

Achieving excellence in abortion care
Seville, 22-23 october 2010



Working with parental authorisation requirements for
minors,

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Legal panorama



- Adolescents face special barriers to access abortion services

Requirement of parental involvement

Even if not legally required > needed

Information (legal, medical) – Cost

- Even in countries without legal restriction (18/56) as to reason or broad grounds (4/14) *
- Even when access to abortion is only permitted to save a woman's life*

➔ In all categories of legislation, from the most restrictive to the most liberal, adolescents do face special barriers

*The world abortion laws 2008, center for reproductive rights

Different forms and levels of authorization *



- Different professionnels
 - doctors (En- Finland) and /or counsellors (Germany-Hungary-Swiss)

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- Parental authorization
 - Different levels of involvement (USA 34 states / 51)
 - Consent of one or both parents (20 states , 2 from both)- Lux
 - Notification of one or both parents (10 states, 1 from both)
 - Consent and notification (4 states)
 - Different ages
 - Under the age 18
 - Under the age of 16 (En- Latvia- Lithuania-Cz rep-PT)
 - In between : consent > info (Latvia- Lithuania-Cz rep)

*source= Guttmacher Institute (State policies in brief, 2010) - The world abortion laws 2008, center for reproductive rights

Legal exceptions or alternate procedures to PA



- Legal exceptions
 - Medical emergency (USA 31 states) – Lux. – Port.
 - Abuse, incest, neglect (USA 14 states)
- Legal bypass
 - Court / official body approval (USA 34 states) - Danemark
 - Other adult involvement (relatives or not) (USA 6 states) – France- (2011>Lux.)
- Other regulations
 - Acknowledgment of discerning capacity at different ages
 - Set in the law or not
 - Mostly 16 y. , sometimes 14 y. even 12 y.

Work with PA : the Luxembourg example



- Conservative political and societal (catholic) context
- Restrictive law on termination of pregnancy (1978)
 - Indications
 - Conditions (Gyn-7 days waiting period- 3 months residency- hospital or agreed facilities - conscience objection- written request needed prior to for abortion- ex. med emergency)
- Official denial of abortion:
 - no abortion reported to international agencies
 - no data, no national enquiry on sexuality, contraception and abortion
- Conservative medical practice
 - Narrow interpretation of legal indications (physical and mental health)
 - Broad use of conscience objection and « à la carte/ on the menu »
 - wide use of other medical coding

Which choices for minors in Luxemburg?



- Liberal neighbouring countries
- WITH parental authorization:
 - Black market / arrangement with a gyn. (mother's)- except med indication
 - Abortion tourism (no access in Lux. or beyond time limit)
 - Easy, friendly and affordable access to safe abortion
 - Since feb 2009: free of charge medical (5 WP) in Family Planning (FP)
 - Since 2010: surgical (12 WP) abortion at hospital by FP staff fully reimbursed
- WITHOUT parental authorization = No legal access in the country
 - Abortion tourism (1st and 2nd trimester +)> safer option
 - Clandestine: Back-alley / Self abortion (Internet abortion, etc..)
 - Illegal procedures: signature or identity counterfeit
 - Forced motherhood (fear -late disclosure- denial)

Luxembourg Family Planning data on teen abortions

- Limited sample: 18 months (2009/ june 2010)- 687 abortions
- 4% abortions in minors (3,2%, 2009- 5%, 2010)
 - (USA: 7%) - (France: 6,3%, 2006) – (Germany: 4,5%, 2009)
- 37% performed abroad (10 out of 27)
 - 5> lack of access to abortion in Luxembourg
to surgical abortion in Luxembourg
 - 2 > beyond legal time limit (18 and 19 WA)
 - 3 > need of parental authorization (within legal time limit)
- WITH: 89%
- WITHOUT: 11%
 - France: major obstacle for 5 to 10% (impact study before removal of PA-2001)

