



## Abortion: a Legal Privilege or a Criminal Offense

Adriana-Juliana Stancu<sup>1</sup>

**Abstract:** The Commission's ruling represents a beginning in the delicate area of abortion. Since a binding Directive could not be issued to all Member States if they were strongly opposed for religious reasons, the existence of some states in the EU that have incriminated on abortion meant that this area was circumvented long after the EU's legislative consolidation. The European Parliament's April 11 directive, which covers fundamental human rights (2024/2655 (RSP), marked the beginning of the examination of the ability to execute abortions as a right under the European Union's Charter of Fundamental Rights. Recommendations and approaches: As a clear violation of a basic right, abortion was denounced by European nations when they ratified the ECHR. The fetus therefore has the same rights as an adult, it can be stated. Later, the right to dispose of one's own body was compared to that of an adult, and the European Convention on Human Rights placed more emphasis on a more lenient stance toward fetal protection. Results and consequences: Acknowledgment of the significance of people's capacity to exercise this right, to manage their health from this perspective, and to establish the circumstances in which women can exercise this right to a healthy life. The full liberty and choice granted to women and those with reproductive capability are in line with the 2011 Istanbul European Convention on Combating Violence Against Women, which the European Union adopted in the middle of 2023.

**Keywords:** fundamental rights; crime; criminal liability; European Commission; ECHR

<sup>1</sup> Associate Professor, PhD, Faculty of Law and Administrative Sciences, 'Dunărea de Jos' University of Galati, Romania, Address: 111 Domneasca Str. Galati 800,201, Romania, Corresponding author: adriana.stancu@ugal.ro.



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## 1. Introduction

The special session of the United Nations, which started working – in June 1999, states that ‘when abortion is not illegal, health systems must ensure that health workers are professionally trained and equipped with the necessary medical equipment, such as other necessary health.’ (Gilligan, 1994). In the European Union, on 10 April 2024, the European Commission decided to register a citizens’ initiative, named My Choice, My Vote: for Easy and Safe Abortion (Romanis, 2023)(Castleman & Mann, 2002).

## 2. Methodology

This article employs a qualitative legal research methodology, based on doctrinal analysis and the examination of European and international legal instruments. The study relies on the analysis of EU primary and secondary legislation, resolutions of the European Parliament, relevant international conventions, and the case law of the European Court of Human Rights. In addition, a comparative approach is used to illustrate how abortion rights are regulated across different European states, highlighting recent legislative and judicial developments. Academic literature and institutional reports are used to contextualize the legal analysis and to support the interpretative conclusions.

## 3. European Initiatives

The organizers of the initiative asked the Commission to propose financial support to Member States to enable them to provide safe help to anyone in Europe who cannot control their own bodies (for a historical vision see Baird & Millar, 2024).

This decision does not affect the granting of the right to abortion at the EU level, and the decision to register must be made within the content of art. 168(7) TFEU, without the European states agreeing to this. The decision to register a program is legal in nature and does not prejudice the Commission’s final legal and political conclusions about the programme, such as “what”, or the actions it will take, if necessary, if the initiative receives the necessary support.

To the extent that this treaty subjects European citizens to the individual restrictions defined in the relevant legislation, the Commission is legally binding. At this stage, the Committee did not consider the substance of the recommendations.

After registration, organizers have six months to start collecting signatures. If, within one year of the opening of the application period, a European public initiative receives at least one million contributions from seven Member States, the Commission will have to issue a formal response. It will have to decide whether to comply and justify its decision.

The European Parliament, based on a set of rules (Report of the United Nations, 3-14 June 1992):

- on human rights and the elimination of discrimination against women, from 1950 and 1976 respectively;
- Charter part of the Treaty of Lisbon (hereinafter “the Charter”) of 2000, but also based on the Decisions of 13 April 2019 on restoring equal rights for all genders in the EU, of 14 November 2019 on the criminalization of sex trafficking in Poland 2011 on abortion; ever since the appearance of legal provisions when abortion was prohibited in Poland, in the spring of 2021, in respect of the rights to life and health in a united Europe, effective from 25 May 2020 Ukraine for women on abortion rights: possible abolition of this right of women in the United States, established by their high court.

