

# WHY A LAW ON PREGNANCY COUNSELING IS NOT EASIER THAN AN ANTI-ABORTION ONE?

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## *Abstract*

If it were adopted, the Draft Law on the establishment, functioning and organization of crisis pregnancy counseling offices would have to face the European Court for Human Rights and other institutions meant to watch over Romania's compliance with its international obligations. This study shows that the draft law violates three articles of the European Convention on Human Rights: article 3, that guarantees the right not to be subjected to torture, or to inhuman or degrading treatment; article 8, that protects the right to private and family life; and article 9, meant to defend the freedom of thought, conscience and religion. A state may pass anti-abortion legislation that is consistent with the guarantees of the European Convention, but it faces severe limitations when defining counseling protocols for crisis pregnancy.

*Keywords: abortion, draft law, counseling offices, unborn child, right to life, the European Convention on Human Rights*

## **1. The draft law regarding crisis pregnancy counseling offices**

On 13 March 2012, the Chamber of Deputies entered into record the draft law on the establishment, functioning and organization of crisis pregnancy counseling offices. The draft law was signed by 50 deputies. The vast majority of them are members of the Liberal Democratic Party (LDP), joined by the leaders of some of the organizations representing national minorities in Parliament. The proposal enjoyed widespread mass media exposure.

The public debate following the legislative initiative was exceedingly heated. 35 pro-life organizations asked the Romanian Parliament, the Romanian Government, the Romanian College of Physicians and the National Society of Family Medicine to pass the draft law „as is”. Among their arguments: crisis pregnancy counseling protects the women's health, and their physical and psychological integrity, it reduces the abortion rate, and it gives to women's right to information the status of public exigency.

The reactions against the draft were also significant and comprehensive. 21 associations and foundations dedicated to the protection of human rights and the reproductive rights of women mobilized against the draft law. They also wrote to the Prime-Minister and the Parliament, and addressed public opinion.[1] The critics of the draft law saw it as an unacceptable curtailing of women's access to medical services for voluntary abortion.

The debate found space in the written and audio-visual press, a relevant aspect since around 60% of Romanians oppose bans on abortion [2]. The involvement of cultural weeklies and monthlies, read widely by the

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politically active humanist intellectuals, in advancing the pro and anti-draft arguments was significant. *Observer Cultural, Critic Atac, 22, Voxpublica*, etc. all published one or more articles, to present, support or oppose the draft law. The public reaction to the proposal of the 50 deputies was not quantified, as it would have been desirable. There were no polls, not even internal polls among readers, to evaluate the public reaction to the proposal of the 50 MPs. We can only make guesses based on the available polls.[3]

The considerable mobilization of its supporters at the submittal of the draft law suggested emergency status might have been warranted. Further events, starting with the fall of the Mihai Răzvan Ungureanu cabinet and the start of the proceedings to suspend President Traian Băsescu, have overshadowed the subject. However, the draft law is on record in the Chamber of Deputies, and after the elections in the Fall of 2012 it will follow its route to becoming law. If the draft law passes in its current form, internal and international appeals are to be expected. The possibility of human rights violations (as we will show, of the right to not be subjected to inhuman or degrading treatment, of the right to private and family life and of the freedom of thought, conscience and religion) will lead to lawsuits that, given the level of involvement of those concerned, might elicit a rapid response on the part of the European Court of Human Rights.

## **2. Banning abortion. The international context**

The details of the draft law on the establishment, functioning and organization of crisis pregnancy counseling offices suggest that the ultimate goal of its creators is an anti-abortion law. Not only do pro-life organizations vocally support the draft[4], but the arguments of the creators of the draft follow this logic – most importantly, the idea that human life begins at conception.

The international context seems favorable to the pro-life lobby. The electoral campaigns in the United States, in the context created by the Bush Administration, have established the pro-life issue at the center of American political life. The objectives of pro-life organizations are even more extensive, and today seriously threaten reproductive rights in the US.[5] In the Russian Federation, the cooperation between the Russian Orthodox Church and the Putin-Medvedev regime has manifested itself in pro-life actions similar to those in the US.[6] Among new democracies that have become supporters of this vision, Poland and Hungary are the most visible. The 2011 Hungarian Constitution states that „the right to life of the foetus will be protected from the moment of conception”.

