



Conselho
Nacional de
Ética para as
Ciências da Vida

132/CNECV/2024

**OPINION ON BILL NO. 324/XVI/1 (BE) – AMENDS LAW NO. 16/2007, OF
APRIL 17, ON THE EXCLUSION OF UNLAWFULNESS IN CASES OF
VOLUNTARY TERMINATION OF PREGNANCY**

November 2024

Opinion on Bill no. 264/XVI, the third amendment to law no. 16/2017, of April 17, modifying certain requirements for the voluntary termination of pregnancy without penalty and specifying the regime for the exercise of the individual right to conscientious objection

Executive Summary

The Parliamentary Committee on Constitutional Affairs, Rights, Freedoms and Guarantees asked the National Council on Ethics in the Life Sciences (CNECV) to issue an ethical opinion on Bill No. 324/XVI/1 (BE) - Amending Law No. 16/2007, of April 17, on the exclusion of illegality in cases of voluntary abortion. The CNECV has recently considered, as a matter of urgency and at the request of the same parliamentary committee, a legislative initiative aimed at amending the same regulations, which culminated in the issuance of Opinion 131/CNECV/2024 on October 23, 2024, on Bill No. 264/XVI, which is the third amendment to Law No. 16/2017, of April 17, which modifies some of the requirements for the non-punishable voluntary interruption of pregnancy and specifies the regime for the exercise of the individual right of conscientious objection.

In this context, the National Ethics Council for Life Sciences has emphasized that Access to quality health care, including sexual and reproductive health, is a fundamental right of all citizens, under conditions of equality and non-discrimination, which, according to recent reports (Direção Geral da Saúde, 2023; Entidade Reguladora da Saúde, 2023), is not guaranteed in an equitable manner throughout the national territory; the number of hospitals that do not perform the voluntary interruption of pregnancy (IVG) prevents the exercise of this right in several regions of the national territory, which results in socio-economic and territorial discrimination against several women; it is the responsibility of the State to develop policies and action plans throughout the national territory, and of the institutions that provide official and officially recognized care within the National Health Service to organize their activities in such a way as to ensure that the care to be provided in the area of sexual and reproductive health complies with the legal framework and guarantees the appropriate means to carry it out, particularly in terms of safe and timely access, within the legal deadlines, to IVG; The conscientious objection of health professionals is a fundamental right, of an individual nature and recognized by the Constitution, which is unavoidable in the face of an urgent situation in which there is no alternative and which involves danger to the life or serious damage to the health of the person (in this case, the pregnant woman);

The CNECV is of the opinion:

1. In the absence of a scientific basis or justification in officially available national data to extend the deadlines for IVG, the legal deadlines should be maintained;
2. The reflection period must be maintained as an essential element of the decision-making process, particularly in view of the irreversible consequences of the procedure in question, guaranteeing the free and informed exercise of the woman's right and, in this sense, full respect for her autonomy; consideration could be given to making this period more flexible if it makes it impossible to access IVG within the legal time limits;
3. The intervention of a doctor other than the one who will perform the abortion, to certify the circumstances in which the abortion is not punishable, should be maintained, except in the case of IVG, in accordance with article 142, paragraph 1, letter e) of the Criminal Code, where the intervention of a doctor is sufficient;
4. The extension of the period of psychological and social support available to all women seeking prior consultation for IVG, regardless of whether or not the procedure has been carried out, and without limiting it to the reflection period, are positive aspects of the proposed new wording and should be implemented;
5. Timely and safe access to IVF in a health service that provides it in a comprehensive and equitable manner should be a priority within the national reproductive health program, and it is the responsibility of the State to ensure the mechanisms for its implementation, especially in contexts of greater socioeconomic and geographic vulnerability;
6. Health services must provide an equitable and timely response throughout the national territory to the exercise of both the woman's right to access IVG in a safe manner and within the legal time limits, and the right of health professionals to conscientious objection in the exercise of their profession;
7. Health services must be organized in scrupulous compliance with the law, and the status of conscientious objectors in relation to IVG (Article 142(1)(e) of the Criminal Code) should be taken into account; the bill in question should be viewed positively, in that the proposed rule creates a specific obligation on the part of the competent authorities to act;
8. It is also important to promote ethical and deontological training for health professionals on the various issues involved, particularly with regard to IVG and conscientious objection;
9. The responsible authorities must ensure that relevant, accurate and up-to-date data are obtained in order to monitor and evaluate the impact of current public policies and as a basis for their possible revision.

Lisbon, November 22, 2024.

National Ethics Council for the Life Sciences.

The Chair of the CNECV, Maria do Céu Patrão Neves.

Rapporteurs: Maria do Céu Patrão Neves, Inês Godinho, Margarida Silvestre.

The Executive Secretary, Cíntia Águas, assisted in the drafting.

This Opinion was approved unanimously at the 294th Plenary Session, held on November 22, 2024.