



Olga Borzova
Chairperson of the State Duma Committee for Health
1 Ryad Street
Moscow, 103 265, Russia

September 7, 2011

Dear Chairperson Borzova,

The undersigned organizations and individuals respectfully submit this letter expressing our concern regarding the issues related to abortion currently being discussed in the Duma of the Russian Federation. We are particularly concerned with three aspects of the proposed changes: the mandatory counseling and informed consent requirement, the waiting period, and mandatory parental/guardian consent requirements for minors and spousal consent requirements. The proposed changes conflict with women's rights to privacy, physical integrity and autonomy, confidentiality, health, and non-discrimination, as protected by the Russian Constitution and reflected in Russia's international human rights obligations.

The mandatory counseling and so-called informed consent requirement questions women's decision-making authority and includes unnecessary, questionable and non-evidenced based medical information to be provided to women requesting an abortion. The Ministry of Health has already issued guidelines on pre-abortion counseling that seek to discourage abortion by the use of manipulative and coercive language and techniques.¹ The proposed legislative changes may make such biased counseling mandatory in the whole country. Furthermore, so-called informed consent forms elaborated by private anti-choice groups—referring to abortion, among other things, as a biological and psychological trauma that will cause irreparable damage to the pregnant woman—are already in use by doctors who, regardless of whether they use these forms on their own initiative or not, exercise a public function for which the State is ultimately responsible.² One of the proposed amendments discussed in the Duma is precisely that informed consent forms in the future would be required to include strong language suggesting severe harm from abortion. Such 'information' has no foundation in sound medical evidence, is ideologically driven and has no place in a modern, democratic society.

The proposed seven day waiting period and the parental/guardian and spousal consent requirements will unnecessarily delay abortion, decrease safety and may drive some women, especially adolescents, to undergo illegal and unsafe abortions. Supporters of mandatory delay and biased counseling requirements argue that these laws will enable women to make informed choices about abortion. But evidence demonstrates that women already carefully consider their options, making deliberate, mature and fully informed choices. Both counseling requirements and mandatory waiting periods are harmful to women seeking an abortion, creating barriers that do not serve an actual medical purpose. We strongly urge all members of the Russian Duma, as well as the representatives of the Russian government to take into

consideration the following international medical guidelines and regional and international human rights standards when considering these changes.

The World Health Organization (WHO) guidelines on safe abortion provide concrete legal and policy considerations on the issues prescribed in the proposed changes. WHO notes that women should be treated with respect and understanding and thus be given information in a way they can understand so that they can make a choice about having or not having an abortion to the extent permitted by law and free of inducement, coercion or discrimination.³ According to WHO, counseling in cases of requests for abortion should be voluntary, confidential and provided by a trained person, and that “[a]t a minimum, abortion services should always provide medically accurate information about abortion, and offer non-directive counseling and contraceptive information and services...”⁴ A waiting period not medically required is noted among the administrative and regulatory barriers to obtaining safe, legal abortion that unnecessarily delay care and decrease safety.⁵ Spousal authorization, and parental notification or authorization, are considered a requirement that deters women from seeking timely care and may lead them to risk self-induced abortion or clandestine services.⁶ WHO notes that the same risk may occur in cases where providers cannot ensure confidentiality, a key principle of medical ethics.⁷ Finally, as noted by WHO, “[t]he lawfulness of abortion does not have an effect on a woman’s need for an abortion, but only on her access to a safe abortion.”⁸ Taking into consideration these guidelines will strengthen the capacity of the health system in the Russian Federation to provide effective access to safe and legal abortion.

Regional and international human rights standards are also in support of ensuring access and removing barriers to abortion, including right to comprehensive information. The recent Parliamentary Assembly of the Council of Europe (PACE), to which the Russian Federation is a member state, Resolution 1607 (2008) *Access to safe and legal abortion in Europe* reiterated these principles and added that the decision on whether or not to have an abortion should be a matter for the woman concerned, and she should have the means of exercising this right in an effective way.⁹ The European Court of Human Rights has also stated in the case of *Tysiack v. Poland* that the state’s positive obligation to secure effective respect for a pregnant woman’s right to private life requires that the regulation of the legal termination of pregnancy be clear about the legal position of the pregnant woman, and that, “[o]nce the legislature decides to allow abortion, it must not structure its legal framework in a way which would limit real possibilities to obtain it.”¹⁰

In relation to access to information related to abortion, the European Court of Human Rights held earlier this year that denial of comprehensive information to a pregnant woman who was considering undergoing an abortion on her health status and that of the fetus amounted to a violation of inhuman and degrading treatment and private life. The Court stated that “in the context of pregnancy, the effective access to relevant information on the mother’s and foetus’ health, where legislation allows for abortion in certain situations, is directly relevant for the exercise of personal autonomy.”¹¹ In relation to spousal consent, European Convention on Human Rights case law has consistently held there is no requirement for spousal consent under the European Convention on Human Rights because the rights of the pregnant woman outweigh the rights of the man given that she must bear the physical and mental burden of pregnancy.¹² Of all 47 Council of Europe Member States, only one country, Turkey, imposes spousal consent requirements.

