late 1960s and 1970s and lack of appetite amongst politicians to bring reform to Northern Ireland.

While Northern Ireland shares some legislation with Great Britain not all legislation made at Westminster (primary legislation) extends to Northern Ireland. The devolved Northern Ireland Assembly has power to make legislation (secondary legislation), and Northern Irish law differs from the rest of the UK on certain issues, including abortion.

It is important to note that both health and criminal justice powers are devolved to the Northern Ireland Assembly, and so the Assembly has the power to legislate on abortion if it so chose to.

a. The Offences Against the Person Act 1861 and *Bourne*

The legal framework pertaining to abortion in Northern Ireland is currently found in sections 58 and 59 of the Offences Against the Person Act 1861 and section 25(1) of the Criminal Justice Act (NI) 1945. The 1945 Act reflects the 1929 Infant Preservation Act in Great Britain in outlining the offence of child destruction.

The Offences Against the Person Act 1861 was modified in 1939 by the case *R v Bourne* [1939] 1 KB 687, involving a physician in London who carried out an abortion on a 14 year old girl pregnant following rape. The court read in a similar proviso to that in the Infant Preservation Act 1929 pertaining to abortion after twenty-eight weeks to the 1861 Act – amending the law to provide a defence to the 1861 Act if the abortion was carried out to prevent the woman becoming a ‘mental or physical wreck’.

This is the framework that continues to apply to Northern Ireland in the absence of the 1967 Abortion Act framework. The term ‘mental or physical wreck’ has been expanded upon by the courts as follows: *Northern Health and Social Services Board v F and G* [1993] NI 268 preserving the life and health of the woman was read as encompassing both her physical and mental health and well-being. *Northern Health and Social Services Board v A and Others* [1994] NIJBI, which involved a mentally handicapped woman pregnant as a result of rape, interpreted preserving the life of the woman to entail avoiding an adverse effect which is ‘real and serious.’ This was further elaborated in *Western Health and Social Services Board v CMB and the Official Solicitor* [1995] (unreported), a case involving a mentally handicapped minor, to be ‘permanent or at least long-term.’ However, the *Bourne* exception is vague and there has been continuing controversy over how medical professionals interpret and apply it. Many erring on the side of caution for fear that they could be prosecuted (see *Re Family Planning Association for Northern Ireland* [2004] NICA 39).

b. Judicial Review

In November 2015 the Northern Ireland High Court determined the current legal framework for abortion in Northern Ireland incompatible with UK human rights commitments under the European Convention on Human Rights in relation to fatal foetal abnormality and sexual crime. The Convention has domestic effect in UK law (including Northern Ireland) by virtue of the Human Rights Act 1998. The specific right under which the court found incompatibility was the Article 8 right to private and family life.

Section 4 of the Human Rights Act was engaged by the court to issue a declaration of incompatibility placing onus on the legislature to make statutory changes remedying the incompatibility. This was a significant move by the court, only one of only 30 declarations of incompatibility made across the UK since 2000, one of two made by Northern Irish courts. To date the Northern Ireland Assembly has not acted to remedy the incompatibility. The case is currently on appeal to the Northern Ireland Court of Appeal, judgment to be delivered after the summer.

3. European Court of Human Rights and Abortion (Council of Europe)

Jurisprudence (case law) from the European Court of Human Rights, adjudicating on the European Convention on Human Rights, is binding in the UK. This means courts in Great Britain and Northern Ireland must take into account this case law. In the 2015 judicial review decision jurisprudence of the European Court of Human Rights was taken into account as gesturing towards a need for reform of the Northern Irish position.

The Court has held criminalisation/limited access to abortion in violation of rights under the Convention in a number of instances. Legal frameworks similar to Northern Ireland (in particular Poland and Ireland) have been found incompatible with Article 8 (right to private and family life) and Article 3 (prohibition of inhuman and degrading treatment) on a number of occasions.

Tysiac v Poland (2007) – Applicant was refused a therapeutic abortion after being warned that her already severe myopia could worsen if she carried her pregnancy to term. Following the birth of her child she had a retinal haemorrhage and was registered as severely disabled.

Decision - The Court found that the applicant had been denied access to an effective mechanism capable of determining whether the conditions for obtaining a legal abortion had been met, in **violation of Article 8** (right to respect for private and family life).