The world-wide spread of the pro-life agenda was confirmed at the Rio+20 Conference on Sustainable Development (13 to 22 June 2012). [7] Countries which have previously supported reproductive rights, including the members of the EU, no longer demanded that an emphasis be made on the connection between the status of women and development. The final declaration of the Rio+20 Conference includes no mention of reproductive rights. Looking forward to the 2020s, the global consensus that was achieved in favor of reproductive rights at the International Conference on Population and Development held in Cairo, 1994, seems forgotten.

Given the favorable context, why did the deputies involved stop short of proposing an anti-abortion law? The Institute for Popular Studies, the ideological think-tank of the Liberal Democratic Party, stated as early as 2010 its support for an internal resolution on banning abortion. In this manner, the LDP would fight against the continuous demographic decline „that overshadows the threat of an external war or of a natural disaster”. [8]

The reason behind the absence of an anti-abortion draft law has to do with the tragedies of the pro-natality policy of the Ceaușescu regime. From Gail Klingman’s landmark book to the latest studies coordinated by Corina Doboș, the information gathered serves only to expand the list of disastrous consequences of banning abortion in the Communist context. [9] Over 10.000 women died from being denied medical care after an illegal abortion. These numbers reinforce the „collective memory” that, although eroded by the years, can be a significant political factor. Given the language of the draft law, it is possible that the proposal regarding the establishment, functioning and organization of crisis pregnancy counseling offices is just *a test*, in view of a future anti-abortion law. Or it is a *preparatory stage* for such a piece of legislation.

The draft law initiators might have taken into account the international reaction to the pro-natality policies of the Ceaușescu regime. The extremely high rate of maternal mortality during the communist period, 87% of which was associated with illegal abortion, made Romania a favorite subject of research on reproductive policy worldwide [10]. The Romanian Case was taken as a reference when discussing international reproductive policy. Paradoxically, through its negative example, Romania was an important part in bringing into public consciousness the importance of reproductive rights and transforming them into a universal principle on the occasion of the International Conference on Population and Development (ICPD), held in Cairo on October 18, 1994:

”Reproductive rights [are] the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information, education and means to do so; the rights to attain the highest standard of sexual and reproductive health; and the right to make decision concerning reproduction free of discrimination, coercion and violence.” [11]

Given this history, it is to be expected that Romania’s return to practices that aim to limit reproductive rights would be judged severely at the international level.

### **3. Is there a right to life of the unborn child?**

In the preamble to the draft law on the establishment, functioning and organization of crisis pregnancy counseling offices, the authors state that there is a right to life of the unborn child, as one of the fundamental rights recognized internationally. This is an extreme and arbitrary statement.

The international law on human rights has as its main legal references the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Neither the International Covenant, nor the European Convention, mentions „the unborn child”. They talk about „individuals”, hence the next question is whether, in their interpretation of the European Convention on Human Rights, the European Commission of Human Rights and the European Court of Human Rights include „the unborn child” among „individuals”.

The two courts expressed their opinions in this matter unambiguously, though they showed subtlety in interpreting the international law. As early as the *X v. United Kingdom* case, the European Commission decided that the foetus cannot have its own right to life, because its protection might violate the mother's right to life (in the case of pregnancy complications) and would go against existing jurisprudence.

In the *H. v. Norway*, the Court ruled that it will not decide on the foetus' right to life as defined by art. 2 of the European Convention on Human Rights, but „it does not exclude the possibility that, in certain circumstances, it will do so if a considerable divergence of views appears among the Contracting States regarding the extent to which art. 2 protects the right to life of the unborn child”. In the *Boso v. Italy* case, the European judges pointed out that „granting a foetus the same rights as a person would place unreasonable limitations on the Art.2 rights of persons already born”. [12] The response of the European Court in the *Reeve v. United Kingdom* was decisive: „the general usage of the term `everyone`/`toute personne` and the context in which it was used in Art. 2 of the Convention did not include the unborn”.

