

Abortion On A Woman's Request In Europe: Identifying When the Lawful Time-Period Starts and Ends

Supplementary Information Requested

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Summary

- In most of the 36 European countries that have legalized access to abortion on a woman's request, the time-period explicitly specified is sometime in early pregnancy i.e. either 10 weeks, 12 weeks or 14 weeks, with the most common being a 12-week timeframe.
- In most cases the law itself does not clearly indicate whether this time-period begins at LMP or at conception.
- Supplementary research provides some indication for each country as to whether the starting point for the specified time period is LMP or conception.
- By and large, it is not possible to draw a general conclusion as to starting points based on the terminology in the law as countries with similar legal terminology sometimes appear to take different approaches to starting point in practice.
- Based on supplementary research, the most common starting point appears to be LMP. However for a number of countries the starting point is conception.

INTRODUCTION

In many countries clinical practice defines the start date of a pregnancy as the date of the pregnant woman's last menstrual period (LMP) rather than the date of conception (which may take place approximately two weeks after a woman's LMP) i.e. often in clinical contexts the length of a pregnancy is described with reference to the date of the LMP rather than the date of conception.

In each of the 36 European countries that allow access to abortion on a woman's request, without restriction as to reason or for reasons of distress, the relevant law specifies that such access is lawful only for a particular time-period after the start of the pregnancy.¹ In most cases the time-period explicitly specified in the law for abortion on woman's request is sometime in early pregnancy i.e. either 10 weeks, 12 weeks or 14 weeks, with the most common being a 12-week timeframe.

¹ In all of these countries, once the time period for abortion on a woman's request ends, abortion remains legal on certain exceptional grounds e.g. where necessary to protect a woman's health or life and/or in situations of fatal or severe fetal impairment. Across Europe the most common approach to abortion on these exceptional grounds is not to impose any time-limit.

Whether or not the specified time-period begins at LMP or at conception makes a difference to the actual length of the time-period. For example a 12-week time period that begins at LMP means a 10-week time period from conception; while a 12 week time period that begins at conception means a 14-week time period from LMP.

For the most part, with a few exceptions, the relevant laws do not clarify in clinical terms when the time-period begins i.e. whether the starting point for the relevant time period is the date of the LMP or the date of conception. As a result in most cases research drawing on supplementary materials beyond primary legal sources (i.e. other official sources of information or information from the websites of medical clinics or other materials) is necessary to identify when the lawful time period in each country for abortion on a woman's request starts and ends in practice.

The purpose of this memo is to distill as far as practicable - for as many of these countries as possible - whether the relevant time-period begins at LMP or conception.

- In **Section I** below, the terminology used in the relevant laws to describe the point at which the time-period for lawful abortion on a woman's request starts and ends is summarized and contrasted.
- In **Section II** a country-by-country breakdown of legal terminology and the results of supplementary desk-research is provided for **12 countries**. In each case an indication of whether the relevant legal time-period begins at LMP or conception is provided.

I. LEGAL TERMINOLOGY

In most cases the time-period explicitly specified in the law is some time in early pregnancy i.e. either 10 weeks, 12 weeks or 14 weeks, with the most common being a 12-week timeframe. One country refers to 90 days, one to 3 months, one to 18 weeks and one to viability.

However although the time-periods listed are often similar, most of the laws use slightly different terminology to describe the time-period:

(a) Weeks of Pregnancy

Many of these countries' laws refer to a certain number of "weeks of pregnancy." This is the most common approach. However the precise manner of the reference to weeks of pregnancy differs slightly across these countries:

- e.g. *"before the end of the twelfth week of pregnancy"*
- e.g. *"up to the twelfth week of pregnancy"*
- e.g. *"during the first ten weeks of pregnancy"*
- e.g. *"within the first fourteen weeks of pregnancy."*
- e.g. *"pregnancy has not progressed beyond twelve weeks"*
- e.g. *"pregnancy does not exceed fourteen weeks"*
- e.g. *"pregnancy has not lasted more than 10 weeks"*

(b) Weeks from Conception

Another set of these countries' laws do not refer to "weeks of pregnancy" but instead to a certain number of "weeks from conception":

e.g. "*before the end of the 12th week from conception*"

e.g. "*up to 10 weeks following the date of conception.*"

(c) Last Menstrual Period (LMP)

From an initial review it appears only two countries (Luxembourg and Switzerland) specify in their law that the starting point for calculation of the time-period is LMP:

- *Switzerland*: "within twelve weeks of the start of the pregnant woman's last period."
- *Luxembourg*: "before the end of the 12th week of pregnancy or before the end of the 14th week following last menstrual period."

