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Access to abortion in Europe: stopping anti-choice harassment

Report¹

Committee on Equality and Non-Discrimination

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Summary

People who are committed to protecting women's access to free and safe abortions are often subject to intimidation and violence by anti-choice activists. The same applies to healthcare professionals providing abortion care and to people seeking an abortion, who face psychological pressure, attempts of dissuasion, verbal abuse, biased counselling and the spreading of inaccurate information, including online.

These phenomena have an impact that should not be underestimated, as they are violations of human rights, notably the right to freedom of expression, to liberty and security, and they progressively erode the right to abortion, as stipulated in the legislation of most Council of Europe member States. These surreptitious attempts to undermine this right may be considered as part of a broader attack on women's rights that is affecting most countries in Europe and beyond.

Individual cases of harassment should be investigated and prosecuted. At the same time, effective legislation and policies should be adopted to counter the broader issue: "buffer zones", where anti-choice protests and awareness-raising activities are not allowed, mainly in and around healthcare facilities, and a general prohibition of activities aiming to obstruct the access to abortion rights, have proven effective in various Council of Europe member States.

1. Reference to committee: Doc. [15030](#), Ref. 4491 of 31 January 2020.



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A. Draft resolution²

1. Persons who are committed to protecting access to free and safe abortions are subject to harassment by anti-choice activists in many Council of Europe member States. Targets include women's human rights defenders, healthcare professionals, politicians, and people seeking abortion care.
2. Harassment may occur in various forms. People seeking abortion experience stigmatisation, biased counselling with inaccurate and misleading information, psychological pressure, manipulation of guilt and shaming, including at or near facilities providing abortion care. Such harassment is perpetrated by anti-choice individuals and organisations that sometimes deceitfully misrepresent themselves as governmental or pro-choice entities. Pro-choice activists, movements and non-governmental organisations face intimidation, online and offline abuse, smear campaigns, and judicial harassment in the form of ungrounded or disproportionate civil or criminal law procedures. Healthcare professionals face intimidation and threats, including death threats, verbal and physical violence and undue pressure in the workplace from peers and superiors. Facilities providing abortion healthcare or information and pro-choice organisations are targets for trespassing and property damage. Police violence and arbitrary detentions in connection with demonstrations in defence of women's rights have also been alleged.
3. The Parliamentary Assembly refers to [Resolution 2331 \(2020\)](#) "Empowering women: promoting access to contraception in Europe" and reiterates that protecting women's sexual and reproductive health and rights are human rights and an important part of gender equality policies and should be considered as a high priority.
4. The Assembly is concerned by the harassment and violence that targets those who are entitled to such rights, including people seeking abortion care and those who have a duty to offer it, as well as women's human rights defenders speaking out for the right to abort.
5. The Assembly denounces anti-choice harassment as a violation of fundamental rights set forth in national and international law, including the right to respect of private and family life, freedom of expression and freedom of assembly and association. This harassment may also be regarded as part of the wider attack on women's rights and gender equality at global level that should be effectively countered.
6. The Assembly recalls that the right to health includes a right to health-related information and considers it essential for Council of Europe member States to counteract misinformation and disinformation on the topic of abortion for the realisation of this right.
7. The Assembly highlights that anti-choice harassment hinders the right to free and safe abortion, as stipulated by the legislation of most Council of Europe member States, as well as access to sexual and reproductive health and rights. This erodes the certainty of the law, a crucial element of the rule of law, which public authorities have a duty to protect.
8. The Assembly emphasises that the denial of abortion care may constitute torture or cruel, inhuman or degrading treatment, and it underlines the importance of the absolute prohibition of torture and other forms of cruel, inhuman or degrading treatments.
9. It is therefore crucial to act both at an individual and general level, that is to prevent, investigate and counter individual cases of harassment, and to adopt effective legislation and policies to address the broader issue.
10. In the light of these considerations, the Assembly calls on Council of Europe member States, Observers and Partners for Democracy to:
 - 10.1. take the necessary measures to ensure that obstructing a person's access to legal abortion care or to relevant information is prohibited and criminally or otherwise sanctioned; the prohibited conduct should include online activities; prohibit anti-choice organisations from misrepresenting themselves as neutral or pro-choice organisations;
 - 10.2. introduce buffer zones in the proximity of reproductive healthcare facilities and any structure where relevant information is provided, to avoid the disruption of medical institutions providing abortion care, and ensure the security of people seeking abortion care; within the buffer zones, all anti-choice information and raising activities and protests should be prohibited, whether aimed at the public or at individuals;

2. Draft resolution adopted unanimously by the committee on 24 January 2022.

10.3. provide reliable information on reproductive rights and services, including abortion care, and take the necessary measures to counteract misinformation and disinformation on abortion; these measures should include specific scrutiny towards the possible spread of misinformation and disinformation, openly or incognito, by anti-choice organisations;

10.4. empower people to make informed choices by ensuring that evidence-based, medically accurate, non-judgmental information about abortion care is available on and offline, notably through information campaigns and comprehensive sexuality education; ensure that comprehensive sexuality education is provided in all schools; curricula should cover sexual and reproductive health and rights including contraception and abortion;

10.5. ensure actual access to legal abortion care, when provided for by national legislation, and relevant counselling by qualified health care professionals providing objective information; conscientious objection, where legal, should never restrict actual and timely access to legal abortion care;

10.6. train healthcare professionals to provide information and care related to abortion, in an evidence-based, unbiased, non-judgemental, respectful, confidential manner; protect healthcare professionals, who provide abortion care, from verbal or physical threats or attacks and any pressure or retaliation, including professional ones;

10.7. effectively investigate and prosecute on- and offline hate speech targeting human rights defenders, including the possible organised character thereof, and endeavour to prevent and counter networks of individuals and organisations created with the aim of harassing pro-choice activists, politicians as well as people seeking an abortion;

10.8. provide information and training to law enforcement officers and members of the judiciary to ensure that they have a knowledge of the extent and impact of anti-choice activities.

11. Recalling its adopted texts on the situation of human rights defenders in Europe, including [Resolution 2095 \(2016\)](#) and [Recommendation 2085 \(2016\)](#) “Strengthening the role and protection of human rights defenders in Council of Europe member States”, and [Resolution 2225 \(2018\)](#) and [Recommendation 2133 \(2018\)](#) “Protecting human rights defenders in Council of Europe member States”, the Assembly reiterates its constant support for women’s human rights defenders, in Council of Europe member States and beyond, and commits to protect them from undue pressure, intimidation and violence. In the present context, particular attention must be paid to online hate speech, which increasingly targets human rights defenders, making them vulnerable to further attacks.

