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DRAFT REPORT

on the situation of sexual and reproductive health and rights in the EU, in the
frame of women's health
(2020/2215(INI))

Committee on Women's Rights and Gender Equality

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the situation of sexual and reproductive health and rights in the EU, in the frame of women's health (2020/2215(INI))

The European Parliament,

- having regard to Article 168 of the Treaty on the Functioning of the European Union,
- having regard to the 1994 International Conference on Population and Development (ICPD) held in Cairo, its Programme of Action and the outcomes of its review conferences,
- having regard to the Nairobi Statement on ICPD25 of 1 November 2019 entitled ‘Accelerating the Promise’ and to the national and partner commitments and collaborative actions that were announced at the Nairobi Summit,
- having regard to the Beijing Platform for Action and the outcomes of its review conferences,
- having regard to the 2030 Agenda for Sustainable Development, which was adopted on 25 September 2015 and entered into force on 1 January 2016, and in particular to Sustainable Development Goals (SDGs) 3, 5 and 16,
- having regard to the 2017, 2018, 2019 and 2020 Contraception Atlases, which rank access to contraception in geographical Europe and highlight inequalities across the continent and the fact that the unmet need for contraception in some parts of Europe has gone largely unnoticed,
- having regard to CEDAW General Recommendations No. 21 (1994), No. 24 (1999), No. 28 (2010), No. 33 (2015) and No. 35 (2017),
- having regard to Article 12 of the International Covenant on Economic, Social and Cultural Rights,
- having regard to general comment No. 22 of the UN Committee on Economic, Social and Cultural Rights of 2 May 2016 on the right to sexual and reproductive health,
- having regard to Articles 2, 7, 17 and 26 of the International Covenant on Civil and Political Rights,
- having regard to general comment No. 36 of the UN Human Rights Committee of 30 October 2018 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life,
- having regard to the interim report of the UN Special Rapporteur of 3 August 2011 on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,
- having regard to the report of the UN Special Rapporteur of 4 April 2016 on the right of everyone to the enjoyment of the highest attainable standard of physical and mental

health,

- having regard to the reports of the UN Special Rapporteur for Violence Against Women, its Causes and Consequences, including the report of 11 July 2019 on a human-rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence,
- having regard to the WHO statement of 2015 on the prevention and elimination of disrespect and abuse during childbirth,
- having regard to the report of the Council of Europe’s Committee on Equality and Non-Discrimination of 16 September 2019 on obstetrical and gynaecological violence,
- having regard to Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between women and men in the access to and supply of goods and services¹,
- having regard to the report of the UN Working Group of 8 April 2016 on the issue of discrimination against women in law and in practice, presented at the 32nd session of the Human Rights Council in June 2016,
- having regard to Section II of the Report of the UN Working Group of 14 May 2018 on the issue of discrimination against women in law and practice,
- having regard to Section III of the Report of the UN Working Group of 8 April 2016 on the issue of discrimination against women in law and practice,
- having regard to the Report of the UN Special Rapporteur of 10 January 2019 on the situation of human rights defenders,
- having regard to Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare²,
- having regard to Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use³,
- having regard to the Joint Statement by the Council and the representatives of the governments of the member states meeting within the Council, the European Parliament, and the European Commission of 19 November 2018 entitled ‘The New European Consensus on Development: Our World, Our Dignity, Our Future’, in which the EU reaffirms its commitment to the promotion, protection and fulfilment of the right of every individual to have full control over, and decide freely and responsibly on matters related to their sexuality and sexual and reproductive health, free from discrimination, coercion and violence,
- having regard to its resolution of 14 November 2019 on the criminalisation of sexual

¹ OJ L 373, 21.12.2004, p. 37.

² OJ L 88, 4.4.2011, p. 45.