#### **4. What's Happening in the World Right Now**

Resolution of the same institution, of 7 July 2022 on the decision of the US Supreme Court to annul abortion rights in the United States and the need to defend these rights in the EU, from autumn 2023, in the projects of the EU Supreme Institution, in accordance with the WHO Guidelines and Strategy 2017-2021 for respecting women's rights in Europe: using the experience of the 2030 Agenda for transition in Europe - for the period 2020-2025 - COM(2020)0152.

Similarly, on 12 November 2020, the Committee also adopted COM(2020) entitled “Equality Summit: LGBTIQ Equality Strategy 2020-2025”. Fundamental human rights recognized in the European Union by conventions which provide for sexual and reproductive health and SRHR, talk about making abortion a legal and institutional human right and sexual dignity, and violence against women, access to man and woman equality and other human rights, without discrimination, with equal

application of the law and without torture or degrading, inhuman punishment (Charter of Fundamental Rights of the European Union (2000/C 364/01), 2000).

The Charter guarantees the rights and freedoms, EU fundamental rights, and the protection of women's health for the fulfillment of their wishes as a legal right with repercussions in the practical implementation of these, recognized in the Human Rights Declaration, how is the right to live. Women's health, justice, body, mind are some of these fundamental rights (Assis & Erdman, 2022), as stated in the 2018 United Nations Declaration on the provisions of Article 6 of the International Covenant on Civil, Social and Political Rights as well as in the Annual Report of the European Parliament at EU level for the years 2026-2040.

In implementing the 2024 Regulation of the European Parliament or the 2023 Commission's Legislative Relate and in the application of Article 1 and 2, the European Union shall comply with the UN provisions, person to voluntarily terminate a pregnancy. This is likewise in harmony with the fact that the UN Commission about the rights also recognizes that failing to act on the decision of women to decide about their bodies and lives is a violation of the legal right to privacy, including the coda overlap to which such an order occurs (Creangă & Gurin, 2005, p. 48).

It is a UN recommendation for the elimination of all forms of discrimination against women – CEDAW - has declared that the condemnation of this crime is a violation of person's SRHR. gender, while urging governments to repeal all discriminatory laws against abortion.

While SRHR is one of the endpoint of the United Nations Goals, which calls for the possibility of having a private life and unrestricted reproductive possibility health, education and abortion services in national plans; and another Objective, which implies an unfettered possibility for SDSR, as also results from the way the action was structured at the international workshop on population and demographic development for its “review conferences”; Because cold states have permissive laws regarding abortion, they have, in most cases, lower abortion rates than other countries where this action is criminalized and also guarantee more freedom of choice, including full termination of elective pregnancies and elections. their health and sexual perfection, at the same time. and relationships, such as contraceptive counseling, ease of birth control and free birth control; and comprehensive preadolescent sexuality education is essential for developing the capacity of children and young people to establish and maintain positive, non-discriminatory and solid relationships, especially when gender equity are challenged. Relationships will take

steps towards stronger, more respectful and transparent relationships, leading to the achievement of gender equality (Cloșca et al., 1994, p. 17).

The French parliament gave the green light in the spring of 2024 to abortions that are also guaranteed by the Constitution, becoming the first country in the world to do so, and recognize the right to abortion, this major constitutional change aims to give the final voice to the global backlash and rejection of the EU economy, including the abolition of the US, Hungary and Malland, a commitment “to women's organizations and parliamentarians in France who contributed to the development of this legislation. constitution. right to abortion. Since the liberalization of abortion rights in France, steps have been taken in other states, such as Sweden and Spain, where the green light from the EU is expected to be implemented for protection of human resources and gender equality has not been underestimated. rights to access abortion services to become a reality (b9 summit, 2023).

