

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



## Article 23 of the EU Charter of Fundamental Rights: Equality between women and men

Equality between women and men must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

The European Union is founded on values of equality, social fairness, freedom, democracy, and human rights. The Treaty on European Union and the Treaty on the Functioning of the European Union establish **equality between women and men** as a core objective, further reinforced by the Treaty of Amsterdam and the European Pillar of Social Rights. These legal frameworks ensure that equality between women and men is integral to upholding human rights, and establish that the principle of equal treatment does not prevent the maintenance or adoption of specific measures in order to prevent or compensate disadvantages for the under-represented sex.

**Women's right to live free from violence** is a fundamental aspect of equality between women and men, with **male violence against women** (VAW) constituting a structural violation of human rights.

VAWG remains pervasive worldwide, often marked by high levels of impunity, as highlighted by the CEDAW Committee on its General recommendation 35

VAW and domestic violence remain largely marginalised and normalised. The discussion around it is often shielded by the public versus private divide, the right to privacy weaponised to keep the issue beyond the reach of state intervention.

Historically, violence against women was not recognised as a major issue until the 1990s. The 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) did not explicitly address it.

It was only in 1993, at the World Conference on Human Rights in Vienna, that **women's rights were explicitly acknowledged as human rights**. The same year, the UN General Assembly's Declaration on the Elimination of Violence against Women recognised VAW as a human rights violation rooted in historically unequal power relations. Shortly after was appointed the first UN Special Rapporteur on Violence against Women, its causes and consequences.

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Resources related to Article 23 of the EU Charter of Fundamental Rights - Equality between women and men

## Relevant EU, European and international legal instruments

### **International Covenant on Civil and Political Rights, 1966**

Article 3

Human Rights Committee (68th session), General Comment No. 28 on equality between men and women

### **Convention on the Elimination of All Forms of Discrimination Against Women, 1979**

General Recommendation No. 25 on Temporary Special Measures

General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19

### **Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), 2006**

### **Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), 2011**

## Relevant EU and international soft-law instruments

Beijing Declaration and Platform for Action, 1995

EU Gender Equality Strategy, 2020-2025

## Relevant case-law at EU and European levels

### European Court of Justice

ECJ, Dr. Pamela Mary Enderby v. Frenchay Health Authority and Secretary of State for Health (Case C-127/92), 27th of October 1993

ECJ, Nikolova v. Yordanova (Case C-423/12), 16th of July 2005

CJEU, Completesportsmanagement Ltd v. Caroline Zentner (Case C-394/19), 9th of September 2021

### European Court of Human Rights

ECtHR, M.C. v. Bulgaria, (Application no. 39272/98), 4th of December 2003

ECtHR, Şimşek and Others v. Turkey, (Application no. 35072/97), 26th of July 2005

ECtHR, Opuz v. Turkey, (Application no. 33401/02), 9th of June 2009

ECtHR, Eremia and Others v. Moldova, (Application no. 3564/11), 6th of November 2012



Find more relevant EU, European and national cases in our database on migrant women's fundamental rights violations:

<https://www.womensrightsdatabase.eu/>

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