³ OJ L 311, 28.11.2001, p. 67.

education in Poland⁴,

- having regard to its resolution of 13 February 2019 on experiencing a backlash in women’s rights and gender equality in the EU⁵,
- having regard to its resolution of 14 February 2017 on promoting gender equality in mental health and clinical research⁶,
- having regard to the European Pact for Gender Equality (2011-2020), adopted by the Council on 7 March 2011,
- having regard to the Council Recommendation of 2 December 2003 on cancer screening⁷,
- having regard to the European guidelines for quality assurance in cervical cancer screening of 7 May 2008 and to the European guidelines for quality assurance in breast cancer screening and diagnosis of 12 April 2006,
- having regard to the issue paper of the Council of Europe Commissioner for Human Rights of December 2017 on women’s sexual and reproductive health and rights in Europe,
- having regard to WHO’s 2017-2021 Strategy on women’s health and wellbeing in the WHO European Region and the 2016 Action Plan for Sexual and Reproductive Health: towards achieving the 2030 Agenda for Sustainable Development in Europe – leaving no one behind,
- having regard to WHO’s Global Strategy for Women’s, Children’s and Adolescents’ Health 2016-2030,
- having regard to the WHO Regional Office for Europe and BZgA’s standards for sexuality education in Europe: a framework for policy makers, educational and health authorities and specialists, and to UNESCO’s international technical guidance on sexuality education: an evidence-informed approach,
- having regard to the decision of the European Committee of Social Rights of 30 March 2009 on collective complaint No. 45/2007 by the International Centre for the Legal Protection of Human Rights (INTERIGHTS) vs Croatia and general comment No. 15 of the UN Committee on the Rights of the Child of 17 April 2013 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), which stresses that adolescents should have access to appropriate and objective information on sexual and reproductive issues,
- having regard to the United Nations Population Fund’s State of World Population 2019 report entitled ‘Unfinished Business: the pursuit of rights and choices FOR ALL’,

⁴ Texts adopted, P9_TA(2019)0058.

⁵ Texts adopted, P8_TA(2019)0111.

⁶ OJ C 252, 18.7.2018, p. 99.

⁷ OJ L 327, 16.12.2003, p. 34.

- having regard to Rule 54 of its Rules of Procedure,
 - having regard to the report of the Committee on Women’s Rights and Gender Equality (A9-0000/2020),
- A. whereas sexual and reproductive health (SRH) is a state of physical, emotional, mental and social well-being in relation to all aspects of sexuality and reproduction, not merely the absence of dysfunction, infirmity or mortality, and whereas all individuals have a right to make decisions governing their bodies⁸;
 - B. whereas sexual and reproductive health and rights (SRHR) are based on the rights of all individuals to have their bodily integrity and personal autonomy respected; define their sexual orientation and gender identity; decide whether, with whom and when to be sexually active; decide whether, when and who to marry and when, whether and by what means to have a child or children; have access to the information and support necessary to achieve all of the above⁹;
 - C. whereas sexual and reproductive rights (SRR) are recognised as human rights in international and European human rights law¹⁰;
 - D. whereas violations of SRHR constitute breaches of human rights, specifically the right to life, physical and mental integrity, equality, non-discrimination, health and education; whereas violations of women’s SRHR are a form of violence against women and girls;
 - E. whereas although the EU has some of the highest SHRH standards in the world, there are still challenges, a lack of access, gaps and inequalities;
 - F. whereas SRHR challenges and obstacles include: a lack of access, denial of medical care based on personal beliefs, gender-based violence, gynaecological and obstetric violence, a lack of comprehensive sexuality education, denial of access to information/education, a lack of available contraception methods, limited access to medically assisted reproduction treatments, forced sterilisation, high rates of STIs and HIV, disparities in maternal mortality, high adolescent pregnancy rates, harmful gender stereotypes and practices such as female genital mutilation, early, forced and child marriages and honour killings;
 - G. whereas the unavailability of scientifically accurate information violates the rights of individuals to make informed choices about their own SRHR;
 - H. whereas the essential package of SRH measures includes: comprehensive sexuality education; modern contraceptives; antenatal, childbirth and postnatal care; midwifery; obstetric and newborn care; safe and legal abortion services; the prevention and