After a detailed analysis of the subject in the *Vo v. France* case, the European Court stated the following: „It follows from this recapitulation of the case-law that in the circumstances examined to date by the Convention institutions – that is, in the various laws on abortion – the unborn child is not regarded as a `person` directly protected by Article 2 of the Convention and that if the unborn do have a `right` to `life`, it is implicitly limited by the mother's rights and interests”. [13]

In conclusion, the jurisprudence of the European Court of Human Rights gives personhood status exclusively to children already born, and even states that a different interpretation would clash with the rights of the woman. The area of the ethics of the “unborn child”, centered on descriptive features, the dependent moral status of fetuses and the ethical concept of the fetus as a patient [14], only marginally intersects current legal developments in the international human rights system. However, the jurisprudence reflects more and more the evolution of the family and the technological developments in reproductive sciences that affect “the interest of the child”, and addresses topics like: is it in the interest of the child to become the subject of prior agreements that are often only serving the wishes of the adults? What is the optimal relationship between natural and adoptive parents? What has priority, the right to identity of the child or the right to private life of the adults? What is the appropriate language for describing the relationship of the child to his or her “intentional” parents and surrogate mother? [15]

#### **4. Is there a woman's “right” to abortion?**

The fact that our reference law, the European Convention on Human Rights, does not recognize a right to life of the unborn child does not imply that a woman's right to abortion exists. It was argued however that there is a right of the woman to refuse to carry an unwanted child, based on the woman's right to control her own body, a part of the right to private and family life. [16] The woman's right to make decisions about her life is a component of her dignity. But dignity „is a concept that was established in steps, and in different ways in different societies”. [17] In its discussion of human dignity, modern bioethics thought offers a complex debate between the values from which

the norms stem, and the norms themselves.[18] The European Convention on Human Rights and Biomedicine (Oviedo, 1997) and the Universal Declaration on Bioethics and Human Rights (UNESCO's General Conference, 33<sup>rd</sup> session, 19 Oct 2005) are today a significant part of the debate. It is noticeable that the principles these charters legitimize – principles like autonomy, individual responsibility, consent, respect for a person's vulnerability and integrity, for private life and privacy, equality and fairness, non-discrimination and non-stigmatization, respect for cultural diversity and pluralism, solidarity and cooperation, social responsibility and health, the fair distribution of resources, the protection of future generations and the protection of the environment, biosphere and biodiversity (Articles 3-17) – directly support the woman's choice to become a mother or not.[19] Religious thought also has something to say about human dignity. The dogmatic perspective treats the relationship between the mother, the foetus and society in a considerably different manner.[20]

All these details however miss the important fact: the European Convention on Human Rights recognizes neither the right to life of the unborn child nor the woman's right to abortion. The question is then: how are we to interpret this dual refusal to protect?

There are two parts to the explanation. One has to do with the nature of the Convention, which is the expression of national law systems.[21] Even though the Convention establishes a supranational structure meant to oversee the protection of human rights, it does however leave some situations to the appreciation of the states. National authorities ascertain these situations better because they are closer to them. This argument is a translation of the subsidiarity thesis as applied to the issue of human rights. The principle of subsidiarity is known as the „margin of appreciation doctrine“. The margin of appreciation acknowledges that the diversity and legal pluralism present in the countries of the Council of Europe are important values.[22]

The freedom of the states in interpreting fundamental rights is not equivalent to self-determination in such matters. In some instances a single unified European standard has been arrived at (see the protection of vulnerable groups).[23] In other instances that is not the case. When the European Convention was signed, the states of the Council of Europe treated differently the issues of capital punishment, homosexual acts, abortion, etc. Hence, the interpretation of the Convention takes into account national legal traditions. In time, the public opinion across the Continent has changed. Capital punishment has been abolished.[24] Relations between consenting same-sex adults are not only under the protections of the right to private and family life, but indirect discrimination has also been gradually eliminated: after the ruling in *E.B. vs France*, sexual orientation cannot be a criterion in becoming eligible to adopt; after the ruling in *Vejdeland et al vs Sweden*, insulting discourse, even when it doesn't reach the level of hate speech, is no longer under the European protection of freedom of speech[25].

