

EPF Analysis of the Results of the Vote on the Resolution on "Access to Safe and Legal Abortion in Europe" on 16 April 2008

On 16 April 2008, over 185 Parliamentarians from the 47 Member States of the Council of Europe engaged in a four hour debate and vote on a report calling for safe and legal access to abortion in the 47 Member States of the Council of Europe.

For the first time, an official Institution in Europe has adopted with a clear 55% majority a text which calls on all European countries:

- to decriminalise abortion within reasonable gestational limits, if they have not already done so;
- to guarantee women's effective exercise of their right to access to a safe and legal abortion and
- to ensure that women and men have access to contraception and advice on contraception at a reasonable cost, of a suitable nature for them, and chosen by them.

The Resolution recognises certain important and new concepts, namely that the 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 and bases its logic on women's rights, human rights and gender equality.

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1. EPF Involvement:

As one of only two SRHR-organisations with Participatory Status at the Council of Europe, EPF has been monitoring the progress of the report and resolution since March 2007 and provided evidence to the Committees in charge of the report and opinion, the rapporteur and rapporteur for an opinion as well as to individual Parliamentarians from all political parties (from the left to the centre-right and right wing of the political spectrum) and to Parliamentarians who have often been active within EPF and member APPGs over many years. EPF has also provided intelligence to the SRHR community in Europe as to likely voting outcomes based on the one had on its analysis of political party positioning and secondly on the basis of inside information gathered from its network of all-party Parliamentary groups across Europe and participation in political group meetings in the Parliamentary Assembly.

In addition, groups around Europe active on SRHR, for example, many family planning associations members of IPPF and ICPD-NGOs members of EuroNGOs engaged with their representatives to the Parliamentary Assembly in many countries, ranging from Iceland to Moldova and most countries in between.

2. Vote Analysis:

The Report and Resolution were adopted with a majority of 102 in favour, with 69 against and 14 abstentions. Altogether, 185 Parliamentarians took part in the vote – a very good turn out for a debate and vote at the Parliamentary Assembly. EPF had forecast that a majority in favour of the Report would be likely based on the following assumptions:

- that nearly all members of the Socialist group and the United Left would vote in favour
- that the majority of the Liberal Group would vote in favour
- that there would be significant divisions in the two centre-right parties, namely the European People's Party (EPP) and European Democrats Group (EDG). While the majority would vote against, there would be significant defections/abstentions.

The end result of the vote according to political parties was as follows:

- 100% of the United Left voted in favour
- 92% of the Socialist Group voted in favour
- 74% of the Liberals voted in favour
- 29% of the EDG voted in favour, an additional 12% abstained (41% defection)
- 13% of the EPP voted in favour, an additional 10% abstained (23% defection)

If one takes a look at the percentage share each political party brought to majority required for the Report and Resolution:

- the Socialist Group brought 56% of the votes
- the Liberal Group brought 20% of the votes
- the EPP contributed with 10% of the votes
- the United Left contributed 9% of the votes
- and the EDG contributed 5% of the votes

3. The Political Dynamic at the Parliamentary Assembly:

The Report was discussed extensively starting on Monday 14 April in various settings at the Assembly, namely within Political Groups and both the Committees on Equality and on Social, Health and Family Affairs. EPF staff were able to participate in all Committee meetings and monitor the discussions. In addition, EPF focused its attention on the political group which would discuss the report most extensively, namely the EPP, by taking part in and following a number of EPP discussions.

→ The EPP discovers the Report on Access to Safe and Legal Abortion:

Already, starting on Monday, the EPP Group discussed the report in its internal meetings. The EPP discussions suggest that many in the Group were caught completely unaware of the Report and its potential significance until their arrival in Strasbourg or shortly before. One Belgian Conservative even stated *"we have to be more vigilant"* when realising that the EPP had been inactive on the report which had been in preparation for a year. As a result, the first reactions from the EPP group came from those who felt most strongly about the issue of abortion – specifically those who are against abortion and adhere to the concept that 'life begins at the moment of conception'.

This ideologically-driven group within the EPP were the first to take action, and remained in the lead of EPP activities on the report until the vote on Wednesday, was composed of a number of MPs from Italy, Poland, Cyprus, Spain and supported by some MPs from Austria, the Netherlands, Belgium, and Germany. Their first action on Monday 14 April, to move for both the removal of the Report from the plenary agenda and to send the Report back to Committee, set the tone for the interactions between the main centre right party, EPP, and the main centre left party, the Socialist Group and revealed the extent of division within the centre right parties.