B. Explanatory memorandum by Ms Margreet De Boer, rapporteur

1. Introduction

1. In many Council of Europe member States, people who are committed to protecting women's access to free and safe abortions are subject to intimidation and violence by anti-choice activists. Some cases are particularly visible, as they concern public personalities such as politicians and well-known activists. In the United Kingdom, for instance, Stella Creasy, a parliamentarian who led a successful campaign to extend legal abortion to Northern Ireland, was targeted by a smear campaign which included the display of large posters featuring the image of her face next to that of a dead foetus. German doctor Kristina Hänel, who was sentenced for "advertising" abortion after she spread information about the procedure on a website, has become the victim of online hate speech and intimidation. In Poland, organisations including Polish Women's Strike, the Abortion Dream Team, Federation for Women and Family Planning (Federa), Feminoteka, Fundacja FOR, Helsinki Foundation for Human Rights and the Women's Rights Centre (Centrum Praw Kobiet) have been targeted by severe form of intimidation including bomb threats and death threats, originating from criminals that have not yet been identified.

2. In addition to these and other cases that made headlines and are known to the general public, it is seriously concerning that thousands of people seeking abortion face intimidation, harassment and other forms of psychological pressure. These include anti-choice activities held at or near medical facilities providing abortion care, including dissuasion attempts, verbal abuse, biased counselling and the spreading of inaccurate information, including online. According to the "European Abortion Policies Atlas" published jointly by international non-governmental organisations, European Parliamentary Foundation for Sexual and Reproductive Rights (EPF) and International Planned Parenthood Federation European Network (IPPF EN), in September 2021, 19 European countries force people seeking abortion to endure medically unnecessary requirements to access abortion care, including compulsory counselling (which, as already mentioned, may be biased) and forced waiting periods. In 18 countries, the authorities do not provide the general public with clear and accurate information about abortion care.

3. These phenomena have an impact that should not be underestimated. The harassment and intimidation of individuals violates their human rights, notably the right to freedom of expression, and often the right to liberty and security. At a broader level, the proliferation of these forms of pressure progressively erodes the right to abortion, stipulated in the legislation of most Council of Europe member States. Countering such attempts to make law ineffective and ensuring that the rights that are legally granted may actually be enjoyed is necessary to protect the certainty of the law, which in turn is an important element of the rule of law that public authorities have a duty to protect. From a political and ideological point of view, the surreptitious attempts to undermine the right to abort may be considered as part of the broader attack on women's rights that is affecting most countries, including well-functioning democracies, in Europe and beyond.

4. This report takes stock of the current situation in Council of Europe member States, while presenting several examples of measures that have proven successful in some contexts and may inspire legislators and policy makers in other countries.

2. Preparation of the report

5. The preparation of this report was based on desk research, extensive consultations with civil society organisations, exchanges with experts and human rights defenders, as well as fact-finding visits to two Council of Europe member States. I had the opportunity to discuss with fellow members of the Committee on Equality and Non-Discrimination the main findings of each step of the preparation.

6. In January 2021 I sent out a questionnaire to civil society organisations working on sexual and reproductive health and rights in Council of Europe member States.

7. The questionnaire aimed to collect information on the extent and different kinds of harassment, violence or intimidation allegedly committed in Council of Europe member States against pro-choice activists, healthcare professionals, and people in need of abortion care. Additionally, the questionnaire aimed to identify best practices.

8. The replies to the questionnaire (from sixteen organisations in different member States) give a clear overview of the various forms of harassment taking place in connection with abortion rights. They show that abortion rights defenders and pro-choice healthcare providers are targeted for their work, and people seeking or using abortion care are regularly misled or put under pressure to change their decision. The questionnaire

results also indicate that, even when provided by law, abortion care is not always accessible in some member States. Some countries may appear more often in the findings, as certain respondents provided more detailed input. This does not imply that harassment is more prevalent in those countries.

9. In addition to an overview of the types of harassment found, the information provided by civil society organisations included a few examples of the preventive policy and legislative measures in place in member States.

10. I presented a compilation of the replies at the meeting of the Committee on Equality and Non-Discrimination of 15 March 2021. On the same occasion, a hearing was held with the participation of three speakers. The aim of the hearing was to complement the information gathered through the questionnaire with additional elements. It was also an opportunity for me as rapporteur and for the entire committee to discuss this matter with persons that are directly involved: Ms Vanessa Mendoza Cortés, from Andorra, and Ms Marta Lempart, from Poland, shared testimonies on the forms of pressure or harassment they had personally faced. Ms Rebecca Gomperts, from the Netherlands, gave an overview of the situation in Council of Europe member States, which integrated the information previously collected.

11. Based on references to conscientious objection to abortion care made in the replies to the questionnaire, and on comments from the experts who took part in the hearing, I deemed it necessary to collect additional information on this specific issue.

12. In the final phase of the preparation of the report I conducted fact-finding visits to two Council of Europe member States, namely France and Poland, respectively in October and November 2021.

3. Main findings of the questionnaire

3.1. Harassment of medical providers and defenders of the right to abortion

13. According to the information collected, one of the ways in which pro-choice activists and health care providers are targeted for their work is through various types of reporting and official procedures. Anti-abortion groups report pro-choice organisations or doctors to the police, denounce doctors to medical councils or start legal proceedings against them for disseminating information about abortion, speaking out against anti-choice actions or practising abortions. This is perceived by the persons targeted as a form of harassment and may rightly be considered as such.

14. Furthermore, pro-choice organisations and doctors face several types of direct harassment, both online and offline, which can be divided into three categories: intimidation, defamation, and pressure on medical personnel.

15. Intimidation may be physical, for example through attacks on or protests at abortion care centres. The Croatian respondent specifically mentions vigil actions continuing for up to 40 days. Often, however, intimidation takes place online, on websites or on social media accounts. It can range from generally intimidating messages to creating and sharing posts targeting individual activists, and death threats. Additionally, hate speech takes place in both physical and online settings.