There is no similar evolution in recognizing a woman's right to abortion. Such evolution is blocked among other things by a characteristic of the European system for the protection of human rights: the European Court of Human Rights cannot become a supranational government. Hence, the power of the ECtHR judges will always be limited.[26] When some issues are very sensitive at the national level, the Court avoids a legal push that might alienate governments, as proven by the many cases in which the ECtHR was overturned by the Grand Chamber. [27]

The margin of appreciation is therefore the framework for the dialogue between the Strasbourg courts and the national government. [28] There is a common interest in safeguarding the complex machinery of the Council of Europe.

To conclude, the opinion is formally unanimous: today, a state may introduce anti-abortion legislation because the European Court of Human Rights does not see it as a violation of fundamental rights and freedoms protected by the European Convention.[29] The opposite ruling will only be arrived at as a consequence of an evolution of the public opinion in member states of the Council of Europe.

The legal and ethical questions answered by the ECtHR: is the foetus a person with rights?, does a woman's autonomy include the right to refuse to carry a pregnancy to term?, do not cover the entire ethical landscape of abortion. The woman's responsibility toward the foetus, the legal classification of forcing a woman to carry a pregnancy to term, whether sexual activity without intent to reproduce is moral, whether the woman must take into account the wishes of the father, whether it is acceptable for a woman to give life to an unwanted child, are all ethical issues that have been studied systematically over decades. Classic studies on the ethics of abortion: Judith Jarvis Thomson [30], Mary Warren [31], Don Marquis [32], Michael Tooley [33], as well as relevant empirical research (e.g. on the pain felt by the foetus [34]), have allowed for a deeper understanding of the issues related to the termination of the life of a blastocyst, embryo or foetus. The results of such research do not change however the current paradigm that gives precedence to the fundamental rights of the woman over the "rights of the unborn child".

##### **5. The compatibility of an anti-abortion law with the system of protection of human rights**

By the same logic, it is within the margin of appreciation of the states to adopt abortion laws that mandate or not crisis pregnancy counseling. If a counseling mandate exists, the state must make sure that the required procedures do not violate any of the recognized rights and freedoms. Unfortunately, the draft law on the establishment, functioning and organization of crisis pregnancy counseling offices commits a series of such violations.

The first issue is raised by the requirement to submit to being shown disturbing images, as a pre-condition of an abortion procedure. This kind of treatment, applied to a vulnerable person, can lead to anxiety, fear, feelings of inferiority, and can be experienced as real „psychological torture“. Somebody who sees this requirement as a means to obliterate her moral opposition will feel degraded. And all these characteristics define what the European Court of Human Rights calls a “degrading” treatment.[35] Any „candidate” to such a procedure would be able to petition the Court, alleging that the Romanian state violated Article 3 of the European Convention on Human Rights. The publicity this type of counseling procedure has enjoyed is itself an issue, because „the victim is humiliated in her own eyes”, and in the case-law this is already pertinent.[36] The lack of intent, on the part of the person or institution responsible, to elicit fear or to degrade is not relevant to classifying the treatment as „degrading”. [37]

To have or not to have a child is part of exercising the right to private and family life, protected by Article 8 of the European Convention on Human Rights. This decision, that will affect the woman's entire life, needs to be

free. „Freedom”, in this context, implies that this option must not lead to unfavorable outcomes. The fact that the procedures for „crisis pregnancy counseling” are traumatic limits the woman’s freedom to choose. In the absence of an anti-abortion law, the woman has the right to choose to have an abortion without being subjected to images that are meant to frighten her, or to induce guilt. Therefore, the procedure mentioned in the draft law for the establishment of counseling offices can be challenged for violating Article 8 of the Convention.

