

## RECOMMENDATIONS OF THE WORLD HEALTH ORGANISATION AND NATIONAL ABORTION REGULATION

Being able to terminate a pregnancy is a prerequisite for bodily self-determination, and thus fundamental to gender equality. The World Health Organization makes recommendations as to how the legal framework and health care services best guarantee human rights standards. States follow these recommendations to differing degrees – detailed explorations can be found in the Working Paper.

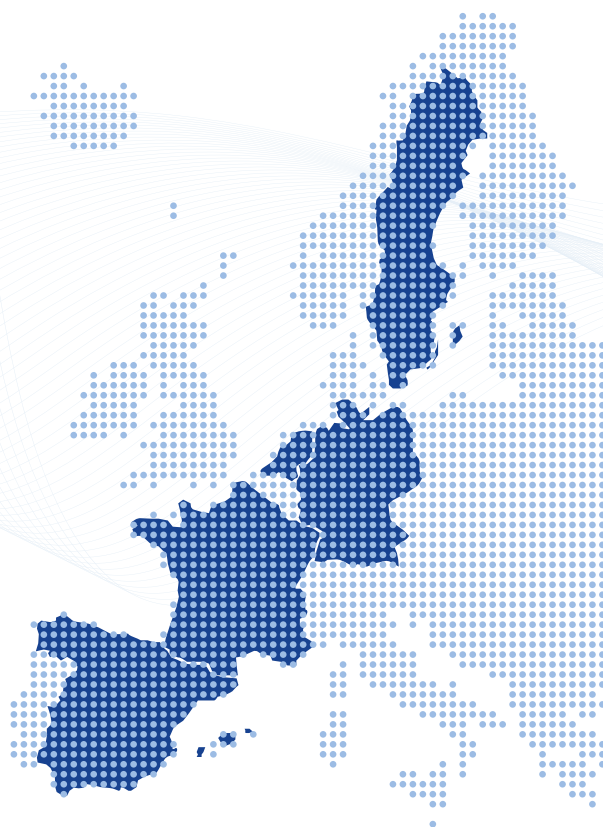
Recommendation	Germany	France	The Netherlands	Sweden	Spain
<b>Full decriminalisation of abortions:</b> no (financial or custodial) punishment of pregnant person and abortion performing (medical) staff	✘ Since 1995: Criminalised but not punishable if gestational age limit or grounds-based justification and other conditions laid out are adhered to	✔ Since 2016: health law only	✘ Since 1981: Abortions illegal and punishable by law from the assumed viability of the foetus outside the uterus	✔ Decriminalised since 1974 and included in the health code	✘ Since 1822: pregnant person and abortion performing person punishable by law if conditions set out are not met
<b>No gestational age limits:</b> terminations are legal at any point during a pregnancy	✘ Limit set at 12 weeks since conception (p.c.)	✘ Since 2022: up until week 14 p.c.	✘ Limit set until assumed viability of foetus (22 weeks p.c.)	✘ Limit set until 16 weeks p.c.	✘ Since 2010: up until week 12 p.c.
<b>No grounds-based restrictions of abortions:</b> abortions are not tied to specific medical, criminological, or social circumstances	✘ Medical grounds: no gestational age limit; criminological grounds: same gestational age limit as without indication	✘ Medical and embryopathic grounds: no gestational age limit	✘ Medical and embryopathic grounds: legal without gestational age limit	✘ Embryopathic and criminological grounds: until 19 weeks plus 6 days; medical grounds: without gestational age limit	✘ Medical and embryopathic grounds: up until week 20; in the case of non-viability of the foetus: no gestational age limit
<b>No mandatory counselling</b>	✘ 'Open-ended' mandatory counselling aimed at 'protecting unborn life' provided by approved counselling services	✔ No mandatory counselling, but two medical examinations/consultations mandatory	✘ Mandatory counselling by doctor	✔ Abolished since 1995	✔ Removed in 2022

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<b>No mandatory waiting period</b>	✘ At least three days of a mandatory waiting period between counselling and abortion	✔ Removed in 2016	✔ Since 2023: Waiting period co-determined by patient and doctor, may be zero days	✔ Inapplicable since counselling was abolished in 1995	✔ Removed in 2022
<b>No third party consent:</b> under-18-year-olds do not require the approval of their custodian(s)	✘ Under-18-year-olds to demonstrate their custodians' agreement, exemptions possible	✔ Not required but under-18-year-olds have to request being able to decide themselves	✘ Under-16-year-olds require the consent of their custodians, exemptions possible	✔ Since 2009: no third party consent required	✔ Since 2022: under-16-year-olds need the consent of their custodian(s), before that, it was under-18-year-olds
<b>Conscientious objection:</b> Eliminate gaps in care provision arising from staff refusing to perform an abortion on grounds of conscience	✘ Conscientious refusal allowed, sometimes practiced not just by individuals but also by whole facilities. In 2019, a voluntary list was introduced, in which facilities performing abortions can be registered	✔ Medical staff may refuse to provide abortions on the basis of conscience but have to refer patients to a doctor who will perform the procedure	✔ Medical staff may refuse to perform an abortion but have to refer patients to a doctor who will	✔ No conscientious objection clause exists	✔ Medical staff may refuse to provide abortions on the basis of conscience. Since 2022: regional authorities are obliged to register medical staff who make use of this
<b>Cost coverage</b>	✘ Costs are only covered if it is a grounds-based abortion (through the health insurance) or for low income people (through the regional state)	✔ Health insurance covers costs. Costs also covered for people without papers (and thus insurance)	✔ Costs covered for every resident of the Netherlands	✔ Costs covered for anyone, apart from general own contribution to medical services of circa 30 €	✔ Costs covered via national health system but people without insurance have to muster the costs themselves

## LIBERALISATION OF ABORTION REGULATION

In the European Union, efforts are made again and again to improve access to abortion through political reforms or defend existing rights. Information on counter developments can be found in Factsheet 5.