16. A second and related type of harassment of pro-choice organisations and doctors is defamation. Anti-choice actors try to discredit and delegitimize them and their work, framing them as threats to society or national interests, or as murderers. An example from Malta: “[Abortion opponents] create posts with our faces, publishing our names calling us murderers, baby-killers and the like.” According to the Croatian respondent, the messaging and tactics employed by far-right groups “stoke pre-existing fears present in society, including those regarding loss of national identity and culture.”

17. A third type of harassment, specifically experienced by pro-choice healthcare providers, is sustained pressure to stop providing abortion care. Among the respondent countries, this is mainly evident in Croatia, where “medical professionals are being threatened, pressured, stigmatised into not providing abortion care [, and] especially young doctors are (...) [at] risk of not being promoted or they are being deprived of some opportunities for professional development.”

3.2. Harassment, violence or intimidation against pregnant people in need of abortion care and people who have undergone an abortion

18. Pregnant people in need of abortion care may face harassment at abortion clinics, as described above. Additionally, some pregnant people are personally harassed if they are open about having an abortion. They may also face more specific types of harassment, which will be described below.

19. One often-mentioned problem is a lack of evidence-based information about abortion and a parallel surge of misinformation. Respondents from several countries indicated the existence of “incognito anti-choice organisations”. These organisations provide helplines, often profiling themselves as information points about abortion and purposefully operating in physical vicinity of official abortion information centres (Austria) or through phone lines or websites that look similar to the official ones (France and Malta). When contacted, however, they confront the person seeking advice with biased, untrue and shocking information about abortion, and try to dissuade them from undergoing the procedure. On one of these websites, “rather than offering information on where to go, it shows a graphic video of a termination procedure, warning that the possible side effects include breast cancer, sexual dysfunctions and even alcoholism”. Concerning the phone lines, the French respondents indicate that “people listening and answering questions call women and girls back on their phone to dissuade them for having an abortion, even when they are in the waiting room”.

20. Additionally, the questionnaire respondents stated that pregnant people seeking abortion care may experience pressure from health care professionals. In the responses to the questionnaire, this was indicated to take place in three ways. Firstly, increasing numbers of doctors are ‘conscientiously objecting’ to providing abortion care. Overuse of this argument (59% of gynaecologists in public hospitals in Georgia and the majority of practitioners from public centres in Spain refuse to carry out an abortion procedure, and the Serbian and Croatian respondents point out high and rising numbers of objectors) can lead to a lack of availability of abortion care, as well as inherent pressure on the patient to change their decision. Secondly, some health care providers try to dissuade people seeking an abortion from doing so. This is done through (unrequested) conversations with the patient, moral lectures, stressing religious arguments against abortion, or forcing patients to listen to the embryo’s cardiac activity or look at the ultrasound scan. A victim recounts: “They would tell you: ‘here is your baby, don’t you want to look at it?’ What you can see is a shapeless black spot, but still, it hurts.” In Austria, pregnant women may be given a ‘mother-child-passport’ (a document about medical tests) in a very early stage of their pregnancy. Thirdly, several instances of medical mistreatment are addressed in the responses. A Croatian campaign uncovered instances of women being denied access to pain relief or being tied to medical equipment during painful procedures. In Georgia, research indicated a serious violation of confidentiality rights and a complete lack of privacy during abortive procedures.

21. A further significant problem for women in need of abortion care is that, even when abortion is legally provided for, there are substantial barriers to accessing this care. These barriers range from societal constraints, such as stigma, to financial or administrative barriers. The respondents from Spain indicate that these barriers render the right to abortion ineffective. Although the lack of availability or accessibility of abortion care is strongly problematic, it does not in itself constitute harassment. However, it can be connected to certain types of harassment. The widespread stigmatisation of abortion, for example, may cause pressure on pregnant people not to have an abortion and thus limit the access to it. Additionally, the conscientious objection of health care professionals – one of the causes for the limited availability of abortion care – can lead to negative pressure on people seeking abortion care. At the hearing on 15 March, guest speaker Rebecca Gomperts highlighted that this kind of barrier could be observed in member States including Germany, Hungary, Italy, the Netherlands and the United Kingdom. If used in excess, conscientious objection may ultimately have an effect that is comparable to harassment.

3.3. Government-initiated harassment

22. Several questionnaire respondents point out that abortion rights defenders face harassment from their country’s public authorities. Andorran respondents stated that an abortion rights defender faced government intimidation by means of a criminal suit and a police investigation. In Poland, the respondents reported police prosecution and police violence against activists. After one activist tried to purchase Arthrotec with a prescription, the pharmacy she went to reported her to the police, who “searched her house and confiscated her computer and phone. She was taken to the police station and had to spend a night in the police cell.” Rebecca Gomperts added that she herself had been questioned by the judiciary in the Netherlands on two occasions in this respect, at the request of the Polish authorities. The responses include mentions of other government-initiated actions, such as the blocking of the Women on Waves website in Spain by the national medicine agency, which Ms Gomperts characterised as censorship.

4. Causes of harassment and how to address them

23. When describing the phenomenon of harassment, respondents point out several causes and sources. A recurring underlying theme in the causes is the existence in society of widespread and strong patriarchal and traditional beliefs, often related to religion. This leads to the stigmatisation of abortion, which in turn may serve as a breeding ground for, or justification of, harassment. The harassment itself comes from different types of actors. In some cases, as previously mentioned, this is the government of the relevant country. In other cases, anti-choice organisations are frequently mentioned as the authors of the harassment. They are stated to have connections with extreme-right political parties and religious organisations, which may also initiate harassment. Two respondents signal foreign roots or funding of anti-choice organisations, especially related to the United States (for example the “40 Days for Life” movement). Next to these groups, some medical personnel is stated to harass women trying to access abortion care. These findings, along with the recommendations of best practices collected in the questionnaire, can guide the exploration of what measures to adopt.

24. Most respondents state that their country has legislation on abortion, anti-discrimination, and/or certain types of harassment such as hate speech, unlawful threats, or defamation. Several countries have legislation that can be used to stop protests near abortion clinics, and in Austria and France this legislation has diminished physical harassment in those spaces. In France, obstructing the voluntary termination of pregnancy, including the disruption of establishments practising abortions or of access to information on abortion, is outlawed. However, many steps are still to be taken. The problem of incognito anti-choice organisations posing as abortion information centres and providing biased and unscientific information or “help”, for example, is difficult to solve. The French “obstruction” ban has been extended to include such organisations, but the French respondents state that there is a lack of complaints due to difficulties in proving the allegations. The same is stated by different respondents for cases of verbal harassment or hate speech. These problems can be used as a starting point for the recommendations that I will formulate in my report.

