

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



## Article 4 of the EU Charter of Fundamental Rights: Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The prohibition of torture stands as a foundational value in democratic societies and international human rights law. This principle, holds the status of a **jus cogens norm** - a peremptory norm of general international law.

Historically, the interpretation of torture has been framed from a **male-centric perspective**, wherein a prisoner faces torture at the hands of the State. This focus has perpetuated the public versus private divide, sidelining women's experiences of violence in the household, or within relationships.

The United Nations Committee against torture's General Comment No. 2 underscores that **specific forms of violence against women and girls - such as domestic violence, female genital mutilation, rape, and human trafficking - fall within the legal framework of the the Convention against Torture (CAT).**

Torture is occurs across various contexts. Non-State torture (NST) is torture committed by non-State actors, in public or private. The disregard of NST contributes to the silencing and isolation of victims and can lead to secondary victimisation.

Women victims of domestic violence, sexual violence, including incest and pedocriminality, traditional harmful practices and human trafficking are often isolated, as well as physically and psychologically constrained by the perpetrators.

Humiliation, cruel or sadistic acts, abuse of authority, acts whose purpose or effect is to cause terror and break the moral or physical resistance of the victims, must be understood as entailing a violation of article 4 of the EU Charter of Fundamental Rights. The fact that the perpetrators are not agents of the State does not alter the reality of the asymmetry of power between the perpetrator and the victim in cases of male violence against women and girls.

Content on pornographic platforms often includes violence and torture, presented as fictional and sexualised. This parallels what is considered degrading and inhuman treatment, akin to abuses seen in contexts like Abu Ghraib prison, and breaches Article 4 of the EU Charter of Fundamental Rights.

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Resources related to Article 4 of the EU Charter of Fundamental Rights - Prohibition of torture and inhuman or degrading treatment or punishment

## Relevant international legal instruments

**Universal Declaration of Human Rights, 1948**

Article 5

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

Article 7

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984**

Article 1

Article 2

Article 3

Article 4

## Relevant case-law at EU level

**Court of Justice of the European Union**

CJEU, NS and Others v. Secretary of State for the Home Department (Case C-411/10 and C-493/10), 21st of December 2011

CJEU, Aranyosi and Căldăraru (Joined Cases C-404/15 and C-659/15 PPU), July 2016



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

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

## Relevant case-law at European level

**European Court of Human Rights**

ECtHR, Selmouni v France, (Application 25803/94), 28th of July 1999

ECtHR, Z, and others v. United Kingdom, (Application no. 29392/95), 10th of May 2001

ECtHR, MC v. Bulgaria, (Application No. 39272/98), 4th of March 2004

ECtHR, Kontrová v. Slovakia (Application No. 7510/04), 31st of May 2007

ECtHR, Bevacqua and S. v. Bulgaria (Application no. 71127/01), 12th of June 2008

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

ECtHR, E.S., and others v. Slovakia, (Application No. 8227/04), 15th of September 2009

ECtHR, Valiuliene v. Lithuania, (Application. No. 33234/07), 26th of March 2013

ECtHR, Eremia v. Moldova, (Application No. 3564/11), 28th of May 2013

ECtHR, T.M and C.M v. Moldova (Application No. 26608/11), 28th of January 2014

ECtHR, Rumor v. Italy, (Application. No. 72964/10), 27th of May 2014

ECtHR, Talpis v. Italy, (Application. No. 41237/14), 2nd of March 2017

ECtHR, Bălșan v. Romania, (Application No. 49645/09), 23rd of August 2017

ECtHR, Volodina v. Russia, (Application No. 41261/17), 4th of November 2019

ECtHR, Kurt. v Austria, (Application no. 62903/15), 15th of June 2021

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