### Germany

It was illegal for doctors in Germany to 'advertise' abortions until July 2022. This included factual information, like indicating that abortions are a service provided by a practice on their own homepages. With the recent abolishment of §219a, doctors can now publish **factual information** on procedures and methods.

In March 2023, the government instated a **Commission on reproductive self-determination** and reproductive medicines, which recommended, among other things, the decriminalisation of abortion in the early stages of pregnancy. The report of the Commission was published on April 15 2024.

In January 2024, the Cabinet has decided on a **law proposal to protect pregnant people from harassment in front of consultation** offices for pregnancy conflicts. Next steps are debates in parliament and the second chamber on the issue.

### France

In March 2024, France has enshrined the **'guaranteed freedom of women to terminate a pregnancy' in its constitution**. In doing so, it is the first state in the world that constitutionally stipulates bodily self-determination when it comes to pregnancy.

Before that, France had **extended the gestational age** limit for legal abortions from 12 to 14 weeks after conception in 2022 and allowed midwives to perform abortions, thus **increasing the number of providers**.

### Sweden

Two Swedish midwives had sued for not getting employment because they refused to perform abortions on religious grounds. As Sweden does **not have a so-called conscientious refusal clause** allowing for such objections, Swedish Labour Courts confirmed the rights of the employers to not employ them. In 2020, the European Court of Human Rights ruled the complaints of the midwives as inadmissible and ill-founded.

The government coalition of Conservatives and Liberals committed itself in 2022 to better enable **abortion at home**.

### The Netherlands

In 2022, a new law entered into force allowing general practitioners to perform medical abortions. This **increases the number of providers** and thus improves accessibility.

In January 2023, the previously existing **mandatory waiting period** of five days between consultation and abortion was **replaced** by an arrangement in which patient and doctor co-determine whether or how long a waiting period should be adhered to. As a result, pregnant persons gain in self-determination and the waiting period can be lifted entirely. At the same time, they still cannot make this choice entirely by themselves.

### Spain

In 2023, significant reforms of abortion regulation went into force: mandatory counselling and waiting periods were abolished, the age of people needing third party consent lowered, and a public register was introduced that seeks to better establish the state of provision. The language of the reforms is remarkable. **Sexual and reproductive health and rights** are explicitly formulated as guiding principles for the legal framework as well as the training of medical staff. The **bodily self-determination** of pregnant persons and the specific situation of vulnerable groups are prioritised.

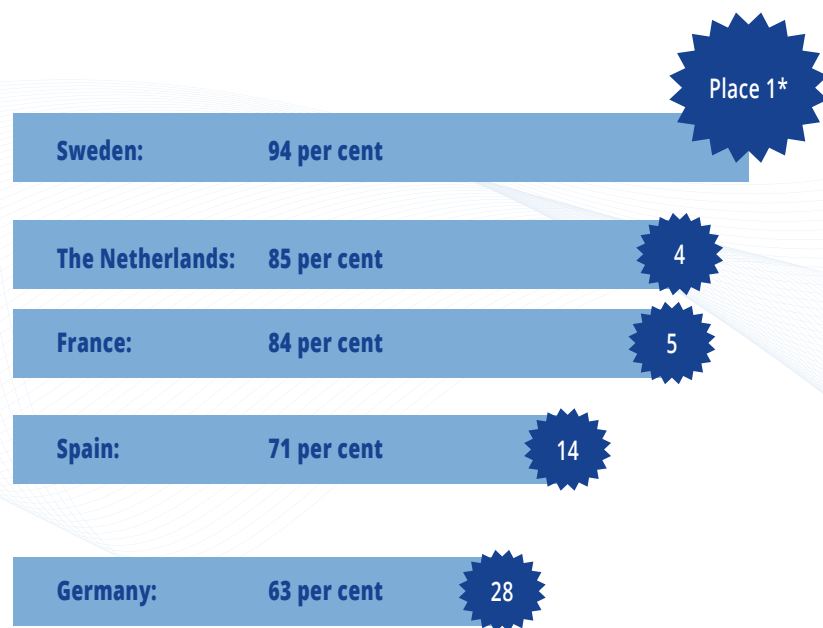
### European Union

The European Parliament has demanded for a **right to abortion to be included in the Charter of Fundamental Rights of the EU** in several resolutions. After the constitutional reform in France, parliamentarians sought to renew this demand. In April 2024, the Parliament adopted another resolution urging the Commission to initiate the process of amending the Charter. The resolution further asks member states to decriminalise abortion.

## COUNTRY RANKING IN ABORTION POLICIES

The European Abortion Policies Atlas published by the European Parliamentary Forum for Sexual and Reproductive Rights and the International Planned Parenthood Federation has compared abortion regulation of 53 states in 2021.

An analysis of the general legal framework, accessibility, provision, and availability of information the states were ranked accordingly:



\* out of 53 states in Europe

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Following the international acknowledgement of reproductive rights (Factsheet 1) as well as feminist efforts, more and more European decision-makers initiate reforms to make abortion more accessible. Compared with other European states, Germany needs to reform as the current government indicated in their Coalition Agreement and as the report of the Commission on reproductive self-determination has concluded.

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