25. The suggestions provided by the respondents on how to improve the response to harassment are mainly general. A first important point is to speak out and support abortion rights defenders. As stated by one of the respondents, “absence of public condemnation of threats and intimidation [...] sends an indirect message to the public that such behaviour is approved of and thus (...) [fails] to send a clear message that violence is unacceptable.” Financial and symbolic support of pro-choice organisations are additional suggested measures. Furthermore, more attention to sexual education in school curricula and the dissemination of accurate information could help make the population more resistant to widespread misinformation and regressive social norms.

5. Main findings of the hearing of 15 March 2021

26. The various forms of pressure, which may in some cases be considered as forms of harassment, perpetrated by public authorities targeting persons speaking out for the right to abortion were not covered by the motion from which this report stems and emerged from the analysis of the replies to the questionnaire. I deemed it appropriate to invite two activists who may give a testimony on this form of harassment, namely Vanessa Mendoza Cortés from Andorra and Marta Lempart from Poland, to take part in the hearing held by the Committee on Equality and Non-Discrimination on 15 March 2021. As previously mentioned, Rebecca Gomperts, founder and leader of the organisation Women on Waves, provided a general overview of the situation in Council of Europe member States, with examples of various forms of harassment that I used when analysing and presenting the findings of the civil society survey.

27. As previously mentioned, Stop Violéncies, the non-governmental organisation that replied to the questionnaire and provided information on Andorra, indicated that its president Vanessa Mendoza had been targeted by criminal procedures initiated by the government.

28. At the hearing, Ms Mendoza explained that she was indicted with defamation against the government, defamation against the co-princes and crimes against the institutions and faced up to four years in prison, for reporting violations of human rights allegedly perpetrated by the Andorran authorities, at the United Nations Universal Periodic Review in October 2019. She considered that the criminal procedures initiated against her are politically motivated, as her activism on sexual and reproductive health and rights runs counter to the government’s policies in this area and more generally to the political climate of her country. Andorra’s institutional system still has two Co-princes, the President of the French Republic and the Bishop of Urgell, as head of State. The presence of a high-ranking member of the Catholic clergy at the top of the constitutional system makes abortion a particularly divisive matter and promoting sexual and reproductive health and rights

may appear to be disruptive of the institutions. Ms Mendoza added that the authorities pressure Stop Violéncies to disclose the names of women that have sought assistance, which the organisation cannot share for deontological reasons.

29. The hearing was an opportunity to give voice to different points of view, including that of members of the Andorran delegation representing the governing majority. Ms López considered that the human rights violations reported by Ms Mendoza to the United Nations Human Rights Councils were ungrounded. She rightly underlined that the charges pending against Ms Mendoza were related to defamation and not to the criminalisation of abortion. Since the aim of this report, as previously clarified, is not to promote the right to abort, but rather to protect those who speak in favour of it from harassment, the case of Ms Mendoza is strictly relevant to this work. A wide range of international actors see the criminal proceedings against her as a threat to freedom of expression. The Government of the Netherlands highlighted that the case of Vanessa Mendoza Cortéz was a particularly worrisome case of reprisal against, and intimidation of, human rights defenders, and the Government of Luxembourg invited the Andorran authorities to consider addressing defamation in civil rather than criminal law.³ Amnesty International,⁴ the International Federation for Human Rights (FIDH),⁵ and the International Service for Human Rights (ISHR)⁶ have called on Andorran authorities to drop the defamation charges. The case is being followed closely by the Council of Europe Commissioner for Human Rights.

30. In the aftermath of the hearing, I had the opportunity to exchange with the Andorran delegation, in writing and through a remote meeting, and since then I have continued to follow the case of Ms Mendoza. The delegation also provided additional replies to the questionnaire that I had previously distributed. In a letter of 19 March 2021, Ms López expressed the Andorran authorities' commitment to promoting gender equality and illustrated the peculiarities of Andorra's constitutional system. She also clarified that the criminal proceeding against Ms Mendoza was not initiated by the national government, but rather by the General Prosecutor. Later, I was informed by Ms López that the General Prosecutor's office had decided to drop all charges except that of defamation, which does not carry imprisonment, and that Ms Mendoza only risked incurring in a fine. Sexual and reproductive health and rights are a sensitive matter in Andorra and abortion in particular is intertwined with international relations and national sovereignty. However, this issue lies at the intersection of women's empowerment and human rights, and it is crucial for the authorities to guarantee freedom of expression to all those who contribute to the conversation in this area. This freedom should not be curtailed by criminal proceeding or any other form of pressure. I trust that the Andorran authorities will take all the necessary steps to avoid this risk in the future, if necessary by amending the Criminal Code, as recommended by some human rights groups, which is part of the mandate of legislators. I appreciated the co-operative attitude of the Andorran delegation and of its Chairperson, and the commitment they declared to the cause of fundamental freedoms.

31. The testimony of Marta Lempart, founder and leader of the organisation All-Poland Women's Strike, described the situation of Poland in the wake of the ruling of the Constitutional Court that effectively banned abortion, in a context of progressive erosion of the space of civil society in public life. Women's rights are particularly threatened, with, among other things, a parliamentary initiative under way that might lead to the country's withdrawal from the Council of Europe Convention on Preventing and combating violence against women and domestic violence (CETS No. 210, Istanbul Convention). The National Women's Strike is a network of organisations present in over 600 Polish cities and towns and is active in the area of democracy and human rights and more specifically of gender equality. In the past months, members of the organisation have received threats, including death threats. Forms of intimidation included bomb alerts and other actions that on some occasions were co-ordinated so as to happen at the same time in different places, multiplying the targets and also the psychological impact.

32. According to Ms Lempart, police forces claim that they cannot intervene to protect the activists. In reality, they do intervene against them, gassing, beating and arresting them at public protests. In addition, criminal proceedings were initiated against members of All-Poland Women's Strike and other organisations. The inactivity of law enforcement officers encourage impunity, including among neo-Nazi extremists that are

3. "Report of the Working Group on the Universal Periodic Review on Andorra", [A/HRC/46/11](#), Human Rights Council, United Nations General Assembly, 24 December 2020.

4. "[Andorra: Defamation charges against activist who raised rights concerns before UN Committee must be dropped](#)", Press release – Amnesty International, 16 February 2021.