According to the draft law, if the pregnant woman still wants to go through with the abortion, she is required to sign a document stating that abortion „amounts to ending a life”. Whether the blastocyst, the embryo or the foetus are a life or not, whether they are sacred or not, depends on the beliefs and the conscience of each woman. Their opinion on the subject, and the choice to embrace it, are a part of exercising the freedom of thought, conscience and religion. To force a woman who desires to end her pregnancy to state, under her signature, that her act „amounts to ending a life” is to violate her freedom of thought and conscience, protected by Article 9 of the European Convention on Human Rights. It is unlikely that the European judges will not see in this requirement a violation of Article 9 of the Convention.

Through imposing traumatic procedures, interfering with the free choice to be a mother and imposing a religious view, the draft law on the establishment, functioning and organization of crisis pregnancy counseling offices violates at least three articles of the European Convention on Human Rights: Article 3, which guarantees the right not to be subjected to torture, or to inhuman or degrading treatment; Article 8, which protects the right to private and family life; and Article 9, meant to protect the freedom of thought, conscience and religion. If the draft law is adopted by the Parliament in its current form, it can be overturned in time by the courts.

The normative aspects of violating rights and freedoms through the draft law under study are only one facet of the abortion issue. The public policy on abortion must also take into account the context. In spite of some positive developments, today in Romania the total number of abortions is high (103.383 in 2011). The Eurostat research in 2008 showed that Romania had the highest total number of live births of girls under 15 years old among all EU countries: 707. The financial requirements of accessing abortion-related health services are excessive relative to the possibilities of families belonging to vulnerable groups. Even today women still self-induce abortions at home (83 cases in 2011). The situation is exacerbated by the expansion of the practice to refuse to provide access to safe and legal abortion on request, on religious grounds. The research conducted by the Euroregional Center for Public Initiatives between December 2010 – May 2011, showed that out of 67 hospitals investigated, 6 do not perform it at all, 13 hospitals do not perform it during any of the religious holidays, 39 hospitals do not perform it during Easter, and 25 hospitals do not perform it during Christmas. The results prove at the least the lack of ”specific and clear legal provisions regarding the objection to perform medical services on the grounds of religious or conscientious reasons” and of “regulations to ensure continuity in providing health care services when the doctor objects to performing abortion on request”. [39]

Equally important to the issue of abortions is its positioning within the wider issue of maternity. After gaining its freedom as a result of regime change, Romania showed a lack of interest in supporting maternity: the support during maternity leave has been cut back, the number of daycare and kindergarten centers has decreased

dramatically, public health services are getting worse, and labor laws that protect pregnant women are often ignored.[40]

## 6. Conclusions

If the 50 deputies who proposed this draft law had promoted an anti-abortion law, they would have surely faced an important internal opposition. However, if the proposal had passed, it would have been applied as *fait accompli*. It would have taken a large number of abuses, victims, and unfortunate consequences for it to be up for debate again. Romania would have joined the small group of European countries that impose on their women a concept of the world and a life plan not their own.

The deputies chose instead a route that they probably considered easier: to create a law on counseling that would achieve the objectives of an anti-abortion law (to discourage pregnant women to seek abortion for an unwanted pregnancy, or to make the achievement of this goal difficult) while bypassing a confrontation with a population that still remembers the trauma of the pro-natal policy of Nicolae Ceaușescu. The initiators of the project seem to not have realized that their proposal opens up an external front. A law following the proposals of the draft law of 12 March 2012 will have to face the European Court of Human Rights and other institutions which monitor Romania's compliance with its international obligations.

### Notes

[1] The letter addressed to the Prime-Minister was dated 4 April 2012.

[2] Voicu, O. (coord.), Popescu, R., Paladă, M., Tufiș, C., **Religie și comportament religios în România**, *Noua Revista de Drepturile Omului* Vol. 8, nr. 1, 2012, pp. 91-121.

[3] According to a study by Ovidiu Voicu, in 2007 29% of those asked supported limiting the access to abortion, 59% were against, and 12% did not answer (Voicu, O., **Avortul între drept câștigat, respingere morală și practică larg răspândită**, *Noua Revista de Drepturile Omului* Vol. 8, nr. 1, 2012, p. 112). The consistency of this attitude over a period of 7 years suggests the position of Romanians on abortion is unlikely to have changed too much between 2007 and 2012.