The United Nations Human Rights Treaty Monitoring Bodies, such as CEDAW and the Human Rights Committee, have consistently advised state parties to ensure access to reproductive health care services by removing barriers to legal abortion, including consent requirements and ensuring that women and girls do not have to undergo life-threatening clandestine abortions.¹³ CEDAW has also called on states to remove spousal and parental consent requirements.¹⁴ Restricting access to abortion does not reduce the rate of abortions nor is effective in increasing birth rates; rather, it leads to clandestine and unsafe abortions resulting in high rates of maternal mortality and morbidity,¹⁵ which violate the right to life, the right to be free from inhuman and degrading treatment and the right to health, among other human rights. A more sound and effective approach to address concerns over high abortion rates would be to expand access to modern contraceptives and ensure comprehensive, evidence-based sexuality education in schools, as recommended to the Russian Federation earlier this year by UN Committee on Economic Social and Cultural Rights:

The Committee calls on the State party to continue its efforts to increase knowledge of and access to affordable contraceptive methods in the State party and to ensure that family-planning information and services are available to everyone including in the rural areas. The Committee also encourages the State party to include in the school curricula sex education among the adolescents, to prevent early pregnancy and the control of sexually transmitted infections, including HIV/AIDS, and reproductive and sexual healthcare education. The Committee further encourages the State party to include the costs of modern contraceptive methods in the public health insurance scheme.¹⁶

We note that in a recent survey on reproductive health legislation, including abortion services, Russian women showed overwhelming support for reproductive freedom.¹⁷ The result of this survey suggests that the proposed changes related to access to abortion are not supported by Russian women, who understand that such changes would infringe on their fundamental rights.

We thank you for your consideration of this letter and express our hope that the Russian Federation will continue to ensure that its laws and policies on abortion respect women's rights and include protection for informed and autonomous decision-making, privacy and confidentiality, in compliance with regional and international human rights and medical standards.

Respectfully yours,

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Organizations:

- Center for Reproductive Rights
- Catholics for Choice
- Human Rights Watch
- Ipas
- Women's Global Network for Reproductive Rights (WGNRR)
- ASTRA Central and Eastern European Women's Network for Sexual and Reproductive Rights
- YouAct - European Youth Network on Sexual and Reproductive Rights
- International Planned Parenthood Federation – European Network
- Planned Parenthood Federation of America – International
- International Planned Parenthood Federation (IPPF)
- Concept Foundation
- Consorcio Latinoamericano contra el Aborto Inseguro (CLACAI)
- International Centre for Reproductive Health (ICRH)
- Latin American and Caribbean Women's Health Network (LACWHN)
- Fundacion para Estudio e Investigacion de la Mujer – FEIM (Argentina)
- CEDES (Argentina)
- LUNA: Federation of dutch-speaking abortion centers in Belgium (Belgium)
- SENSOA (Belgium)
- Católicas por el Derecho a Decidir (Bolivia)
- Community Human Rights and Advocacy Centre (CHRAC) (Cameroon)
- Centro de Estudios de la Mujer – CEM (Chile)
- Colectivo Feministas Tramando (Chile)
- Corporación de Desarrollo de la Mujer la Morada (Chile)
- Católicas por el Derecho a Decidir (Colombia)
- Centro de Estudios e Investigaciones Sociales Afrocolombianas, CEISAFROCOL (Colombia)
- Fundación ESAR (Colombia)
- Colectiva Mujer y Salud (Dominican Republic)
- Instituto de la Mujer (El Salvador)
- Fundación Desafío (Ecuador)
- Väestöliitto – Family Federation of Finland (Finland)
- French Family Planning Movement (France)
- Latvia's Association for Family Planning and Sexual Health (Latvia)
- Irish Family Planning Association (Ireland)
- AIDOS, Italian Association for Women in Development (Italy)
- Reproductive Rights Alliance (Malaysia)
- Grupo de Información en Reproducción Elegida, A.C (Mexico)
- El Closet de Sor Juana (Mexico)
- Catholics for the Right to Decide (Mexico)
- Fundacion Arcoiris por el respeto a la diversidad sexual (Mexico)
- Equidad de Género, Ciudadanía, Trabajo y Familia (Mexico)
- Foro de Mujeres y Politicas de Población (Mexico)
- Ddeser - Red por los derechos sexuales y reproductivos (Mexico)
- Elige, Red de Jóvenes por los Derechos Sexuales y Reproductivos A.C. (Mexico)
- Youth Action Nepal (Nepal)
- Rutgers WPF (Netherlands)
- Women on Web (Netherlands)
- Family Planning New Zealand (New Zealand)
- SI Mujer Nicaragua, Servicios Integrales para la Mujer (Nicaragua)