Although the EU respects fundamental human rights and has the best SRHR standards in the world, women and LGBTIQ+ people are constantly discriminated against, and there are limits to the freedom to dispose of their bodies. These limits can be found in laws, politics, finance, culture or the information environment, and some Member States still do not allow abortion, except in well-defined situations that have stopped women from risking their lives or other lives in intensive care. of work. violence against women, and some Member States have legalized abortion for emergency or other social policy purposes, although they still impose criminal sanctions within the legal framework (Convention for the Protection of Human Rights and Fundamental Freedoms, 4.XI.1950).

Currently, some countries from EU are attempting to stop access to the SDSR through extensive legislation, leading to restricted access to healthcare and discrimination, including rape, gender-based and gender-based barriers and structural barriers to access. countries' development and the quality of democracy interfere with European sovereign rights. leading to a well-led and well-paid return to gender non-discrimination, the multitude of LGBTIQ+ forms and women's rights globally, these constitutional strengths and the many established rights that have attempted to reverse decades of human progress and make it important to connect with everything. movement, a violent rejection of democracy worldwide, of a threat to the rule of law in Europe in 2018.

Changing positions on gender are now directly gender-based and reproductive harm to women autonomy and which alters law and public order, leading to the implementation of emergency measures in several Member States aimed at

undermining the SRHR. Poland has also proven to be very good. On 22 October 2020, the Court upheld a constitutional order invalidating this legal provision, resulting in a total ban on abortion and the deaths of at least six of the women investigated. abortion and the persecution of women, gender and defenders of these reproductive rights for supporting women to seek legal abortion services or for opposing this right on their behalf. The recent ECtHR decision in the case of M.L. v. Poland found a violation of the provisions of art. 8 ECHR in relation to the respect for the right to private and family life in the case of a woman who was forced to move abroad to support her child's family, with serious psychological consequences. The new Polish government has promised to promote new laws to ensure women's rights and access to SRHR, including abortion services, but unfortunately the proposed bills were not adopted in parliament. abortion services (Convention for the Protection of Human Rights and Fundamental Freedoms, 4.XI.1950).

Abortion is also prohibited and criminalized in Malta, as an amendment in July 2023 led to a worrying change in the highest legislative forum in Malta, by removing rights but adding time and risks to abortion services. Under these restrictions, doctors can only resort to abortion in life-threatening situations and “fetal viability” are in immediate danger, and a dying pregnant woman must be brought to a medical team of three consultants for life-threatening cases, and in cases of serious health risks this is the rule that and those with breast cancer in this country cannot be treated properly and wait until birth before baby is diagnosed with cancer reduces the likelihood of successful treatment (Gilligan, 1994).

Medical abortion is not allowed in Slovakia and Hungary, as in the fall of 2022, Hungary passed a law that requires women seeking an abortion to listen to the fetal “heartbeat.”. It has reiterated efforts to provide access to abortion services through parliament. At the same time, access to abortion services has also been undermined in Turkey; however, in Italy, Slovakia, Romania, most doctors say they reject them on grounds of conscience, allowing them to be available to the public, to make abortion services more difficult in some regions, as well as in some countries and other member states. Countries are taking advantage of the disruption, such as Croatia. And they are trying. The last abortion ban in Belgium was overturned by the highest institution in Belgium, but other states the necessary procedures and counseling are still unconditionally banned and rarely part of mandatory medical education. and the work between doctors and patients' physical health (Castleman & Mann, 2002).

Another problem is that misinformation about abortion, including on the Internet, is a real opiate for the respect of women's fundamental rights in Germany today, to give advice on medical websites in support of carrying out the necessary procedures and approved methods of abortion and when abortion was prevented and strictly restricted.

Because, in some European countries, people who left Ukraine because of the war were denied access to these procedures, even when there was evidence of sexual crimes, which is a serious crime and an equivalent violation of human rights, is inhuman or shameful (Guide for the provision of abortion services, 2003).

Her belief that preventing, delaying and prohibiting access to SRHR, in particular to abortion services, is a violent manifestation against women, in itself; because these imposed situations do not contribute to stopping the phenomenon, but only create discomfort for women who are forced to go to other countries that allow these procedures or where primitive abortions are practiced, thus creating situations in which females risk their own lives; through the lack of access to information and resources; which directly leads in states with severe restrictions, to an increase in the death rate among the female population. All these aspects can disappear if controlled abortions were accepted, in the idea that abortions also cause infertility and mortality in both women and unborn children.