5. "[Andorra: Threats and judicial harassment against Ms Vanessa Mendoza Cortés](#)", International Federation for Human Rights", 22 October 2020.

6. "[Andorra: Drop charges against Vanessa Mendoza and guarantee safe and enabling environment for women human rights defenders](#)", International Service for Human Rights, 6 November 2020.

believed to be behind some of the intimidation and violence. State-controlled media, particularly television, contribute to the climate of hostility towards civil society and liberal forces: in Ms Lempart's view, the murder of Pawel Adamowicz, Mayor of Gdansk, in 2019, was the result of a smear campaign in the media and of online hate-speech.

6. Conscientious objection to abortion care – the case of Italy

33. It is estimated that 95% of European women live in countries where abortion is legal. In most Council of Europe member States, legislation on abortion also sets forth a right to conscientious objection for healthcare professionals. This refers to a right to opt out of providing abortion care and is limited to medical staff participating in the abortion procedure. According to these laws, access to abortion care must nevertheless be ensured for those seeking it.

34. Regulations on conscientious objection differ across Council of Europe member States. A comparative multiple-case study, based on various sources including interviews with key stakeholders, was carried out in England, Italy, Norway and Portugal and published in 2017.⁷ The researchers explain that they “embarked on this exploratory multiple-case study of four countries whose abortion laws contain conscientious objection clauses in order to assess the efficacy and acceptability of national policies that regulate objection to abortion”. The main question the study sought to answer was whether regulations effectively permit conscientious objection while ensuring women's access to abortion.

35. The study identified the principal elements of a functional health system which ensure both access to abortion care and the right to opt out for personal reasons: clarity (on who has the right to object, and to which components of care), ready access, and a well-functioning abortion service. The researchers also found that social attitudes on abortion and conscientious objection contributed to the level of implementation of objection policies. The study concluded that “England, Norway and Portugal illustrate that it is possible to accommodate individuals who object to providing abortion while still assuring that women have access to legal health care services”.

36. Absent from this conclusion is Italy, where approximately 70% of doctors claim conscientious objection and the availability of abortion care is unevenly distributed across the country's regions. The high percentage of health professionals who claim conscientious objection, and their potentially unsympathetic attitude, mean that pregnant people seeking abortion care in the country often face harsh practical and psychological hurdles. In some cases, these may amount to a form of harassment.

37. Ms Laura Fiore, an Italian artist who underwent medical termination of pregnancy in 2008, published a book, *Abortire tra gli obiettori. La moderna inquisizione*,⁸ (Aborting among objectors. The modern Inquisition) to share what she describes as a horrific experience. After labour was medically induced, she was left unattended on her hospital bed and had to expel the foetus alone. While not a full-time activist, Fiore felt compelled to inform the public of the challenges faced by those who seek an abortion and she launched the blog “Aborto terapeutico e spontaneo”.⁹ In it, a note invites readers to share their testimony and asks anti-choice activists to refrain from contacting her: “I have already faced a special treatment from objectors, and I have the right to be left in peace”. The story of another woman who was left unattended by medical staff is told in an article published in 2017 by Open Democracy.¹⁰ In the same year, a 41-year-old woman from Padua told local papers that 23 hospitals from several Italian regions had refused to provide her with an abortion procedure, saying either they had no available appointments, or did not have any non-objecting doctors, or that those who were not objectors were on holiday.

38. Objection to abortion care is not necessarily motivated by moral or religious beliefs. According to a study published by Silvia De Zordo, an anthropologist of the University of Barcelona,¹¹ who interviewed professionals in four hospitals in Milan and Rome, the motivations may also be linked to convenience and career progression. It is important to note that one of the reasons mentioned by participants was the feared or

7. Wendy Chavkin, MD, MPH, Laurel Swerdlow, MPH, and Jocelyn Fifield, MPH, “Regulation of Conscientious Objection to Abortion – An International Comparative Multiple-Case Study”, *Health and Human Rights Journal*, June 2017, 19(1), pp 55-68.

8. Laura Fiore, *Abortire tra gli obiettori*, La Tempesta Editore, 2015.

9. “Aborto Terapeutico E Spontaneo” (Abortoterapeuticoenon.Blogspot.Com)

10. Claudia Torrisi, “Abortion in Italy: how widespread 'conscientious objection' threatens women's health and rights”, Open Society, 15 June 2017.

11. Silvia De Zordo, “I veri motivi dell'obiezione di coscienza all'aborto, Un'inchiesta sull'aborto”, 23 May 2015, at [*I veri motivi dell'obiezione di coscienza sull'aborto | Un'inchiesta sull'aborto \(wordpress.com\)*](http://Iveri.motivi.dell obiezione.di.coscienza.sull aborto | Un inchiesta sull aborto (wordpress.com)).

actual discrimination and stigmatisation faced by non-objectors in their professional environment. An area of particular concern highlighted by the study is that difficult access to legal abortion has led to a spike in unsafe, illegal abortions in the country.¹²

39. In 2012, the International Planned Parenthood Federation European Network (IPPF EN) lodged a collective complaint against Italy with the European Committee of Social Rights (ECSR),¹³ claiming that the inadequate protection of the right of access to abortion care implied a violation of women's right to health and self-determination. In addition, it claimed that the implementation of regulations on abortion was discriminatory from an economic and a geographic point of view, as women based in areas where abortion care was not available were obliged to travel. A second complaint was lodged by the Italian trade union Confederazione Generale Italiana del Lavoro.

40. The ECSR issued judgments finding a violation of the right to health because of the lack of abortion providers due to widespread conscientious objection, and a violation of the right to non-discrimination for women who were forced to travel to obtain abortion care. In its follow-up review published in March 2021, the ECSR confirmed that the violation of these rights persisted.

41. The Italian authorities should intervene in this area and ensure the real enforcement of the right to abortion as stipulated in national legislation. They should, in particular, prevent and sanction surreptitious attempts to limit access to this right by discriminating against, intimidating or harassing people seeking abortion or the healthcare professionals providing it. This is a matter of women's rights, of equality among citizens and of legal certainty. These recommendations apply to all countries that have legalised abortion.

7. Fact-finding visit to Paris, 5-6 October 2021

42. I conducted a fact-finding visit to France on 5-6 October 2021 and I would like to thank the French delegation for its support. My gratitude also goes to the organisation *Planning Familial*, which provided information on relevant interlocutors and hosted part of the meetings.