- Generation Initiative For Women and Youth Network (Nigeria)
- Moms Club International (Nigeria)
- Youth Dignity International (Nigeria)
- Campaign Against Unwanted Pregnancy (Nigeria)
- Norwegian Association for Sexual and Reproductive Health and Rights (Norway)
- Fokus, Forum for Women and Development (Norway)
- Peace Foundation (Pakistan)
- Shirkat Gah - Women's Resource Center (Pakistan)
- DEMUS-Estudio para la Defensa de los Derechos de la Mujer (Peru)
- Federation for Women and Family Planning (Poland)
- RFSU, Swedish Association for Sexual Education (Sweden)
- Frauenambulatorium Zürich (Switzerland)
- Kigoma Vijana Development Association (KIVIDEA) (Tanzania)
- Women's Promotion Centre, (Tanzania)
- The Women's Health Advocacy Foundation (Thailand)
- Network for Choices of Women with Unplanned Pregnancy (Thailand)
- Alliance for Choice (United Kingdom)
- MYSU, Women and health in Uruguay (Uruguay)
- National Advocates for Pregnant Women (United States of America)
- Our Bodies Ourselves (United States of America)

Individuals:

- Mariana Romero (Argentina)
- Silvina Ramos (Argentina)
- Maria Helena Souza da Silva (Brazil)
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- Anibal Faúndes (Brazil)
- Maria Eunice Xavier Kalil (Brazil)
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- Lilian Marino Blomqvist (Chile)
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- Olga Grau (Chile)
- Sonia Ariza Navarrete (Colombia)
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- Marge Berer (United Kingdom)
- Alice Welbourn (United Kingdom)
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- Julie Reynolds
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¹ Russian Ministry of Health and Social Affairs, *Guidelines on Psychological Pre-Abortion Counseling*, r. No. 15-0/10/2-9162 (2010).

² See for example, a model ‘informed consent’ form in ORTHODOX MEDICAL-EDUCATIONAL CENTRE ‘LIFE’, ORGANIZATION OF THE ACTIVITIES AIMED AT PROTECTION MOTHERHOOD AND CHILDHOOD - METHODOLOGICAL HANDBOOK, 44 (2009), available at <http://www.abortamnet.ru/download/tarasov.pdf>.

³ See WORLD HEALTH ORGANIZATION (WHO), SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 26, 65-66, & 89 (2003) [hereinafter WHO, SAFE ABORTION].

⁴ *Id.* at 26, 89.

⁵ See *id.* at 90.

⁶ See *id.* at 91.

⁷ See *id.* at 68, 94.

⁸ WHO, UNSAFE ABORTION: GLOBAL AND REGIONAL ESTIMATES OF THE INCIDENCE OF UNSAFE ABORTION AND ASSOCIATED MORTALITY IN 2008, 6 (6th ed., 2011).

⁹ See Resolution 1607 (2008), Access to safe and legal abortion in Europe, Eur. Parl. Doc., paras. 7.1-7.4, (2008) available at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1607.htm>.

¹⁰ *Tysięc v. Poland*, App. No. 5410/03, Eur. Ct. H.R. at 116, (2007).

¹¹ *RR v Poland*, App. No. 27617/04, Decision May 26, 2011, Eur. Ct. H.R. at 158, 197

¹² *R.H. v. Norway*, App. No. 17004/90, Eur. Comm’n. H.R. Dec. on admissibility (1992); *Boso v. Italy*, App. No. 50490/99, Eur. Comm’n. H.R. (2002); *X v. the United Kingdom*, App. No. 8416/79, Eur. Comm’n H.R. Dec. & Rep. 19, at 244 (1980).

¹³ See Human Rights Committee, *General Comment No. 28: Equality of Rights Between Men and Women (Art. 3)* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 168, para. 10, U.N. Doc. HRI/GEN/1/Rev.5 (2001); Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, (20th Sess., 1999), in *Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies*, at 358, paras. 14, 27, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CEDAW Committee, *General Recommendation No. 24*]; Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 90, para. 21, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter ESCR Committee, *General Comment No. 14*].

¹⁴ CEDAW Committee, *General Recommendation No. 24*, *supra* note 13.

¹⁵ For example, Romania, Albania, and Poland attempted to counter negative population growth by restricting access to abortion. High rates of maternal mortality resulted in Romania and Albania and did not increase birth rates over the long run in any country. In 1990, the Polish birth rate was 2.04; in 1995, 2 years after the restrictive law was passed, the birth rate was 1.61; in 1996, 1.58; in 1997, 1.51; and in 2006, 1.23. Main Statistical Office, *Basic Information about demographic development of Poland, Information Brief* (Warsaw, 2003); Ronald D. Bachman, ed., *Romania: A Country Study*, (Library of Congress, 1989); DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, UNITED NATIONS POPULATION DIVISION, *Albania in ABORTION POLICIES: A GLOBAL REVIEW 20* (2002).¹⁵

¹⁶ ESCR Committee, *General Comment No. 14*, *supra* note 13, para 30.

¹⁷ Russian Association for Population and Development, *Russian Women Attitude towards their Right for the Child Delivery* (2011).