⁸ Guttmacher-Lancet Commission, *Executive Summary on sexual and reproductive health and rights*, The Lancet, London, 2018, <https://www.gutmacher.org/gutmacher-lancet-commission/accelerate-progress-executive-summary>

⁹ Guttmacher-Lancet Commission, *Executive Summary on sexual and reproductive health and rights*, The Lancet, London, 2018, <https://www.gutmacher.org/gutmacher-lancet-commission/accelerate-progress-executive-summary>

¹⁰ Council of Europe Commissioner for Human Rights, *Women’s sexual and reproductive health and rights in Europe*, Council of Europe, Strasbourg, 2017, <https://www.coe.int/en/web/commissioner/women-s-sexual-and-reproductive-rights-in-europe>.

treatment of HIV and other STIs; services aimed at detecting, preventing and treating sexual and gender-based violence; treatment for reproductive cancers; and fertility services;

- I. whereas comprehensive sexuality education facilitates informed reproductive choices;
- J. whereas some Member States still have laws prohibiting abortion except in strictly defined circumstances, forcing women to seek clandestine abortions, to travel to other countries or to carry their pregnancy to term against their will, which is a violation of human rights and a form of gender-based violence;
- K. whereas even when abortion is legally available, there are often barriers to accessing it;
- L. whereas no woman should die in childbirth and evidence-based maternity care is a human right;
- M. whereas SRHR issues are often instrumentalised by opponents of reproductive rights who appeal to national interests in order to achieve demographic objectives, thus contributing to the erosion of democracy and personal freedoms;
- N. whereas progress has been made in the areas of women's rights and SRHR, but opponents of reproductive rights have nonetheless had an influence on national law and policy, seeking to undermine SRHR, as noted by Parliament in its resolution on experiencing backlash in women's rights and gender equality in the EU and by the European Institute for Gender Equality in its report of 22 November 2019 on Beijing +25 – The 5th Review of the Implementation of the Beijing Platform for Action in the EU Member States;

Forging a consensus and addressing SRHR challenges as EU challenges

1. Calls upon the EU, its bodies and agencies to support and promote access to SRHR services and calls upon the Member States to ensure access to a full range of SRHR, and to remove all barriers impeding full access to SRHR;
2. In accordance with the principle of subsidiarity and in line with national competences, calls upon the Member States to safeguard the right of all persons to make their own informed choices with regard to SRHR;
3. Calls upon the Member States to address the challenges in accessing or exercising SRHR and ensure that no person is left behind by being unable to exercise their right to health;
4. Recalls that all policies relating to SRHR should be founded on reliable and objective evidence from organisations such as WHO, other UN agencies and the Council of Europe;
5. Reaffirms the Council of Europe's Commissioner for Human Rights call on its member states¹¹ to guarantee sufficient budgetary provision for SRHR and ensure the availability

¹¹ Council of Europe Commissioner for Human Rights, *Women's sexual and reproductive health and rights in Europe*, Council of Europe Commissioner for Human Rights, Council of Europe, 2017, <https://www.coe.int/en/web/commissioner/women-s-sexual-and-reproductive-rights-in-europe>

of adequate human resources;

Sexual and reproductive health as an essential component of good health

6. Calls upon the Member States to establish effective strategies and monitoring programmes that guarantee access to a full range of SRHR services;
7. Recalls that all medical interventions related to SRHR must be undertaken with fully informed consent;

a) Comprehensive sexuality education benefits young people

8. Urges the Member States to ensure access to scientifically accurate and comprehensive sexuality education for all primary and secondary school children in line with WHO standards;
9. Calls upon the Member States to combat the spread of discriminatory and unsafe misinformation on SRHR;

b) Modern contraception as a strategy for achieving gender equality

10. Calls upon the Member States to ensure access to contraceptive methods, thereby safeguarding the fundamental right to health;
11. Calls upon the Member States to ensure that contraception is covered under national reimbursement schemes and healthcare policies and to recognise that this coverage should be extended to all people of reproductive age;