43. During the visit, I had exchanges with several civil society representatives, some of which whom were both medical doctors and pro-choice activists. They provided information on access to abortion care in France and on the forms of harassment that occur in relation to it.

44. It appears that doctors are not the main targets of such harassment. Some of my interlocutors had never faced direct attacks or threats. They were aware that some of their colleagues had been targeted, but they did not consider the situation to be seriously concerning. In the past, anti-choice militants staged protests in the premises of medical structures providing abortion care and at time even disrupted their medical activities. This had an impact both on healthcare staff and on people seeking abortion care and it was addressed in 1993 by sanctioning the obstruction of abortion through a specific criminal offence ("délit d'entrave à l'IVG").

45. Today, people seeking abortion care are the main target group of anti-choice harassment. Thanks to the provisions criminalising the obstruction of abortion, this no longer occurs in the form of violent intimidation on the premises of abortion care providers. However, it still happens in more subtle forms, namely by providing incorrect and misleading information on access to pregnancy interruption and on its supposed negative effects. Anti-choice groups, my interlocutors explained, set up websites and telephone information services that present themselves as neutral, while in fact aiming to dissuade pregnant people seeking their help in order to have their pregnancy interrupted. Arguments used include a supposed negative impact on mental and physical health, including depression and sterility, but also social and personal consequences (with personal testimonies of women who, for instance, faced the end of their marriage or relationship as a result of their choice to terminate their pregnancy).

46. In 2017, the law on obstruction of abortion was expanded with the view of targeting such activities. The criminalisation clause now includes prevention of or an attempt to prevent practising or obtaining information on interruption of pregnancy by any means, including electronically or online, either by (physically) disrupting access to relevant establishments or by exerting moral and psychological pressure, threats or intimidation. To the knowledge of my interlocutors, there have not been any judgments on the obstruction "electronically or

12. Ilaria Maria Sala, "Abortion in Italy, a Right Wronged", *New York Times*, 13 November 2017.

13. European Committee on Social Rights, *Complaint No. 87/2012, International Planned Parenthood Federation European Network (IPPF EN) v. Italy*, Case document n°1, 3 September 2012.

online” yet. My interlocutors indicated that this might be due to the fact that it is extremely difficult to prove. For online or electronic acts of anti-choice groups to fall within the scope of the law, psychological pressure would need to have been exerted.

47. Moreover, a narrowing interpretation of the Constitutional Council added the requirements that the pressure is individual, that information (and not an opinion) is sought and that the person giving the information claims to have competence in the matter. Anti-choice groups circumvent these rules by phrasing their information carefully, and ensuring that they do not present themselves as experts. This situation is difficult to navigate as it touches upon freedom of expression.

48. Pro-choice militants and women’s rights defenders also face intimidation and pressures. As they had previously indicated through their replies to the questionnaire, Planning Familial among others faced attacks against their offices with the degradation of the premises, the putting up of anti-choice posters and the harassment of persons. As the physical obstruction offence only concerns the premises where abortion care is provided, civil society organisations are not protected by it. Anti-choice individuals and organisations also use legal proceedings against pro-choice activists. The Jérôme Lejeune Foundation for instance sued Danielle Gaudry, a gynaecologist and feminist activist that I met during the visit, for defamation, as she had criticised an anti-choice booklet that was distributed among French schools. Ms Gaudry was eventually cleared of the accusations.

49. The doctors I have met stated that they had not faced pressure or harassment in relation to their work in abortion care. However, they all seemed to agree that this area is viewed as “special” and different from all other healthcare areas, and not in a positive sense: training in medical school is insufficient, if offered at all, operating in this sector does not help to achieve career progress, abortion provision is viewed as unimportant and uninteresting, or even “dirty”, as one of my interlocutors stated and, crucially, remuneration is lower compared to other specialties. This special nature of this discipline is confirmed by the double conscientious objection clause (“clause de conscience”) granted to doctors, midwives and nurses. In addition to the general clause allowing these medical providers to refuse to perform a medical act they deem contrary to their personal convictions, a specific clause on conscientious objection to abortion was introduced by the 1975 law that legalised the voluntary interruption of pregnancy. This double clause is criticised by many as unnecessary and problematic, as it stresses the different nature of abortion care while having little legal purpose. My interlocutors indicated that frequent use of the conscience clause may disturb access to abortion care, and that encountering (several) conscientious objectors may cause pregnant people to lose essential time in finding care.

50. Pro-choice politicians and activists face verbal abuse and actual hate speech, particularly online on special media and through direct messages, with cases of severe intimidation, including death threats. The activists I met highlighted that the harassment and the other forms of pressure against them come from individuals and movements that aim not only to hinder access to abortion care, but also more generally to undermine the progress achieved over the last decades in women’s rights and gender equality, including the rights of LGBTI people. They highlighted that the attacks are often carefully orchestrated: one of the militants I met mentioned that 8 000 hostile comments had been posted on her social media account over a period of 15 minutes. Several interlocutors indicated that the follow-up on the case by the police was inconclusive or insufficient, and that the organised nature of the attacks is not sufficiently acknowledged in investigations.

51. Ms Albane Gaillot, a former member of the Committee on Equality and Non-Discrimination and a current member of France’s National Assembly, indicated that she is the target of sustained harassment, including an online death threat that was considered serious by the police. Ms Gaillot is the main promoter of a bill that would improve access to abortion, in particular by extending the time limit from 12 to 14 weeks. This is meant to take into account the delays that pregnant people face in access to sexual and reproductive healthcare, particularly in rural areas or other geographic areas where infrastructure is scarce, which in some cases jeopardise their right to make a free choice. The bill faced strong parliamentary obstruction (in February 2021 it was withdrawn from the agenda due to the 500 amendments tabled, which made the debate incompatible with the parliamentary calendar).

8. Fact-finding visit to Warsaw, 17-18 November 2021

52. On 17 and 18 November 2021 I conducted a fact-finding visit to Poland. I would like to thank the Polish delegation to the Assembly for their support, all the more so as several other visits from international organisations and monitoring bodies were being planned or held, due to the on-going crisis at the border with Belarus.