[4] Among them the Gift of Life Association (Timișoara), the Pro-life Clinical Foundation (Cluj-Napoca), the ProVita Media Association (București), the „Pro-life for born and unborn” Christian-Orthodoxă Association.

[5] See the recent actions of House Republicans who are threatening to shut down the government „unless the rest of Congress bends to their demands to entirely de-fund Planned Parenthood, curb access to contraception by allowing employers to deny coverage based on religious or moral objections, and promote abstinence only education.” (Pieklo, J., **Dispatches From The War On Women: House GOP Makes Contraception An Election Issue**, July 19, 2012: <http://www.care2.com/causes/dispatches-from-the-war-on-women-house-gop-make-contraception-an-election-issue.html> / (Accessed 19 December 2012).

[6] „Russia's Pro-Life Movement”: <http://www.worldcongress.ru/en/russias-pro-life> (accesat la 1 decembrie 2012).

- [7] Report of the Secretary-General, **Lessons learned from the Commission on Sustainable Development**, 21 February 2013:  
[http://sustainabledevelopment.un.org/content/documents/1676SG%20report%20on%20CSD%20lessons%20learned\\_advance%20unedited%20copy\\_26%20Feb%202013.pdf](http://sustainabledevelopment.un.org/content/documents/1676SG%20report%20on%20CSD%20lessons%20learned_advance%20unedited%20copy_26%20Feb%202013.pdf) (Accessed 10 January 2013).
- [8] Neamțu, M., **Nimic despre cultura vieții. Bioetica și moțiunile PDL**, 11 April 2011 -  
<http://www.contributors.ro/cultura/nimic-despre-cultura-vie%C8%9Bii-bioetica-si-mo%C8%9Biunile-pdl> (Accessed 10 December 2012).
- [9] Kligman, G., **Politica duplicității. Controlul reproducerii în România lui Ceaușescu**, Humanitas, București, 2000; Doboș, C. (coord.), Jinga, L., Soare, F., **Politica pronatalistă a regimului Ceaușescu. O perspectivă comparativă**, Polirom, Iași, 2010.
- [10] David, P. H., **Abortion in Europe, 1920-1991: A Public Health Perspective**, *Studies in Family Planning*, Vol. 23, No.1, 1992, pp. 1-12.
- [11]. United Nations Report of the International Conference on Population and Development, Cairo, September 5–13, 1994: <http://www.un.org/popin/icpd/conference/offeng/poa.html> (Accessed 22 December, 2012).
- [12] *Boso v. Italy*, no. 50490/99, ECHR 2002-VII.
- [13] *Vo v France*, no. 53924/00, judgement of 8 July 2004.
- [14] McCullough L.B., Chervenak F.A., **A critical analysis of the concept and discourse of 'unborn child'**, *American Journal of Bioethics*, No. 8(7), 2008, pp. 34-39.
- [15] Ciucă, A., **L'intérêt de l'enfant à naître versus le droit à l'identité de la personne**, *Noua Revistă de Drepturile Omului* nr. 4, 2012, pp. 3-11.
- [16] Guaranteed by Article 8 of the European Convention on Human Rights. The right to private life was a key factor in the 1973 *Roe v. Wade* decision of the Supreme Court of the United States, decision that made the woman's right to abortion widespread in USA.
- [17] Martin, J., **Demnitatea umană: mai multe interpretări, cu diferite consecințe**, *Revista Română de Bioetică*, Vol. 9, Nr. 1, 2011, p. 3.
- [18] From an interest in embracing a humanist discourse, or from endorsing a religious perspective, in the form of a militant religious dogma („**We should, therefore, condemn abortion**” - Paul, Adrian Gh., **Păcatul avortului și implicațiile antropologice asupra destinului vieții umane**, *Revista Română de Bioetică*, Vol. 8, nr. 4, 2010) or a theological framework (Cismăreanu, F., **Statutul embrionului uman – importanța presupuzițiilor în soluționarea acestei probleme**, *Revista Română de Bioetică*, Vol. 8, nr. 4, 2010).
- [19] Ciuca, A., **Conceptul de „demnitate” a ființei umane în bioetică și drept**, *Revista Română de Bioetică*, Vol. 7, nr. 2, 2009.
- [20] See types of discourses in a religious vein in *Revista Română de Bioetică*: Florea, Ș., **Bioetica creștină. O știință în slujba vieții**, *Revista Română de Bioetică*, Vol. 8, nr. 1, 2010; Damian, C.-I., **Avortul din perspectiva**