c) Safe and legal abortion care anchored in women's health and rights

12. Reaffirms that abortion must be a voluntary decision based on a woman's request, given of her own free will, in accordance with medical standards based on WHO guidelines and calls upon the Member States to ensure access to safe and legal abortion;
13. Urges the Member States to regulate obstacles to legal abortion and recalls that they have a responsibility to ensure that women have access to the rights afforded to them by law;
14. Invites the Member States to review their national legal provisions on abortion and bring them in line with international human rights standards and regional best practices by ensuring that abortion at a woman's request is legal in early pregnancy and even beyond if the woman's health or life is in danger;

d) Maternity care for all

15. Calls upon the Member States to adopt measures to ensure that all women have access to affordable, evidence-based maternity care;
16. Calls upon the Member States to combat physical and verbal abuse, including gynaecological and obstetric violence, which constitute forms of gender-based violence;

SRHR as pillars of gender equality, democracy and the elimination of gender-based

violence

17. Calls upon the Member States to exercise their competence in SRHR by striving to protect human rights, specifically the right to health, and implement a wide range of SRH services, ensuring that the principle of non-retrogression is respected;
18. Calls upon the Commissioner for Democracy and Demography to take a human-rights-based approach to tackling demographic challenges, ensuring that every EU resident can fully realise their SRHR, and to confront those who instrumentalise SRHR in order to undermine EU values and democracy;
19. Calls upon the Commissioner for Health and Food Safety to promote and protect SRHR and to include them in the next EU public health strategy;
20. Calls upon the Commissioner for Equality to promote and protect SRHR and to include them in the next EU gender equality strategy;
21. Calls upon the Commissioner for International Partnerships to uphold the European Consensus on Development and the SDGs, in particular targets 3.7 and 5.6, to ensure that SRHR remain a development priority in all EU external activities;
22. Calls upon the Commission to strengthen its actions to counter the backlash against women's rights;
23. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Sexual and reproductive health and rights (SRHR) are one of the key issues in the discussion on human rights and they are inseparable from the realisation of the fundamental right to health, as well as the achievement of gender equality and the elimination of gender-based violence.

This report comes at a crucial moment in the EU, with backlash and regression in women's rights gaining momentum and contributing to the erosion of acquired rights and endangering the health of women. The EP expressed concerns on this issue, most recently in the Resolution on backlash against women's rights¹ identifying SRHR as one of the key areas that is being targeted.

Additionally, given the circumstances around the COVID-19 pandemic and the devastating consequences it will have, as well as challenges and opportunities in rebuilding Europe following this crisis, there is an urging responsibility of institutions to address the issue of SRHR in the dialogue for a stronger, better and more connected Europe in the future. In that light, we must not ignore the fact that during the health crisis, women and girls around the world were denied access to SRH services, under the false pretence of less priority and non-urgent medical qualification. This report will aim to call upon the EU, institutions and Member States to restrain from such actions and fully acknowledge that sexual and reproductive health and rights are human rights and as such the highest standard must be attained in all circumstances – during the health crisis and beyond, without discrimination to all individuals.

Given the current situation in the EU, there is a responsibility of the EU institutions to promote and support SRHR, as well as the overall well-being, health, safety and lives of women. As stated in the EP Resolution on the criminalisation of sexual education in Poland², and according to the EU Charter of Fundamental Rights, the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights, women's sexual and reproductive health (SRH) is related to multiple human rights and there is a responsibility of the Member States and EU institutions to guarantee high-quality SRHR. The joint EU position must be human rights-based and in line with all international human rights standards. The backlash against women's rights have a direct influence on the de-democratisation processes in the EU, as they are coordinated by actors instrumentalising SRHR in order to achieve so called demographic objectives, thus contributing to the erosion of democracy and personal freedoms. The question of SRHR as a human rights issue is inseparable from the question of democracy as it is a framework from the people to the people which can't be fulfilled without the highest standard of protection of human rights.