→ Centre-right/Centre-left dynamic:

While there were objectively solid grounds to send the Report back to the Equality Committee, particularly based on the fact that a report calling for decriminalising abortion had not solicited the opinion of the legal affairs Committee, the move failed because 1) other parties recognised this move as a ploy to weaken the report and not a genuine attempt to improve the legal foundation of the report and 2) the argumentation formulated by the EPP MPs calling for the Report to be sent back mixed objective grounds (such as consultation of the legal affairs committee), with ideological reasons (ie. the Council of Europe's mission is to protect life from the moment of conception). The move to send the report back failed as a result of centre and left voting against and the absence of many EPP members who felt uncomfortable with the actions of their ideologically driven colleagues. Nonetheless, this set the tone for the EPP / Socialist-Liberal-left dynamic which became one of confrontation rather than compromise seeking. The results were as follows:

- those in the EPP which took a lead were the most ideologically driven
- the socialist-liberal-left seeing that they had a majority did not seek compromise with the EPP particularly as the criticisms to the report were formulated on religiously inspired ideology
- this left many in the EPP who can take a constructive view on SRHR and abortion in a very difficult position. These EPP MPs had to choose whether their support for legal abortion outweighed their concerns about the socialist/left wing manner the report was phrased.

With this dynamic in place, Parliamentarians from each political family did as follows:

- A group of 10 MPs from the EPP created a working group to elaborate amendments to the Report/ Resolution which would drastically alter the substance of the report. This group, along with a similar but much smaller group in the other right wing party, the EDG, tabled over 50 amendments within a 24 hour period.
- The Socialist-Liberal-Left combined efforts to reject nearly all proposed amendments from the EPP and EDG in both the Committee and in the plenary session. The party-line voting was so strong that the Socialist-Liberal-Left even initially rejected an EDG amendment calling for 'advice on use of contraception' before realising that this amendment could strengthen the report and was not intended to undermine it.
- The only areas where most political parties agreed was on the amendments proposed by the Opinion Rapporteur, Chris McCafferty, MP, of the Social, Health and Family Affairs Committee which were seen as improving the report (a view shared by many from most political parties).

This dynamic played out in the plenary vote and debate with 100% of the left, 92% of the Socialist Group and 74% of the Liberal voting in favour of the report, supported by 13% and 29% of the EPP and EDG groups respectively. As one Belgian Conservative MP already prophesied on Tuesday, 15 April, *"we going to lose again, we should have become engaged constructively and tried to influence from inside"*.

4. Important lessons from the debate and vote

→ Potentially Supportive Centre/Conservatives faced a tough choice:

There is a number of centre-right/ conservative Parliamentarians who did or could have supported the Resolution had they been involved at an earlier stage or had the dynamics between political parties allowed for compromise. For example, here are a few excerpts of the statements of Conservatives who support SRHR and in many cases access to legal abortion:

Mrs JONKER, Christian Democrat from the Netherlands, who voted for the Resolution said: *"that abortion was legal in many European countries, including the Netherlands. The Netherlands had one of the lowest rates of abortion in the world, although that should not be celebrated as abortions often had a tragic history behind them. The low rate was due to careful practice in the Netherlands, where the law was based on the protection of the child and on the rights of women. A balance was found between autonomy and the need to protect life."*

Mrs GREFF, Conservative from France, who voted against the Resolution said: *"that abortion was a serious act that left psychological consequences. However, if a pregnancy was unwanted, abortion should be available under safe conditions. She said that she would have liked to have heard more on education and free contraception. Abortion was not a right, but a problem, representing a failure of policy on access to contraception."*

Mrs PAPADOPOULOS, Liberal from Cyprus (where abortion is highly restricted), who voted against the Resolution said: *"The rapporteur has produced a well-focused report, which supports the right of women to have equitable access to safe and legal abortions throughout Europe to avoid dangerous, traumatic and clandestine abortions. Throughout the report, it is stressed that abortion should be avoided as much as possible and should not be considered as a contraceptive method."*