Apart from in Switzerland and Luxembourg, it is not fully apparent from the wording of the law the point from which the relevant time-period should be calculated i.e. it cannot be definitively determined on the face of most of the laws whether the specified time-period runs from a woman's LMP or from the later date of fertilization. In fact countries with similar legal terminology appear to take different approaches to starting points.

As a result it is necessary to look into supplementary sources for each country to identify the starting point.

II. STARTING DATE PER COUNTRY

The information in this section presents a country-by-country breakdown across **12 countries** for:

- (a) the terminology used in the relevant law to describe the time-period for abortion on request.
- (b) the time-period as it relates to LMP – based on supplementary research.
- (c) the source, where available, for the supplementary research.

The information on time-period as it relates to LMP can thus provide a common point of comparison across the relevant countries.

As indicated in each case, for most countries official or highly reliable sources are available. However for a small number of these countries only less reliable sources were found. In those cases more time would be needed to verify and confirm the information provided.

At the end of the section the legal terminology for those countries for which supplementary research has not been completed is also listed.

Belgium

<u>Legal terminology:</u>	“before the end of the 12 th week from conception.”
<u>Date relating to LMP:</u>	14 weeks after LMP (calculation based on official and verifiable sources)
<u>Source:</u>	Belgium Federal Government: <i>l'avortement doit avoir lieu avant la fin de la 12e semaine qui suit la conception - donc 14 semaines après les dernières règles.</i>
	https://www.belgium.be/fr/famille/enfants/planning_familial

Czech Republic

<u>Legal terminology:</u>	“the pregnancy has not passed the twelfth week”
<u>Date relating to LMP:</u>	12 weeks from LMP (calculation based on anecdotal sources – not verified)

Denmark

<u>Legal terminology:</u>	“before the end of the 12 th week of pregnancy”
<u>Date related to LMP:</u>	12 weeks from LMP (calculation based on official and verifiable sources)
<u>Sources:</u>	Regulatory Guidelines on Termination of Pregnancy and Fetus Reduction(2006): “12-ugersfristen beregnes i almindelighed fra sidste menstruations første dag. Det vil sige, at 12-ugersfristen normalt overskrides ca. 10 uger efter den faktiske konception.”
	https://www.retsinformation.dk/Forms/R0710.aspx?id=10239

France

<u>Legal terminology:</u>	“before the end of the 12 th week of pregnancy”
<u>Date relating to LMP:</u>	14 weeks after LMP (calculation based on official and verifiable sources)
<u>Source:</u>	Ministry of Health: <i>Jusqu’à la fin de la 12e semaine de grossesse, soit 14 semaines après le 1er jour des dernières règles.</i>
https://ivg.gouv.fr/avortement-quels-sont-les-delaix-a-respecter-pour-avorter.html	

Germany

<u>Legal terminology:</u>	“not more than 12 weeks have elapsed since conception”
<u>Date relating to LMP:</u>	14 weeks from LMP (calculation based on verifiable sources)
<u>Source:</u>	Deutsche Gesellschaft für Familienplanung, Sexualpädagogik und Sexualberatung: <i>“no more than 12 weeks must have passed since fertilisation. When calculating the 12-week time limit it is generally assumed that fertilisation occurred two weeks after the start of the last period. As such, the 12th week after fertilisation normally corresponds to the 14th week after the start of the last period. However, many women have periods despite already being pregnant. The date that you give for your last period is therefore not the only criterion applied by physicians. The progress of the existing pregnancy can be determined by gynaecological examination and ultrasound.”</i>
https://www.profamilia.de/fileadmin/publikationen/Reihe_Koerper_und_Sexualitaet/Schwangerschaftsabbruch_englisch_2010.pdf	