SRHR fall under the competences of Member States and as such, they have a responsibility to ensure access to a full range of SRHR services. Sexual and reproductive rights (SRR) are recognised as human rights in international and European human rights law³ and violations of

¹ https://www.europarl.europa.eu/doceo/document/TA-8-2019-0111_EN.html

² https://www.europarl.europa.eu/doceo/document/TA-9-2019-0058_EN.html

³ See Women's sexual and reproductive health and rights in Europe, Council of Europe Commissioner for Human Rights, Council of Europe, December 2017, <https://www.coe.int/en/web/commissioner/women-s-sexual-and-reproductive-rights-in-europe>

SRHR constitute breaches of human rights. All challenges related to SRHR faced within Member States constitute common European challenges. This is not only a political and a social issue for the EU but also a health issue which must combine a unified approach.

The World Health Organisation (WHO) recognises the need for a universal access to SRH as a component of the right to health⁴ and it reiterates the commitment made in the Programme of action of the ICPD⁵ to ensure universal access to SRH services. The discussion must not be whether to ensure access to SRHR but in which way to do so as to ensure universality, accessibility and affordability of a full range of SRHR services, safeguarding the right to health. This report will focus on a few key areas within SRHR, but the rapporteur emphasises that some other SRHR topics, which will not be discussed in detail do present concerns that must be addressed, possibly through separate reports (e.g. surrogacy).

According to the UN Population Fund⁶, comprehensive sexuality education (CSE) is a rights-based and gender-focused approach to sexuality education. It includes scientifically accurate information about human development, anatomy and reproductive health, as well as information about contraception, childbirth and sexually transmitted infections (STIs), including HIV.

The EP Resolution on the criminalisation of sexual education in Poland⁷ encouraged Member States to introduce comprehensive age-appropriate sexuality and relationship education for young people in schools. This is essential for the fulfilment of SRHR and for tackling gender-based violence, sexual exploitation, abuse and unhealthy patterns of behaviour in relationships. The need for a full access to CSE in all primary and secondary schools is now most urgent than ever as there is a growing number of misinformation surrounding SRHR. One such example comes from an investigation conducted by openDemocracy which revealed that women across the world, including the EU, are being purposely misinformed in order to prevent their access to abortion.⁸ This puts women's lives at risks and obstructs their right to an informed choice, but also derogates from the basic principles of democracy and the right to freedom and information. In addition to tackling the growing number of deliberate misinformation campaigns and efforts, CSE also represents one of the tools for tackling gender-based violence.

Contraception enables people to make informed choices about their SRH and according to the WHO⁹ the use of modern contraceptives in 2017 prevented an estimated 308 million unintended pregnancies. The situation across Europe shows that there is still a need for improvement, with the crucial area being the ensuring of access to all¹⁰. In the last years, most attention has been focussed on HIV/AIDS, while funding for both family planning and reproductive health has decreased. This is dangerous and could lead to serious consequences¹¹. Access to modern contraceptive methods are a part of the fundamental right

⁴ <https://apps.who.int/iris/bitstream/handle/10665/331113/WHO-SRH-20.1-eng.pdf?ua=1>

⁵ <https://www.unfpa.org/icpd>

⁶ <https://www.unfpa.org/comprehensive-sexuality-education>

⁷ https://www.europarl.europa.eu/doceo/document/TA-9-2019-0058_EN.html

⁸ <https://www.opendemocracy.net/en/5050/revealed-us-linked-anti-abortion-centres-lie-and-scare-women-across-latin-america/>

⁹ <https://apps.who.int/iris/bitstream/handle/10665/329884/WHO-RHR-19.18-eng.pdf?ua=1>

¹⁰ https://www.contraceptioninfo.eu/sites/contraceptioninfo.eu/files/contraception_infographic_2019_new.pdf

¹¹ <https://www.epfweb.org/node/110>

to health and as such must be available to all persons of reproductive age.

