

Decision 74-54 DC of 15 January 1975
Voluntary Interruption of Pregnancy Act

On 20 December 1974 the Constitutional Council received a referral from Mr Jean FOYER, Mr Marc LAURIOL, Mr Hervé LAUDRIN, Mr Emmanuel HAMEL, Mr Paul CAILLAUD, Mr Charles BIGNON, Mr Joseph-Henri MAUJOUAN du CASSET, Mr Jean CHAMBON, Mr Henri de GASTINES, Mr Lucien RICHARD, Mr Albert LIOGIER, Mr Léon DARNIS, Mr Alexandre BOLO, Ms Yvonne STEPHAN, Mr Pierre BAS, Mr Maurice LIGOT, Mr Pierre de BENOUVILLE, Mr Julien SCHWARTZ, Ms Nicole de HAUTECLOCQUE, Mr Robert WAGNER, Mr Gérard DELIAUNE, Mr Gabriel de POULPIQUET, Mr Gaston GIRARD, Mr Augustin CHAUVET, Mr Henri GUILLERMIN, Mr Paul RIVIERE, Mr Gérard CHASSEGUET, Mr Marcel HOFFER, Mr René QUENTIER, Mr René RADIUS, Mr Pierre NOAL, Mr Claude GERBET, Mr Jacques FOUCHIER, Mr Bertrand DENIS, Mr Charles DEPREZ, Mr André PICQUOT, Mr Jean GRIMAUD, Mr Jean BICHAT, Mr Romain BUFFET, Mr Edouard FREDERIC-DUPONT, Mr Jean CHASSAGNE, Mr Michel JACQUET, Mr Albert BROCHARD, Mr Isidore RENOARD, Mr Emile DURAND, Mr André BRUGEROLLE, Mr Xavier HAMELIN, Mr Jean SEITLINGER, Mr Louis JOANNE, Mr Henri DUVILLARD, Mr Pierre CORNET, Mr Marcel PUJOL, Mr Auguste DAMETTE, Mr Roland BOUDET, Mr Jean-Marie DAILLET, Mr Jacques MEDECIN, Mr Henri BLARY, Mr Charles CEYRAC, Mr Maurice CORNETTE, Mr Roger CORREZE, Mr René BLAS, Mr André GLON, Mr Pierre BURON, Mr Paul BOUDON, Mr Paul VAUCLAIR, Mr Jean-Paul PALEWSKI, Mr Maurice SCHNEBELEN, Mr Albert EHM, Mr Maurice DOUSSET, Mr Maurice PAPON, Mr Pierre GODEFROY, Mr Frédéric DUGOUJON, Mr Emile BIZET, Mr Pierre MAUGER, Mr Pierre-Charles KRIEG, Mr Yves LE CABELLEC, Mr Jean CRENN, Mr Pierre WEBER, Mr Rémy MONTAGNE and Mr Loïc BOUVARD and, on 30 December 1974, from Mr Raymond RETHORE, Deputies to the National Assembly, pursuant to Article 61 of the Constitution, concerning the Voluntary Interruption of Pregnancy Act, as adopted by Parliament.

THE CONSTITUTIONAL COUNCIL,

Having regard to the submissions made in support of the referral;
Having regard to the Constitution, and in particular the preamble thereto;
Having regard to Ordinance of 7 November 1958 laying down the Institutional Act on the Constitutional Council, and in particular chapter II of title II thereof;
Having heard the rapporteur,

On the following grounds:

1. Article 61 of the Constitution does not confer on the Constitutional Council a general or particular discretion identical with that of Parliament, but simply empowers it to rule on the constitutionality of statutes referred to it;
2. By Article 55 of the Constitution: “Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament, subject, in regard to each agreement or treaty, to its application by the other party”;

3. While these provisions confer upon treaties, in accordance with their terms, an authority superior to that of statutes, they neither require nor imply that this principle must be honoured within the framework of constitutional review as provided by Article 61;
4. Decisions made under Article 61 of the Constitution are unconditional and final, as is clear from Article 62, which prohibits the promulgation or implementation of any provision declared unconstitutional; on the other hand, the prevalence of treaties over statutes, stated as a general rule by Article 55, is both relative and contingent, being restricted to the ambit of the treaty and subject to reciprocity, which itself depends on the behaviour of the signatory state or states and on the time at which it is to be assessed;
5. A statute that is inconsistent with a treaty is not ipso facto unconstitutional;
6. Review of the rule stated in Article 55 cannot be effected as part of a review pursuant to Article 61, because the two reviews are different in kind;
7. It is therefore not for the Constitutional Council, when a referral is made to it under Article 61 of the Constitution, to consider the consistency of a statute with the provisions of a treaty or an international agreement;
8. Secondly, the Voluntary Interruption of Pregnancy Act respects the freedom of persons who resort to or take part in a termination of pregnancy, whether for reasons of distress or on therapeutic grounds; consequently, the Act does not conflict with the principle of freedom set out in Article 2 of the Declaration of Human and Civic Rights;
9. The Act referred to the Constitutional Council does not allow any departure from the principle of respect for all human beings from the inception of life – a principle referred to in section 1 of the Act – except in case of need and on the terms and subject to the restrictions contained therein;
10. None of the exceptions allowed by the statute is, as matters stand, inconsistent with any of the fundamental principles recognised by the laws of the Republic, nor with the principle set out in the preamble to the Constitution of 27 October 1946 whereby the nation guarantees health care to all children, nor with any of the other principles of constitutional status established by that text;
11. The Voluntary Interruption of Pregnancy Act is not therefore at variance with the texts to which the Constitution of 4 October 1958 refers in the preamble thereto, nor with any Article of the Constitution;

Has decided as follows:

Article 1

The provisions of the Voluntary Interruption of Pregnancy Act, referred to the Constitutional Council, are not unconstitutional.

Article 2

This decision shall be published in the *Journal officiel de la République française*.

Deliberated by the Constitutional Council at its sittings of 14 and 15 January 1975.