**religiilor orientale: hinduism și budism**, *Revista Română de Bioetică*, Vol. 8, nr. 1, 2010; Bute, S.N., Stoica, I., **Demnitatea și statutul embrionului uman din perspectiva teologiei ortodoxe**, *Revista Română de Bioetică*, Vol. 8, nr. 1, 2010.

[21] Kastanas, Elias, **Unité et diversité: notions autonomes et marge d'appréciation des Etats dans la jurisprudence de la Cour européenne des droits de l'homme**, Bruylant, Bruxelles, 1996, p. 252.

[22] *Idem.*, p. 21.

[23] *Idem.*, p. 260

[24] Vezi Protocolul 6, art. 1.

[25] Olar, D., **Cauza *Vejdeland et alii c. Suedia***, *Noua Revistă de Drepturile Omului*, Vol. 8, nr. 1, pp. 91-121.

[26] *Idem.*, p. 241.

[27] See *Ždanoka c. Letonia*, *Kokonov c. Letonia*, and *Lautsi c. Italia*, cauza ș.a.

[28] Kastanas, Elias, **op.cit.**, p. 239.

[29] If keeping the pregnancy does not violate the mother's right to life, and the anti-abortion procedures do not affect the right to information, freedom of movement, etc.

[30] Thomson, J.J., **A Defense of Abortion**, in Ronald Munson (ed.), *Intervention and Reflection: Basic Issues in Medical Ethics*, 5<sup>th</sup> edn., Wadsworth, Belmont, 1996, pp 69-80.

[31] Warren, M., **On the Moral and Legal Status of Abortion**, in T.A. Mappes and D. DeGrazia (eds.), *Biomedical Ethics*. 4<sup>th</sup> edn, McGraw-Hill, Inc., New York, 1996, pp. 434-440.

[32] Marquis, D., **Why Abortion is Immoral**, *Journal of Philosophy*, Vol. 86, 1989, pp. 183-202.

[33] Tooley, M., **Abortion and Infanticide**, *Philosophy & Public Affairs*, Vol. 2, No. 1, 1972, 37–65.

[34] See Royal College of Obstetricians and Gynaecologists, **Fetal Awareness. Report of a Working Party** (October 1997) and Fitzgerald, M., **Fetal Pain: An Update of Current Scientific Knowledge**. Department of Health (May 1995).

[35] CEDH, 16 decembrie 1999, *V. C. Royaume-Uni*, Recueil 1999-IX, para. 71.

[36] CEDH, 16 decembrie 1997, *Rannen c. Finlande*, Recueil 1997-VIII, para. 55; CEDH, 25 aprilie 1978, *Tyrer c/Royaume Uni*, para. 33.

[37] Bîrsan, Corneliu, **Convenția europeană a drepturilor omului. Comentariu pe articole. Vol. I. Drepturi și libertăți**, C.H. Beck, București, 2005, p. 219.

[38] European Commission, Health & Consumer Protection Directorate-General, Directorate C-Public Health and Risk, Assessment, Eurostat (NewCronos Database), **Live births by mother's age at last birthday - total number and % of total, 2008**.

[39] ECPI Report, **Refusal on the ground of religion or conscience to undergo abortion on request in Romania**, May 2011: <http://www.ecpi.ro/resurse/publicatii/> (Accessed 10 January 2013).

[40] Păunescu, R., **Evoluții politice ale maternității. Perspective feministe**, Polirom, Iași, 2012, p. 159.