

ABORTION IN FRANCE AND SPAIN

To terminate a pregnancy is a fundamental prerequisite for reproductive self-determination and as a result a crucial precondition for gender equality. In France and Spain, reforms in recent years have made abortions more accessible. Nevertheless, the pathway to terminating a pregnancy holds several barriers for affected pregnant persons.

FRANCE

Detecting an unintended pregnancy

- Incomplete, non-inclusive sex education, some groups are not addressed or reached, e.g. LGBTIQ* people, people with disabilities, or people without formal leave to remain
- Difficulties obtaining and taking a pregnancy test, e.g. due to costs or lack of privacy of people living in situations of domestic violence, young people, people with disabilities living in assisted living arrangements, refugees in supervised accommodation, homeless people, or those living in rural areas



Deciding for/against parenthood (again)

- Societal constraints and stigma
- Socioeconomic situation
- Patriarchal structures of violence



Not necessary: attending counselling



SPAIN

Detecting an unintended pregnancy

- Incomplete, non-inclusive sex education, some groups are not addressed or reached, e.g. LGBTIQ* people, people with disabilities, or people without formal leave to remain
- Difficulties obtaining and taking a pregnancy test, e.g. due to costs or lack of privacy of people living in situations of domestic violence, young people, people with disabilities living in assisted living arrangements, refugees in supervised accommodation, homeless people, or those living in rural areas



Deciding for/against parenthood (again)

- Societal constraints and stigma
- Socioeconomic situation
- Patriarchal structures of violence



Not necessary: attending counselling



FRANCE

Not necessary: adhering to waiting period



Finding a doctor

- 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
- Developments in the provision of pregnancy terminations:
 - Regional gaps in provision
 - Generational change in medical staff
- Harassment and intimidation of pregnant persons in front of clinics is prohibited by law
- Language barrier: difficulties with spoken language or terminology can impede affected pregnant persons's access
- Domestic abuse: people affected by domestic abuse may find it difficult to access facilities due to being observed and controlled by a perpetrator or feelings of fear and shame at having to explain injuries
- Non-inclusive address: trans* people potentially have to out themselves and may find themselves excluded or misgendered by information about 'motherhood' and other material
- Organisational challenges: taking time off work, organising childcare, costs of travelling



SPAIN

Not necessary: adhering to waiting period

Finding a doctor

- Conscientious refusal allowed. A register is intended to enable regional authorities to identify provision gaps
- Developments in the provision of pregnancy terminations:
 - Strong regional differences and gaps in the provision
- Harassment and intimidation of pregnant persons in front of clinics is prohibited by law
- Language barrier: difficulties with spoken language or terminology can impede affected pregnant persons's access
- Domestic abuse: people affected by domestic abuse may find it difficult to access facilities due to being observed and controlled by a perpetrator or feelings of fear and shame at having to explain injuries
- Non-inclusive address: trans* people potentially have to out themselves and may find themselves excluded or misgendered by information about 'motherhood' and other material
- Organisational challenges: taking time off work, organising childcare, costs of travelling



FRANCE

Adhering to a gestational age limit or determining grounds

- From 14 weeks since conception (p.c.), a legal abortion can only be obtained if there are embryopathic or medical grounds for it. These need to be determined by doctors. This includes:
 - Establishing that the foetus has severe physical impairments or might not be viable (embryopathic) or
 - Establishing that there is significant risk of severe physical or psychological impairment or of danger of life to the pregnant



Documenting third party consent

- Under 18 year olds can request to be exempted but need to know about their rights
- Obligation to share the situation with someone (domestic violence)
- It may be unknown who is responsible in case of unaccompanied minors



Choosing an abortion method

- Surgical methods sometimes unavailable
- Medical abortion is only allowed up until the 7th week p.c., both pills can be taken at home while accompanied by tele medical consultation



Not necessary: Covering the costs

- Costs for everyone seeking an abortion, including people without papers



SPAIN

Adhering to a gestational age limit or determining grounds

- From 12 weeks since conception (p.c.), a legal abortion can only be obtained if there are embryopathic or medical grounds for it. These medical grounds need to be determined by doctors. This includes:
 - Establishing that there is significant risk of severe physical or psychological impairment or of danger of life to the pregnant person (medical, only up until week 20)
 - Establishing that the foetus has severe physical impairments or might not be viable (embryopathic, only up until week 20, exemption: in case of foetal non-viability no gestational age limit)

Documenting third party consent

- Under 16 year olds need consent from their custodians
- Obligation to share the situation with someone (domestic violence)
- It may be unknown who is responsible in case of unaccompanied minors

