

# Women's Rights Perspective on the EU Charter of Fundamental Rights



## Article 35 of the EU Charter of Fundamental Rights: Healthcare

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities

The EU Charter of Fundamental Rights upholds the right to **healthcare**. This right is connected to other fundamental rights such as **human dignity, life, non-discrimination, private and family life and the right to be free from No one shall be subjected to torture or to inhuman or degrading treatment or punishment**. It is intrinsically linked to equality between women and men and opposed to male violence against women and girls (VAWG), including trafficking for sexual and reproductive exploitation.

The right to healthcare includes **mental health** as an integral aspect:

- Mental health is defined by the **European Commission** as *a state of well-being in which individuals realise their own abilities, can cope with the stresses of life and contribute to their community*. The Commission also states that mental illness is associated with many forms of inequalities.
- Women are more likely than men to be confronted with external risk factors for mental health, including familial and community control rooted in patriarchy, traditional harmful practices (THP), inequalities, poverty, and VAWG.

The right to healthcare includes **sexual and reproductive health and rights (SRHR)**. Many barriers prevent women from accessing them, constituting a potential violation of article 35 of the EU Charter of Fundamental Rights.

Barriers to women's access to SRHR include criminalisation of abortion and lack of access to contraception, lack of sexuality education, and obstetric and gynaecological violence.

**Obstetric and gynaecological violence** is a widespread? overlooked form of VAWG which includes sexual, physical, psychological, and verbal violence against women undergoing obstetric or gynaecological procedures, as well as denial of informed consent, appropriate anesthesia, necessary support, or respect for women during childbirth.

**Undocumented pregnant migrant women** in the EU face barriers to healthcare, with 16 EU Member States requiring them to cover the full cost of antenatal care and 11 countries charging for childbirth, as highlighted by the Center for Reproductive Rights. In addition, medical assistance provided at borders often does not account for the **sex-specific needs of migrant women**, constituting a potential violation of article 35 of the EU Charter of Fundamental Rights.

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Resources related to Article 35 of the EU Charter of Fundamental Rights - Healthcare

## Relevant EU and international legal instruments

**International Covenant on Economic, Social and Cultural Rights, 1966**  
Article 12

**UN Convention on the Elimination of All Forms of Discrimination against Women, 1979**  
Article 12  
General Recommendation No. 24 Women and Health



Find more relevant EU, European and national cases in our database on migrant women's fundamental rights violations:  
<https://www.womensrightsdatabase.eu/>

## Relevant EU, European and international soft-law instruments

Cairo Declaration on Population and Development, 1994. United Nations International Conference on Population and Development, Cairo.

European Parliament, 2021. Report A9-0169/2021 of the Committee on Women's Rights and Gender Equality on women's rights in the EU.

Council of Europe, 2019. Resolution 2306 of the Parliamentary Assembly of the Council of Europe on Obstetric and Gynaecological Violence.

## Relevant case-law at EU and European levels

### European Court of Justice

ECJ, B.S.M. Geraets-Smits v Stichting Ziekenfonds VGZ and H.T.M. Peerbooms v Stichting CZ Groep (Case C-157/99), 12th of July 2001

CJEU, Gerardo Ruiz Zambrano v Office national de l'emploi (ONE) (Case C-34/09), 8 of March 2011

CJEU, Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV (Case C-157/15), 14th of March 2017

### European Court of Human Rights

ECtHR, Pretty v. the United Kingdom (Application no. 2346/02), 29th of July 2002

ECtHR, Tysi c v. Poland (Application no. 5410/03), 20th of March 2007

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