Italy

Legal terminology:	“termination of pregnancy during the first 90 days”
Date relating to LMP:	90 days from LMP (calculation based on available sources)
Sources:	Women’s Health Center and a Medical Clinic: <i>“Per la legge italiana l’aborto è consentito nei primi 90 giorni di gestazione (cioè dal primo giorno dell’ultima mestruazione)”</i>
	http://www.vitadidonna.it/aborto/sintomi/aborto-interruzione-di-gravidanza-come-e-dove-il-test.html
	https://www.cmsantagostino.it/santagostinopedia/ginecologia/ivg-interruzione-volontaria-di-gravidanza

Luxembourg

<u>Legal terminology:</u>	“before the end of the 12 th week of pregnancy or before the end of the 14 th week following last menstrual period”
<u>Date relating to LMP:</u>	14 weeks from LMP (calculation based on official and verifiable sources)
<u>Source:</u>	Article 12(1) Law on the Interruption of Pregnancy

Norway

<u>Legal terminology:</u>	“before the end of the twelfth week of pregnancy”
<u>Date relating to LMP:</u>	12 weeks from LMP (calculation based on official and verifiable sources)
<u>Sources:</u>	Norwegian Directorate of Health: <i>“within the first twelve weeks of gestation (11 weeks and 6 days). The duration of a pregnancy is calculated from the first day of the last menstrual period.”</i>
	https://helsenorge.no/Documents/Applying%20for%20termination%20(abortion).pdf

Portugal

<u>Legal terminology:</u>	“during the first 10 weeks of pregnancy”
<u>Date as relating to LMP:</u>	10 weeks from LMP (calculation based on official and verifiable sources)
<u>Source:</u>	National Health Service: “ <i>Em Portugal, a interrupção da gravidez por opção da mulher pode ser efectuada nas primeiras 10 semanas de gravidez, calculadas a partir da data da última menstruação.</i> ”
	http://www.hospitaldeguimaraes.min-saude.pt/imagens/ilustracao/Conteudos/638/Guia%20Informativo%20IVG_1569.pdf

Slovakia

<u>Legal terminology:</u>	“pregnancy has not surpassed the twelfth week”
<u>Date relating to LMP:</u>	12 weeks from LMP (calculation based on verifiable sources)
<u>Source:</u>	Slovak Family Planning Association: “until the 12th week of pregnancy, which is calculated from the first day of the last menstruation.
	https://rodicovstvo.wordpress.com/interrupcie/

Sweden

<u>Legal terminology:</u>	“before the expiry of the 18 th week of pregnancy”
<u>Date related to LMP:</u>	Up to end of 18 weeks from LMP (calculation based on official and verifiable sources)
<u>Source:</u>	Stockholm County Council: “Your pregnancy starts on the first day of your last menstrual period, not on the date of conception. You are entitled to have an abortion through the 18th week of pregnancy without explaining why.”
	https://www.1177.se/Other-languages/Engelska/Graviditet/Abort/

Switzerland

<u>Legal terminology:</u>	“within twelve weeks of the start of the pregnant woman’s last period”
<u>Date related to LMP:</u>	12 weeks from LMP (calculation based on official and verifiable sources)
<u>Source:</u>	Article 119(2) Penal Code

LEGAL TERMINOLOGY IN OTHER COUNTRIES FOR WHICH SUPPLEMENTARY RESEARCH IS NOT YET COMPLETED

Austria

Legal terminology: “during the first three months from the beginning of the pregnancy”

Bulgaria

“her pregnancy is not more than of 12 weeks gestation”

Croatia

“up to ten weeks following the date of conception”

Estonia

“pregnancy has not lasted longer than 11 weeks”

Finland

“not after the twelfth week of pregnancy”

Greece

“pregnancy has not progressed beyond 12 weeks”

Hungary

“pregnancies may be terminated up to the twelfth week”

Iceland

“before the end of the 12th week of pregnancy”

Latvia

“up to the 12th week of the pregnancy”

Lithuania

“up to 12 weeks”

Macedonia

“prior to the expiration of ten weeks from the day of conception”

Netherlands

Viability

Romania

“pregnancy exceeds fourteen weeks”

Russia

“duration of pregnancy does not exceed 12 weeks”

Slovenia

“provided that the pregnancy has not lasted more than 10 weeks”

Spain

“within the first fourteen weeks of gestation”

Turkey

“until the end of the 10th week of pregnancy”

UK

“Pregnancy has not exceeded its twenty-fourth week”