Women from poor countries or from communities without access to information due to lack of education, groups that include all categories of minorities, immigrants, those living in rural areas where the economy is limited as well as social development, those with disabilities, or LGBT+ members, are victimized by health policy of, enabling violent behavior in sexual and reproductive relationships and failing to ensure that appropriate solutions and information are available (Gilligan, 1994).

Through its institutions, the EU has the obligation conferred by the provisions of the Charter of the Treaty to provide protection and defend fundamental human rights, with special regard to women, even the youngest, so that they can dispose of their bodies in full knowledge of the facts and in respect of the right to life, respectively to privacy, which also includes the rights to an uncensored sexual life, freedom of expression, without repercussions on their citizenship or European classification. Thus, a new agreement is required that also includes separately specified sexual rights, as established in the summer of 2022 and then in the autumn of 2023 by the governing bodies of the EU, accepting the deadlines proposed at the end of 2023, in order to protect the rights provided for in the Charter, with the approved

specifications, so that all European humanity is aware that it has established rights relating to freedom in general, sexual freedom in particular and reproductive health, to information, to free and equal access to all services, including health, without discrimination, including access to legal and safe abortion.

## 5. Conclusions

Abortion should be considered a right when the mother is in danger during pregnancy, childbirth, or when a woman will have a child after a crime of incest or rape has been committed against him/her. At the same time, abortion is a safe medical procedure, given the advances in medicine and technology. The patient's quality of life is not affected, and the risk of post-treatment complications is minimal.

Other reasons why women choose this method include: failure of contraceptive pills, failure to raise a child, preventing the birth of a child with multiple medical conditions or complications. From a religious point of view, abortion is considered a crime because the child has life from the moment of conception, even if it is not fully developed. The new person is a gift from God, and his life depends on the choice he makes. Abortion causes pain, both psychological and physical. Abortion can cause physical harm because there are serious risks of infertility or even death, as well as the risk of infection or complications (such as pregnancy or childhood cancer). In this case, information about this process can help to reverse and restore the situation. Abortion should not be used as a means of preventing pregnancy. Contraception is a process by which pregnancy is prevented. There are contraceptive methods, such as: female genital mutilation (tubal ligation in women, castration in men); long-acting contraceptives such as intrauterine devices or hormone implants; methods that use short-term hormones (pills, patch, injection or vaginal ring); mechanisms that completely block access (container, diaphragm, etc.), but also natural practices (abstaining from sex during times of maximum fertility) (Guide for the provision of abortion services, 2003).

Abortion restrictions affect poor women, as they cannot afford such a procedure in a specialized clinic due to financial constraints. For this reason or to avoid abortion, women resort to unsafe methods that endanger their lives or, on the contrary, carry the pregnancy against their will, violating the rights of the man. Sometimes, women cannot have an abortion because some doctors call it a "conscience clause", which does not affect the patient's right to medical care and services. In conclusion, we can say with great certainty that terminating a pregnancy under any circumstances is not

a solution for a pregnant woman because, as we have noted, it causes serious damage to the body and especially to the mind. However, there must be a legal basis for safe abortion, because this is the foundation of harmless motherhood, an essential part of the profession of good midwifery. Legally speaking, that's right clearly impossible to reconcile the simultaneous existence of two conflicting rights, respectively the right to privacy of the conceived child and that of the woman. While states have a certain level of appreciation, national laws continue to depend on the private life of women, who have a "personal" status under the Convention, art. 2 would also apply to the outcome of the pregnancy, the lack of an explicit prohibition would lead to the view that termination of pregnancy is prohibited even if it is "dangerous", if the pregnancy is dangerous to the woman's life, then abortion is unnecessary. 2 of the Convention. According to the case law of the ECtHR, as we have seen above, the Convention does not regulate the right of a pregnant woman to abortion, but rather the right to have the option to terminate the pregnancy herself. A woman's decision not to terminate the pregnancy falls within the sphere of private life, of freedom of choice, expressed in art. 8 of the European Convention.

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