According to the Centre for Reproductive Rights¹² 59% of women of reproductive age live in countries that broadly allow abortion and 41% of women live under restrictive laws. In the EU, only one Member State does not allow abortion under any circumstances (Malta) and one allows it only under very narrow circumstances with highly restrictive tendencies (Poland). What worries and urges a strong response from the EU is the evident backlash in women's rights, with the right to a safe and legal abortion being one of the key targets in these attacks. The restriction of abortion has grave consequences. WHO estimates that 25 million unsafe abortions take place each year and they often have fatal consequences. Legal restrictions on abortion do not result in fewer abortions, instead they compel women to risk their lives and health by seeking out unsafe abortion care. According to the Guttmacher Institute, the abortion rate is 37 per 1,000 people in countries that prohibit abortion altogether or allow it only in instances to save a woman's life, and 34 per 1,000 people in countries that broadly allow for abortion. This is a difference that is not statistically significant.¹³ In the EU, this often results in women traveling to other Member States seeking abortion, thus endangering their health and life.

Even when legally available, there are barriers in the access to abortion. This leads to the violation of SRHR, but also to inequalities in achieving women's rights across the EU. One of the most problematic barriers is the denial of medical care based on personal beliefs, where medical professionals often do not perform abortions, calling upon their personal beliefs. This not only denies women of their right to health and medical procedures, but also raises the question of public referral systems. According to the EP Study on Implications of Conscientious Objection on SRHR¹⁴ national legislation often allows for health care professionals to opt out of providing goods and services to which they are morally opposed, including performing abortions or prescribing, selling or advising on contraceptive methods through 'the refusal to participate in an activity that an individual considers incompatible with his/her religious, moral, philosophical or ethical beliefs. Moving forward it should be addressed as denial of medical care rather than the so-called conscientious objection. A large number of Member States (20+) provide for the right to the so-called conscientious objection, which is also recognised by UN instruments and the European Convention on Human Rights. Notably, this is not an absolute right and the ECtHR has held that it should not be used to block the access to services to which they are legally entitled. In practice, this is exactly what happens on a daily basis across the EU – women do not have access to their legally granted right to abortion as the medical staff denies them of that medical care, with public hospitals not putting public referral systems in place. This is an evident and multidimensional violation and practical denial of exercising an already achieved legal right.

An evidence-based and high-quality maternity care is one of the key topics within this report. The WHO issued a recommendation for a respectful maternity care which means care organised for and provided to all women in a manner that maintains their dignity, privacy and confidentiality, ensures freedom from harm and mistreatment, and enables informed choice

¹² <https://reproductiverights.org/worldabortionlaws>

¹³ <https://www.amnesty.org/en/what-we-do/sexual-and-reproductive-rights/abortion-facts/>

¹⁴ [https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2018\)604969](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2018)604969)

and continuous support during labour and childbirth. Maternal mortality is an ongoing problem especially for minority and vulnerable groups, and in situations where complications arise during labour, the risk of serious morbidity and death increases. Over a third of maternal deaths are attributed to complications that arise during labour, childbirth or the immediate postpartum period¹⁵. This speaks on the fact that with quality maternity care for all, such risks may be prevented. It is a human right to have access to health services as well as to be free from inhumane and degrading treatment and both fall under the narrowest scope of SRHR services. There is also a growing number of reports emerging on the violence women experience during facility-based childbirth and in medical procedures in antenatal, childbirth and postnatal care, as well as generally experiencing gynaecological and obstetric violence which must be addressed.

This report will give a broad input into the state of SRHR across the EU and the aim is to reaffirm the commitment of the EU to the protection of human rights, with a reference to the right to health, physical and mental integrity, equality, non-discrimination, health, education. It reaffirms that violations or denial of access to SRHR constitute breaches of human rights and gender-based violence and as such are a European challenge which must be addressed, not deviating from all those values and principles that the European Union is formed upon, as democracy, equality and non-violence.

¹⁵ <https://extranet.who.int/rhl/topics/preconception-pregnancy-childbirth-and-postpartum-care/care-during-childbirth/who-recommendation-respectful-maternity-care-during-labour-and-childbirth>