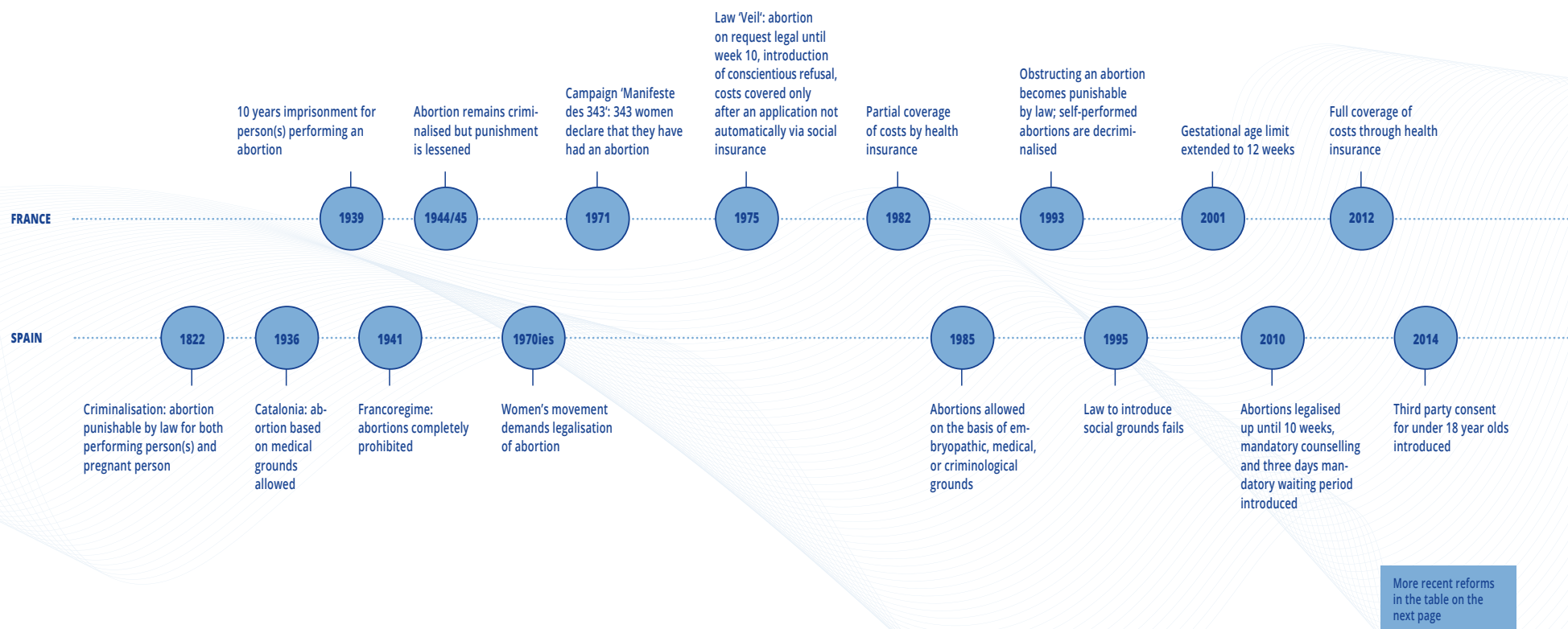
Choosing an abortion method

- Medical abortion is only allowed up until the 7th week p.c.; first pill to be taken in facility, second may be taken at home

Not necessary: Covering the costs

- Costs covered for people with insurance; people without insurance need to pay

REGULATION OF ABORTION THROUGH TIME



Sources:

https://www2.assemblee-nationale.fr/14/evenements/2015/anniversaire-loi-veil/la-marche-vers-la-loi#node_9803

<https://wg.gouv.fr/le-droit-lavortement>

Valiente, C. (2001). Gendering Abortion Debates: State Feminism in Spain. In: McBride Stetson, D. (Hrsg.): Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism, Oxford University Press. Pg. 229-246.

<https://catedradegenero.uva.es/aborto-en-espana/>

ABORTION-RELATED RECOMMENDATIONS OF THE WORLD HEALTH ORGANISATION AND REGULATIONS IN FRANCE AND SPAIN

| France | | Recommendation by the World Health Organisation | | Spain |
|--|---|---|---|---|
| Since 2016: health law only | ✓ | Full decriminalisation | ✗ | Pregnant person and abortion performing person punishable by law if conditions set out are not met |
| Since 2022: up until week 14 p.c. (since conception) | ✗ | No gestational age limit | ✗ | Since 2010: up until week 12 p.c. |
| Medical and embryopathic ground: no gestational age limit | ✗ | No grounds-based restrictions | ✗ | Medical and embryopathic indication up until week 20; in the case of non-viability of the foetus: no gestational age limit |
| But two medical examinations/consultations mandatory | ✓ | No mandatory counselling | ✓ | Removed in 2022 |
| Removed in 2016 | ✓ | No mandatory waiting period | ✓ | Removed in 2022 |
| But under 18 year olds have to request being able to decide themselves | ✓ | No third party consent | ✗ | Since 2022: Under 16 year olds need the consent of their custodian(s), before that, it was under 18 year olds |
| 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 | ✓ | Eliminate gaps in care provision resulting from staff refusing to perform abortions based on conscience (conscientious objection/refusal) | ✓ | 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 |
| Health insurance covers costs. Costs also covered for people without papers (and thus insurance) | ✓ | Costs should be covered | ✓ | Costs covered via national health system but people without insurance have to muster the costs themselves |

CURRENT DEVELOPMENTS

France

- Decriminalisation in 2016
- Further liberalisation in recent years: extension of gestational age limit and allowing midwives to perform abortions
- Complete cost coverage for everyone
- Challenging: regional provision gaps and generational change of medical staff

Spain

- Not (yet) decriminalised
- Most recent reforms being implemented
- Challenging: regional provision gaps and differences in commitment to guaranteeing access to abortion in regions

Both countries have recently made an effort to improve accessibility of abortions for affected pregnant persons.

In France, the 'freedom of a woman to terminate a pregnancy' may be constitutionalised. The French Parliament has approved a respective draft for a change in constitutional law at the end of January 2024. France would be the first European country to engrave accessing an abortion in their constitution.

In Spain, the language of the most recent reforms is remarkable. Sexual and reproductive health and rights are explicitly mentioned as guidelines for the laws themselves and for the training of medical staff. Bodily self-determination of pregnant persons and the particular situations of vulnerable groups are prioritised.



Both countries have reformed their abortion laws to improve accessibility and are now concerned with implementing the changes effectively.

To improve accessibility for vulnerable groups and to guarantee their rights to parenthood (Factsheet 2) would be further necessary steps towards more reproductive justice (Factsheet 1).

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