Conclusion: Not all Parliamentarians who voted against the report should be qualified as 'anti-choice'. The decision to vote in favour or against the Report was difficult for many Parliamentarians who support access to legal and safe abortion. However, other factors entered into the decision-making in addition to the political dynamic which did not allow for constructive compromise, namely:

- the wording in the report which was 'too progressive' for some, ie. it placed too much emphasis on rights and not enough on prevention (albeit, those who emphasise prevention of unwanted pregnancy can point to the 2004 Assembly Resolution on a European Strategy for Sexual and Reproductive Health and Rights which addresses this point).
- The difficulty of MP from countries where abortion is heavily restricted to openly vote in favour of a report calling for its decriminalisation, particularly when voting records are made public
- That some MPs who support access to safe and legal abortion, but view this as a matter for national governments, not supra-national institutions.

→ **Ideology firmly rejected:**

Amendments from ideologically driven conservatives attempting to assert the following concepts as limitations to women's right to access safe and legal abortion within a reasonable gestational limit were all unambiguously rejected (all with 2 to 1 margins):

- life begins at the moment of conception
- rights for the unborn child, protection of the child before birth equal to after birth
- rights/prerogatives for the biological father
- conscientious objection for medical practitioners

Conclusion: Swedish Social Democrat MP Carina Hägg, MP summarised the mood in the plenary debate best when she asserted that *"We are in the Hemicycle of the Council of Europe, not in a church. This is not about our beliefs. We must make decisions that are based on fact and on what we read in international documents."*

→ **National positions still as or more important than party positions:**

For a number of Parliamentarians, the national positions on abortion triumphed over their political affiliation. During the two hour debate not a single Parliamentarian from a country where abortion is heavily restricted spoke in favour of the Report. On the contrary, the few defections from the parties supportive of the Report came from countries where abortion is illegal. For example, Mr Brincat, Socialist of Malta asserted:

"...one unifying factor among the parties represented in our country's parliament is that Malta has always spoken with one voice in its stand against abortion. As for my party – the Malta Labour Party, which represents a fraction less than the relative majority that the governing party currently enjoys - there are no ifs or buts on this issue. The Malta Labour Party always was, is and will remain against abortion. The issue does not feature on our agenda. Our position is unequivocal, and that is solely the result of our deep commitment to the rights of the unborn child rather than to political opportunism.

During our recent election campaign, we were never canvassed by any potential voters to consider seriously introducing abortion in the country's legislative programme. Our party's interpretation of the issue remains consistent with our national legislation, which considers the termination of pregnancy through induced abortion to be illegal. It is our strong belief that it is morally and politically impossible for Malta to legalise abortion, which is and will remain a criminal offence.

We strongly support the stand taken by the authorities in Malta in the not-too-distant past when they expressed reservations about both the Beijing Declaration, which emanated from the Conference on Women held in China, and the Cairo programme of action, which emanated from the Conference on Population and Development. We firmly believe that it was right to express those reservations to safeguard Malta's commitment against abortion.

The Socialist Group respects the fact that the majority of member states of the Council of Europe allow legalised abortion. However, for us Maltese, abortion is a non-issue. It does not feature on our political agenda or calendar."

Conclusion 1: the absence of political dialogue or of any political force in the Maltese political landscape, in addition to the Maltese consensus on SRHR is unique in Europe (for example, in Ireland and Poland the

issue is supported by some in the political spectrum) and explains how SRHR issues have become more difficult to address in the EU over the past few years, when Malta became a Member State in 2004.

Conclusion 2: Many East European conservative MPs voted in favour of the Resolution thus showing that East European countries are not in principle more conservative on abortion. Indeed, the main proponents against the Resolution came from West European, EU Member States.

5. Highlights from the debate

→ from the Rapporteur and Rapporteur for Opinion:

Mrs WURM (Austria): "Prohibiting abortion did not reduce the number of unwanted pregnancies. Again, education on contraception was essential. Back-street abortions traumatised women and jeopardised their health."