A, B and C v Ireland (2010) - Three women living in Ireland, who became pregnant unintentionally, complained that, because of the impossibility of obtaining a legal abortion in Ireland, they had to go to the United Kingdom for an abortion and that the procedure was humiliating, stigmatising and risked damaging their health. Having or helping anyone to have an abortion is a criminal offence in Ireland. However there is a constitutional right to an abortion where there is a real and substantial risk to the life of the mother. One of the applicants, in remission from a rare form of cancer and unaware that she was pregnant, underwent checkups contraindicated in pregnancy. She understood that her pregnancy could provoke a relapse and believed that it put her life at risk.

Decision - The Court found that Ireland had failed to implement the constitutional right to a legal abortion. There had therefore been a **violation of Article 8** (right to respect for private and family life) concerning the applicant in remission from cancer (the Court held there had been **no violation of Article 8 concerning the other two applicants**), because she was unable to establish her right to a legal abortion either through the courts or the medical

services available in Ireland. The Court noted the uncertainty surrounding the process of establishing whether a woman's pregnancy posed a risk to her life and that the threat of criminal prosecution had a "significant chilling" effect both on doctors and the women concerned.

R R v Poland (2011) – A pregnant mother carrying a child thought to be suffering from a severe genetic abnormality was deliberately denied access to the genetic tests to which she was entitled by doctors opposed to abortion. Six weeks elapsed between the first ultrasound scan indicating the possibility that the foetus might be deformed and the results of the amniocentesis, too late for her to make an informed decision on whether to continue the pregnancy or as for a legal abortion, as the legal time limit had by then expired. Her child was born with abnormal chromosomes. She submitted that bringing up and educating a severely ill child was damaging to herself and her other two children.

Decision - The Court found a **violation of Article 3** (prohibition of inhuman and degrading treatment) as the applicant, who was in a very vulnerable position, had been humiliated and "shabbily" treated, the determination of whether she should have had access to genetic tests, as recommended by doctors, being marred by procrastination, confusion and lack of proper counselling and information. The Court also found a **violation of Article 8** (right to respect for private and family life) because Polish law did not include any effective mechanisms which would have enabled the applicant to have access to the available diagnostic services and to take, in the light of their results, an informed decision as to whether or not to seek an abortion. Given that Polish domestic law allowed for abortion in cases of foetal malformation, there had to be an adequate legal and procedural framework to guarantee that relevant, full and reliable information on the foetus' health be made available to pregnant women.

P and S v Poland (2012) - The case concerned the difficulties encountered by a teenage girl, who had become pregnant as a result of rape, in obtaining access to an abortion, in particular due to the lack of a clear legal framework, procrastination of medical staff and also as a result of harassment.

Decision - The Court held that there had been a **violation of Article 8** (right to respect for private and family life). It found in particular that the applicants had been given misleading and contradictory information and had not received objective medical counselling; and, the fact that access to abortion was a subject of heated debate in Poland did not absolve the medical staff from their professional obligations regarding medical secrecy.

4. EU Law and Abortion

It should be noted that the EU is not associated with the European Convention on Human Rights, which comes under the auspices of the Council of Europe. There is currently no EU-wide rules on abortion. Abortion is regarded as a matter of national law and the position within EU member states is divergent.

Free movement of people within the EU allows citizens of member states with restrictive laws, such as Northern Ireland, Ireland, Poland and Malta, to travel to others in 'health tourism' to receive abortion services. However, this is dependent upon a woman's economic resources.

In 1991 the European Court of Justice heard the case of *SPUC v Grogan* in which it was asked whether abortion was a service within the meaning of the EEC Treaty and if restriction on distribution of information on such services by Irish students' unions could be justified under EC law. The Court rejected the view of SPUC that abortion was 'grossly immoral' and stated it could not come within the definition of a service. However, the Court held that the links between students' unions and providers of abortion in the UK or elsewhere were too tenuous for prohibition on distribution of information to be regarded as a restriction and they, therefore, could not claim the protection of EC law.

Gender equality is a commitment of the EU in their Europe 2020 ten-year growth strategy. A commitment to ensure 'universal access to sexual and reproductive health and reproductive rights' can also be found in the EU's 'Strategic Engagement for Gender Equality 2016-2019' document.