

**“Sexual and reproductive Health and Rights in the EU,
in the frame of women's health”:
An ideological motion for a resolution
VITA Alliance – May 2021**

Following the report submitted by MEP Predrag Fred Matic, the European Parliament's Committee on Women's Rights and Gender Equality (FEMM) adopted a motion for a resolution "regarding reproductive and sexual health and rights in the EU, in the frame of women's health", on May 10th-11th of this year.

The proposal, which is very ideologically oriented at this stage, has yet to be finalized, for the plenary session debate scheduled for June.

This motion for a resolution must be rejected all the more so that other items deserve priority.

The phrase “sexual and reproductive health and rights” is essentially ambiguous. Without giving a clear definition to it, the phrase is used in this context to trivialize, under the guise of protecting women’s health, the sensitive issue of abortion, or even to legitimize some forms of artificial procreation, neither of which is within the EU’s jurisdiction.

Moreover, the motion for a resolution erroneously presents abortion as an alleged “right” connected to women’s health, and thus without taking into account the ethical, social, and cultural dimensions of abortion, the text encourages Member States to facilitate access and remove “all barriers” to abortion.

Lastly, this motion attacks the right to conscientious objection, pretending that healthcare professionals could “choose not to provide the products and services to which they are morally opposed, including abortions, as well as prescriptions, sales, and advice related to contraceptive methods”. The right to conscientious objection is recognised by the Charter of Fundamental Rights of the European Union (Article 10.2). The conscientious objection regarding abortion is also clearly and explicitly stated in Resolution 1763 (2010) of the Parliamentary Assembly of the Council of Europe (PACE).

I – This motion for a resolution goes beyond the European Union’s competences

Under Article 168 of the Treaty on the Functioning of the European Union, the Union has powers, in the field of public health, to support, coordinate or supplement national policies.

It states that “Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The

responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them.”

The European Union’s absence of authority pertaining to abortion has been confirmed on several occasions by the three EU institutions (European Parliament, European Commission, and Council of the EU). On April 30, 2012, the European Commissioner for Health, John Dalli, answered MEP’s question (E-002933/2012): “Considering the ethical, social, and cultural dimension of abortions, it is for Member States to develop and implement their policies and legal frameworks. The Commission does not have the intention to complement national health policies in this respect.”¹

Public health falls within the internal competence of the Member States.

Nonetheless, the EU only has an ancillary role in this area, which allows it to support the choices made by the Member States for:

- improving public health;
- health information and education;
- preventing diseases and causes of danger to physical and mental health;
- fighting against the major health scourges, by promoting research into their causes, their transmission and their prevention;
- monitoring, early warning and combating serious cross-border threats to health;
- reducing the harmful effects of drugs on health.

Furthermore, the fact that abortion is performed by health professionals (doctors or midwives) cannot be extrapolated to define abortion as healthcare.

Directive 2011/24 on the application of patients' rights in cross-border healthcare, defines healthcare as the “health services provided by health professionals to patients to assess, maintain or restore their state of health” (Article 3a). Moreover, the Directive specifies that the definition of health care falls within the exclusive competence of the Member States, so that “no provision of this Directive should be interpreted in such a way as to undermine the fundamental ethical choices of Member States.” (consideration # 7).

Finally, while the EU has jurisdiction in the field of fundamental rights, it must be said that access to abortion is not a fundamental right as such, nor is it considered to be inherent in any fundamental right whatsoever. Neither the EU courts nor the European Court of Human Rights (ECHR) recognise a fundamental right to abortion, according to the ECHR or the EU list of fundamental rights.

II – For maternity and prevention guidelines

Throughout Europe, **women continue to postpone motherhood** to the average age of 30,6, which is associated with a decline in fertility, often due to becoming **pregnant at an older age**. Alliance VITA, based on its’ listening services, finds that many women end their pregnancy for economic reasons, but also because of social standards which often interfere with motherhood.

¹ This position was reaffirmed in March 2021 by the European Commissioner for Health, according to which « Legislative powers on sexual and reproductive health and rights, including abortion, lie with the Member States that are also responsible for the definition of health policy.” [E-005924/2020\(ASW\)](#)

According to the latest official statistics, there were 232,200 abortions performed in France in 2019, compared to 224,300 in 2018. The **abortion rate has currently reached its highest level since 1990, i.e., 16.1 abortions per 1000 women aged 15 to 49 years.**

For the first time, the statistics on abortion have been linked to income tax data, demonstrating that women with a lower income resort to abortion more frequently than others. “The statistical differences could not be explained by the women’s age or marital status, since for a given age and marital status, women with the 10% lowest standard of living are 40% more likely to have abortions when compared with women with an average standard of living.”

Abortion can be a distinctive marker of social inequality that should signify a red alert to public authorities in France and Europe.

Therefore, it is urgent to:

- **Take strong and effective measures to support women during maternity** and enable them to reconcile maternity with work and/or educational studies, in line with EU Directive 2019/1158 of the European Parliament and the Council on June 20, 2019, concerning the work-life balance for parents and workers with caring responsibilities (promoting part-time work, extending paternity and parental leave, and improving leave compensation).
- Guarantee a **better understanding via information campaigns for the population**, especially for young people, on the impact of age on fertility, motherhood, and paternity. As recommended by the National Advisory Committee on Ethics (CCNE) in France, "information on the decline of female fertility with age should be accessible very early to all young people", as well as information "on the risks of pregnancy at older ages, for the women themselves and for the unborn child, on the lower success rate of ART (Assisted Reproductive Techniques) for older mothers, as well as the uncertain fate for resulting children”.
- **Increase medical research for both male and female infertility**, particularly in relation to lifestyles and to environmental issues. Develop appropriate **prevention policies** as well as research focused on treatments to restore fertility. Reserve **ART as a last resort** as a **medical response** for cases of **medically diagnosed infertility**.
- **Establish a universal ban on surrogacy** in the name of the non-commodification of women's bodies and of the respect for the dignity of the child, which cannot be treated as a commodity to be rented, donated, or sold.