53. The situation of people speaking out for the right to abort in Poland is dire, against a backdrop of increasingly tight restrictions of access to abortion care. A ruling of the Polish Constitutional Court of 22 October 2020 stated that the part of the abortion law of 1993 permitting terminations in case of likely irreversible impairment of the foetus or of an incurable illness threatening its life is unconstitutional. Only two grounds making abortion permissible remain, namely when the pregnancy results from a crime, such as rape, and when it constitutes a threat to the woman's life or health. As severe malformation of the foetus was the cause of almost all interruptions of pregnancy in Poland before the Court ruling, the latter was viewed by many as a *de facto* ban to abortion. On 11 November 2021, hardly one week before my visit, the European Parliament voted on [Resolution 2021/2925\(RSP\)](#), tellingly titled "The first anniversary of the de facto abortion ban in Poland", which denounces the negative impact of the ruling of the Supreme Court. The resolution indicates among other things that "the constitutionality of Polish laws can no longer be effectively guaranteed in Poland" due to several legislative changes on the functioning of the Supreme Court adopted in 2015 and 2016 "and thus the legality of the ruling of 22 October 2020 is questionable".

54. The ruling triggered large protests, with rallies in Warsaw and most other Polish cities and towns, which, according to civil society and independent media sources, led to a variety of forms of pressure and abuses. Protesters faced disproportionate reactions from police forces, often amounting to actual violence, and a large number of them were detained. In most cases they were charged of petty crimes and then released. However, Marta Lempart, an activist who took part in a hearing with our committee in February 2021, was charged with organising demonstrations in breach of Covid-related restrictions and faces up to eight years in prison. In a public statement issued on 20 November 2020, Amnesty International detailed a range of human rights violations that reportedly took place during or in the aftermath of the protests, calling on the Polish authorities "to uphold the right to freedom of peaceful assembly and put an end to human rights violations"¹⁴.

55. According to several of my interlocutors – both parliamentarians and civil society representatives – young people faced particular forms of pressure: they were kept in detention for hours, often overnight, without the possibility of reaching out to their families, or they were arrested during demonstrations and driven away from their town or city and left somewhere far from home. In addition, pressure was exerted on students not to show support for pro-choice demonstrations at school (some were asked to remove their facemasks with the symbol of the Women's Strike and were threatened with suspension or expulsion from their educational establishment if they did not comply). Cases of teachers who faced retaliation for expressing their support for the protests were also mentioned.

56. Parliamentarians from the opposition and civil society representatives highlighted that police officers were clearly employing double standards: manifestations such as those held on Poland's Independence Day (11 November) with a large share of far-right and nationalist participants and which often featured violence and vandalism, were met with impunity.

57. Politicians from the opposition face sustained forms of pressure, intimidation, and harassment, including threats mainly delivered online and attacks on their offices. Authorities do not protect them adequately and when they report cases of intimidation to the police it is usually to no avail (they are told that it is impossible to find out the culprits). Because of this, most of them even stopped reporting cases, but some are now considering starting to do so again.

58. Barbara Nowacka, a fellow member of the Committee on Equality and Non-Discrimination, shared her experience of being attacked by the police with tear gas. While she reported the incident to the authorities, the case has, so far, not been successfully investigated. A recurring testimony from the people I met was that reporting criminal offences appears to be useless for pro-choice protesters, as no effective follow-up is given by police and law enforcement authorities.

59. Additional psychological pressure is put on the Polish population by large format banners with graphic images of dismembered fetuses and anti-abortion slogans, often placed in the proximity of hospitals and schools, or carried by trucks driving around cities. Other banners carry the image of pro-choice activists, which is highly intimidating towards them. Students have in some cases reacted to this form of harassment by placing mocking slogans on the banners (for instance covering the original writing "abortion kills" with a label reading "smoking kills"). Younger children, however, should be protected from the exposure to shocking images and political manipulation. The same applies to people seeking abortion care. Moreover, Poland's draconian abortion law impose prison sentences on those assisting women who terminate their pregnancy, including doctors, partners and family members, as a commentary published by the Heinrich Böll Foundation

14. "Poland: The extraordinary wave of protests across the country should be protected not attacked", Amnesty International, 20 November 2020.

indicates, adding that “there is already a case of a woman’s boyfriend being sentenced to six months in prison for having driven his girlfriend to hospital after she started bleeding heavily from taking an abortion pill at home”.¹⁵

60. Members of the Law and Justice Party told me that they also faced harassment and intimidation by political opponents and that protesters taking part in pro-choice rallies used offensive and obscene language. They did not report these cases, they explained, as they did not mean to exacerbate the situation. Ms Anna Milchanowska, of the Law and Justice Party, told me that she did not report the protests being held in front of her home. However, she decided to report to the police the trespassing of the cemetery where her parents rest, as she found that a line had been crossed. I can only agree with Ms Milchanowska that political controversy should never translate into violence and personal attacks, much less on the family of a politician, and I hope that the incident will be investigated.

61. The tragic case of a 30-year-old woman, identified in the press by her first name, Izabela, who died due to the failure of doctors to intervene surgically in spite of the severe complications of her pregnancy, is particularly alarming. In her messages from the hospital, Izabela wrote that, due to the new regulations on abortion, doctors waited for the foetus to die. In addition to a tragic loss that could probably have been avoided, this situation shows that doctors are now exposed to the risk of criminal pursuit both in cases where they perform an interruption of pregnancy, as this might not be considered justified under the current framework, and in cases where they do not intervene, if this leads to the pregnant woman’s death. The unexpected, highly problematic consequences of this situation is that some doctors refuse to assist pregnant persons, for fear of the legal risks that a difficult pregnancy would imply, and that some people, knowing that they may be left without assistance and in severe danger, avoid becoming pregnant.

62. It is disheartening to observe how the attacks on the Rule of Law often decried in the last years by international bodies and other observers have a real impact on the lives of citizens and their enjoyment of their fundamental rights. In January 2020, the Assembly voted by an overwhelming majority to open a monitoring procedure for Poland over the functioning of its democratic institutions and the rule of law. The adopted resolution states that recent reforms of the justice systems have severely damaged the independence of the judiciary and the rule of law. It is worth noting that two of the judges of the Constitutional Court who voted in favour of the ruling of 22 October 2020 on the abortion law were former members of parliament for the ruling Law and Justice Party.