Mrs McCafferty (United Kingdom). *"People who are not directly involved with the family and with the mother often pontificate on unwanted pregnancies and dominate the public debate. I believe that they operate on wrong assumptions about how pregnant women should be treated and cared for. The first misconception is the assumption that keeping abortion illegal is pro-life in some way. The error in that argument is the exclusive focus on the foetus; the woman is totally ignored as if she does not count."*

→ Political party Positions:

Mrs FRAHM (Denmark) on behalf of the **Group of the Unified European Left:** *"Just imagine making so many women and children suffer, even though there were alternatives: abortion was possible, just not legal. Suffering and misery occurred for the sake of a moral. Thank God that that is over in most countries."*

Mrs ČURDOVÁ (Czech Republic) on behalf of the **Socialist Group:** *"It is our task, as politicians, to ensure that women can exercise control over their own lives. However, that seems to be the main eyesore for religious institutions. Women in the 21st century are fully fledged citizens. If they choose to terminate a pregnancy, it is necessary to ensure that they have access to legal and safe abortion."*

Mrs ACKETOFT (Sweden) on behalf of the **Alliance of Liberals and Democrats for Europe:** *"It makes me so upset every time the EU grants exemptions from human rights standards, especially this human right, for EU states. The right to decide for yourself should not depend on which side of a border one lives."*

Mr POURGOURIDES (Cyprus) on behalf of the **Group of the European People's Party:** *"Before expressing the views of my group, I would like to inform the Assembly that there are other opinions in my group. Having clarified that point, my group believes that the resolution lacks balance between the competing interests of pregnant women who wish to have an abortion and those of developing human beings. The resolution totally ignores the rights of the unborn child until birth."*

Mr WILSHIRE (United Kingdom). *"The **European Democratic Group** has asked me, as its deputy leader, simply to make a short statement at the beginning of this debate. All those in our group understand*

clearly that abortion is a hugely emotive subject in which fundamental moral and ethical issues come into play. Everyone listening to this debate will instinctively listen to their conscience, rather than to party political persuasion. The EDG has therefore decided not even to attempt to have a collective view. The group has no policy of any kind on this matter. Every one of us in our group will simply listen to the debate, listen to our consciences and then make up our minds how each of us as individuals will vote."

→ Remarks on the significance / importance of the adopted text:

Mr PULLICINO ORLANDO (Malta). *"Up to now, the Parliamentary Assembly has insisted that it is only in the case when a pregnancy results from rape that women should be given the choice of having an abortion. Thus, even in the case of rape, the Parliamentary Assembly avoided speaking about the "right" to abortion. Therefore, the draft resolution would represent a significant and fundamental change in the position of the Parliamentary Assembly of the Council of Europe on abortion, advocating a woman's unconditional right to abortion and denying any need to take into consideration the rights of the unborn child."*

Mr RIGONI (Italy) said that the report represented a radical change in the position of the Assembly by referring to women's right to have access to abortion. Abortion involved a child never seeing the light of day.

Mr LEYDEN (Ireland): *"Mr President and colleagues, I wish to speak against the proposed resolution in "Access to safe and legal abortion in Europe". It is important to recall today that as far back as 1994 there was international agreement at the Cairo Conference on Population and Development on the issue of abortion. The programme of action states that in no case should abortion be promoted as a method of family planning. Priority was given to the need to prevent unwanted pregnancies and eliminate the need for abortion, and to provide access to reliable information and compassionate counselling. While the Cairo text acknowledges the sexual and reproductive rights of women, these rights are qualified by the need to respect national legislative processes when considering the issue of abortion. That concept has informed discussions and decisions on reproductive health and services in all official international forums since 1994. The draft resolution before us today, however, seems to abandon that consensus position completely."*

Mr SIGFÚSSON (Iceland). *"By accepting the report, the Parliamentary Assembly of the Council of Europe will live up to its standards in the best of ways. The report is pro gender equality and full and equal human rights. It is a step forward and the right one to take at this time."*

Mr HANCOCK (United Kingdom). *"As this is one of the most important debates that we have had for a long time, and as there are 15 speakers left on the list – 45 minutes would need to be allocated if they were all to speak – during the lunch break could consideration be given to the idea of allowing those speakers to make their contributions this afternoon before the ballot? It is seldom that we get so much interest in a debate in the Hemicycle, and I think that it would be a denial of parliamentary democracy and accountability if those people were to be ruled out."*

Mr MENDES BOTA (Portugal): *"acknowledged that the issue was sensitive and political groups divided on the matter. There was no Council of Europe Convention dealing with this question. A PACE Resolution would not admittedly have any legal consequences but it would reflect the position of the political majority."*