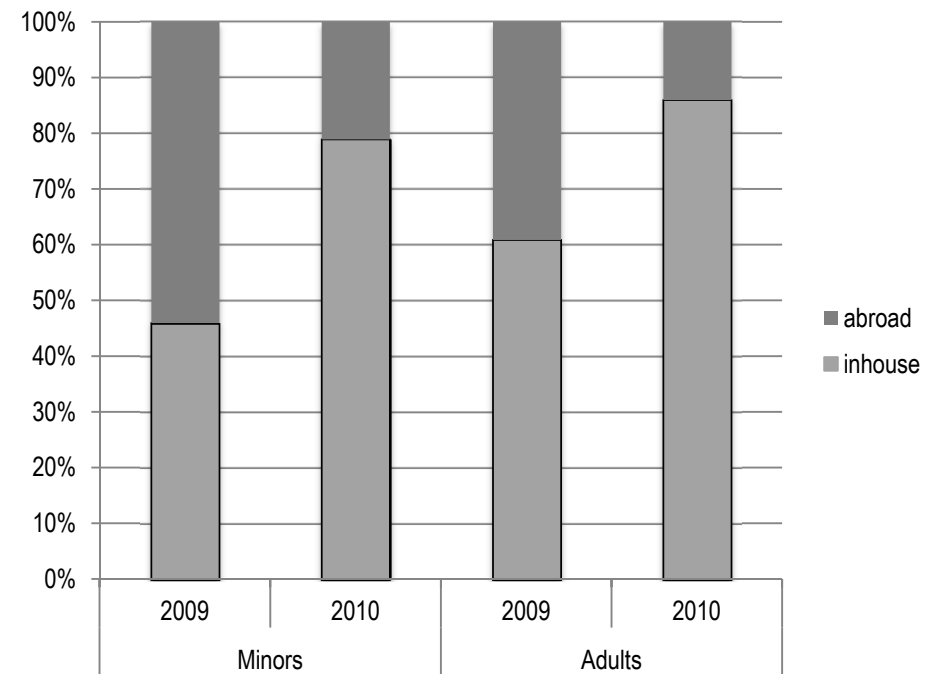
Luxembourg Family Planning: findings

- Most came alone , with their partner, a friend or another adult
- Most ignored the need for a parental consent (*Guttmacher institute, litterature review, 2009)
- No significant difference on average WP at abortion
 - 6.1 WP in minors compared to 5.8 WP among adult women
 - Sample too limited to assert that PA has an impact on higher 2nd trimester abortion

Luxembourg Family Planning: findings

- **Abortion tourism**
 - Used to be 100% in FP before 2009
 - Similar decrease (60%) in adults and minors following access given to abortion in Lux
 - Still higher proportion of minors travelling abroad

Evolution of abortion tourism by age



Impact of PA on choices for minors? Main conclusions

- Lack of national reliable data: global impact unknown
- FP: limited data, short experience
 - Internet /back alley (unsafe)/ black market abortion: no data
 - Some « internet » many black market cases registered in FP
 - Forced motherhood : no data
 - Some cases registered in FP
 - Abortion tourism: higher



Clearest documented impact of PA on minors is ↗ tourism

Guttmacher Institute: impact of laws requiring parental involvement for abortion: a literature review, 2009

- Access to a friendly and free of charge high quality abortion services
 - Impact on their first choice to keep confidentiality towards parents (89%)
 - HBSC 2005/ 2006: Luxemburg is one out of the 40 countries where teens (15 y. old) find it the most difficult to talk to their parents

- Giving access = improved sexual and reproductive health in minors

But what about their choices and rights ?

Work with PA for minors : discussion?

- legal capacity given to minors in other reproductive matters
 - Sexual majority (often 16) > consent to sexual relationship
 - Right to SRH services (contraception – STI screening)
 - Give birth anonymously (« sous X » in France / Lux.)
 - Give birth and acknowledge the maternal responsibility
 - Meaning having full parental authority on the child
 - Meaning being under her own parents' authority
 - Give birth and give the child for adoption

- ➔ Why then not give the young girl full reproductive rights?
rather than push her back in a legal underage situation
avoid contradictory legal situations

Work with PA for minors : discussion?

- Acknowledge the « evolving capacities of the child (empowerment process)

as the Convention of the Rights of the Child do when considering parents guiding role

- promotion of independant decision making capacity for minors in national laws (NL- BE- Germany -Swiss.- etc)
- promotion of capability and free decision making assessment by health professionnals
 - identify any pressure interfering with the minor's decision whether keeping the pregnancy or having an abortion
 - Avoid physical or psychological violence (fear of parent's or partner's reaction -ban– sequestration –cultural, religious, etc... pressure blackmail - incest – abuse)

Work with PA for minors : discussion?

- Acknowledge adolescents sexuality, thus their rights and needs for privacy and confidentiality
- Encourage communication, open, true, early dialogue with parents about sexuality and relationship (society responsibility)
 - Not force it by law when it comes to unintended pregnancy
 - Confession, guilt, judgment, forgiveness
 - Range of negative feelings (loneliness, distress, fear and anxiety)
 - Schock at disclosure
 - Adverse reaction
 - Supportive reaction (pressure relief, «a new start »)
 - Not push the young girl out of « legal path » and its adverse consequences (secret bearing)

Work with PA for minors : challenge and responsibilities?

- Medical responsibility
- Legal bypass > extended - criminal?- responsibilities
 - Proof of impossibility to use the legal « normal » way
 - Public health code, France : health and social workers must try to convince the minor to talk to parents – If decision maintained> written request from minor (option for« secret »)
 - > Every health professionals must check the compliance
 - Other adult involvement
 - Quality of the person
 - Responsibility of the other adult involvement
 - Clearly limited to an accompanying mission
- PA or no PA: face to face consultation
- Responsibilities limitation > avoid lack of access
- Extra-procedures > discouragement > risk of lack of access

- For young women aged 15-19, pregnancy or pregnancy related is the leading cause of death
- Adolescents should have access to health services sensitive to their rights and particular needs
- It appears to be compatible with the responsibility of health professionals *

* Abortion request during adolescence and management of confidentiality: a challenging issue, Centre Hospitalier Universitaire Vaudois, CHUV 2003-2006

➔ Our responsibility to advocate to change national laws