63. An additional source of pressure on human rights defenders, particularly those who promote access to sexual and reproductive rights, is the activity of organisations presenting themselves as legal think-tanks, such as the “Foundation Ordo Iuris Institute for Legal Culture”, which heavily interfere with sexual and reproductive rights issues in Poland. In its Intelligence briefing of 24 March 2021, international NGO European Parliamentary Foundation for Sexual and Reproductive Rights (EPF) refers to Ordo Iuris as “the organisation that stands behind the latest de-facto abortion ban in Poland”. The briefing indicates that Ordo Iuris lawyers also drafted the text of the 2016 bill to ban abortion, along with a bill aiming to criminalise comprehensive sexuality education and another that restricted in-vitro fertilisation; in addition, they provided arguments for leaving the Istanbul Convention and prepared a charter that created Poland’s “LGBT-free zones”. Besides this activism, which promotes a progressive erosion of women’s rights in Poland and in some cases supports blatant violations of human rights standards, such as the aforementioned LGBT-free zones, Ordo Iuris attacks human rights defenders and members of civil society organisations directly, by reporting alleged criminal offenses. This is the case with Agata Bzdyń of the Abortion Dream Team, whom I met in Warsaw, who was sued by Ordo Iuris, and EPF staff member Remigiusz Bak, who was reported for defamation for a tweet criticising the foundation. Mr Bak was cleared by a Polish court and awarded compensation, which he donated to a Polish civil society organisation.

64. It is worth adding that in the wake of the Constitutional Court verdict of October 2020, the Ordo Iuris Foundation sent a memorandum to Polish hospitals on how to interpret and apply the ruling. Such interference was apparently not countered by the Ministry of Health, which did not publish information on the interpretation of the judicial ruling. The representative of the Ministry whom I met in Poland stated that she was not aware of the Ordo Iuris memorandum.

65. Meeting with civil society organisations and independent legal experts, I was told that human rights defenders are being silenced through constant threats to their safety, their future and their career. Lawyers are vulnerable to aggressive tax controls that may be conducted as a means of intimidation. Even access to the legal profession is at stake, as it is subject to the control of the Ministry of Justice. All those who defend

15. Neil Datta, “Four reasons why Poland’s war on abortion should scare you”, 15 February 2021, Heinrich Böll Foundation.

women's rights are constantly put under pressure, attacked by politicians and by state-owned media. They face mental health consequences and are at risk of burn-out. One of the persons I met with was going to take a pause from her current occupation and move abroad for these reasons. I wish to pay tribute to the courage of these persons, who pay a considerable personal cost for their commitment to human rights and the help they provide to Polish women. I am convinced that the international community should step up efforts to support these individuals and organisations.

66. The European Parliament resolution on “The first anniversary of the de facto abortion ban in Poland”, which deals first and foremost with women's access to abortion care, also contains timely and important provisions on human right defenders that are relevant to this report. The text “condemns the increasingly hostile and violent environment for WHRDs [women human rights defenders] in Poland, and calls on the Polish authorities to guarantee [their] right to express themselves publicly, including when they oppose government policy, without fear of repercussions or threats; calls on the Polish authorities to urgently protect the WHRDs who have been targeted, to investigate the threats against them and to hold those responsible to account; urges the Polish Government to counter the abusive misinformation campaigns targeting WHRDs; stresses that many WHRDs in Poland are now facing criminal charges for their role in the protests against the bill as a result of the COVID-19 restrictions imposed at that time; urges the Polish Government to refrain from bringing politically motivated criminal charges against WHRDs;”. The text then “strongly condemns the excessive and disproportionate use of force and violence against protesters, including activists and women's rights organisations, by the law enforcement authorities and by non-state actors such as far-right nationalist groups; calls on the Polish authorities to ensure that those who attack protesters are held accountable for their actions;”. The resolution also “condemns the hostile rhetoric used by Polish government officials against WHRDs and other critics of government policies, and urges the Commission to address this and support the activists both politically and financially”. I cannot but share the principles and aims of this adopted text. The present report conveys similar indications and I trust the Assembly will also support them, by adopting the draft resolution stemming from it.

9. Conclusions

67. This report originated from a concern over various forms of harassment and pressure faced by human rights defenders, healthcare professionals and pregnant people in relation to abortion care. Throughout the preparation of the report, such concern proved well founded, with civil society organisations and independent experts sharing information on cases of harassment in a large number of Council of Europe member States, mostly perpetrated by anti-choice individuals and organisations. It emerged that intimidation and abuse were in some cases particularly serious and included death threats, attacks on the offices of non-governmental organisations and smear campaigns both on- and offline.

68. In addition, human rights violations allegedly took place at the hand of public authorities, in the form of police violence, arbitrary arrests of protestors and criminal proceedings that were deemed by many to be disproportionate. Victims of intimidation included additional groups such as students supporting the protests, for instance in Poland. While not all of these allegations are confirmed, they remain concerning and call for adequate scrutiny at national and international levels.

69. It also appeared that anti-choice pressure is practiced in more subtle ways, such as spreading inaccurate information on pregnancy and abortion or promoting conscientious objection to abortion by hindering the career progress of non-objector healthcare professionals. Abusive or stigmatising rhetoric used by politicians and other public figures is also part of this picture.

70. Harassment of individuals, whether human rights defenders, politicians, healthcare professionals or people seeking abortion, may be considered as part of a wider attack on women's rights that has affected our legal systems and societies for years and should be countered. It is crucial to protect the individuals I referred to from harassment. It is equally important to ensure that pregnant people have access to abortion wherever the law stipulates this right. This is both relevant to protecting human rights, and protecting the certainty of law, which is one of the main elements of the rule of law.

71. It is therefore necessary on one hand to investigate and prosecute individual cases of harassment, and on the other hand to adopt effective legislation and policies to counter the broader issue. These include “buffer zones”, where anti-choice protests and awareness-raising activities are not allowed, mainly in and around healthcare facilities, which have been enforced in several Council of Europe member States, and a general prohibition of activities aiming to obstruct the access to abortion rights.

72. With this report, and the draft resolution attached, I endeavoured to raise awareness and to show ways forward in protecting and consolidating women's rights, which are the target of consistent attacks by regressive, even anti-democratic forces across Europe.

73. Against this backdrop, I believe that much work remains to be done in the area of sexual and reproductive health and rights. I am also convinced, based on the findings of this report, that the Assembly should work further on the protection of human rights defenders from online hate speech. This matter is highly topical, and the Assembly is best placed to tackle it from a human rights perspective and safeguarding freedom of expression.