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ASSOCIATIONS IN EUROPE

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**Voting advice & Arguments:  
Motion for a European Parliament Resolution  
on  
Sexual and Reproductive Health and Rights  
(2013/2040(INI)) - A7-0306/2013**

Committee on Women's Rights and Gender Equality  
Rapporteur: Edite Estrela

**Debate in Plenary : Monday 21st October, 2013  
Adoption in Plenary: Tuesday 22<sup>nd</sup> October, 2013**

**A proposal unworthy of the EU, this is why**

**In a nutshell:**

***The motion for a resolution on Sexual and Reproductive Health and Rights outlines problems related to the health of women and mothers in Europe and beyond. All EU citizens are entitled to health care, protection and support. However, none of these issues find an appropriate reply in the text presented by Mrs Estrela.***

*Maternal and childhood care are only addressed with the concept of Sexual and Reproductive Rights, a concept commonly interpreted as including access to abortion.*

*Abortion is moreover promoted by this text (para. 34) while as it is neither an EU competency, nor a topic on which there is a consensus among the Member States (recital. U).The text also seeks to promote abortion through EU development aid (para. 80 and 87).*

*However, International law protects the right to life, of each and every person. So does the EU legislation that even goes to the extent of defining the existence of the human embryo from the moment of conception.*

*Relationship and Sexual education is necessary to prepare young Europeans for fulfilling and responsible relationships. Nevertheless, there is no EU competency in this matter and **the first and primary educators, namely the parents, are only considered as "other stakeholders"** by this text*

*(para. 43). Such an approach is disrespectful as regards both the parents and their children.*

*Along the same lines, the text **calls for access for minors to contraceptives and abortion, without parental consent** (para. 46). This is a repeated denial of the first and primary role parents play as educators.*

*The text aims at regulating the right to conscientious objection (para. 35) albeit freedom of conscience is a fundamental right and conscientious objection is recognised by the EU Charter of Fundamental Rights: “The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.” (art. 10.2).*

*The right of children to know and be raised by both their mother and father is also threatened by this text that seeks to promote access to fertility treatments and medically assisted reproduction techniques for single and lesbian women (para 8).*

*With regard to the above, this report is inconsistent with the EU and national legislations; it expresses disrespect for the founding principle of subsidiarity as well as the fundamental right to freedom of conscience.*

*Above all, the report does not respect the inherent right to life of every person, whether an EU citizen or not.*

*Such an attitude is not worthy of the EU.*

*It is not worthy of the democratically elected representatives of the European people to promote such a text.*

*It is not worthy of all those who are fathers and mothers, grandparents, uncles and aunts to limit themselves to such an approach regarding their children, grandchildren, nephews and nieces.*

*Offer something better to Europe’s young and future generations.*

*The Federation of Catholic Family Associations in Europe, an NGO with a participatory status at the Council of Europe, representing family associations from 15 Member States calls on the Members of the European Parliament to offer a better alternative to the European families and vote against this resolution!*

## **In detail: 12 reasons to vote against the text, followed by question marks on what the EU could do to improve the situation of children, mother and fathers**

### **1. Special care for motherhood and childhood**

There should be special care for motherhood and childhood as claimed in articles 2 and 25 of the Universal Declaration of Human Rights and as outlined in the abovementioned motion for a resolution.

The Declaration of the Rights of the Child of the United Nations states that *“the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”*.

Such care should include protection of children, and pre and post natal care for mothers.

Nevertheless, such care cannot be provided at the expense of either of the persons concerned. Both the mother and the child must receive appropriate care, at every stage of the pregnancy and after birth.

### **2. The right to life of either of the persons cannot be superior to the other’s right to life**

*“Everyone has the right to life, liberty and security of person.”* (art. 3, Universal Declaration of Human Rights).

The EU Charter of Fundamental Rights affirms this right: *“Human dignity is inviolable. It must be respected and protected.”* (art. 1) *“Everyone has the right to life.”* (art. 2)

**Protection of every human life from conception** is a principle reaffirmed by the **European Court of Justice**. In its ruling C-34/10, the ECJ states the following:

*“any human ovum after fertilisation, any non-fertilised human ovum into which the cell nucleus from a mature human cell has been transplanted, and any non-fertilised human ovum whose division and further development have been stimulated by parthenogenesis constitute a ‘human embryo’.”<sup>1</sup>*

**The right to protection of every human life from conception is supported by over 1.3 million EU citizens**

More than 1.3 EU citizens signed the European Citizens Initiative *One of Us*, asking the EU *“to ensure consistency in areas of its competence where the life of the human embryo is*

at stake, the EU should establish a ban and end the financing of activities which presuppose the destruction of human embryos, in particular in the areas of research, development aid and public health (ECI(2012)000005)<sup>2</sup>.

### 3. The absence of a 'right to abortion'

**No international legally binding treaty, nor the ECHR, nor customary international law can accurately be cited as establishing or recognizing a 'right to abortion'.**

Furthermore in those 25 Member States where abortion is available **the general attitude has been to depenalise abortion, not to create a right to abortion.**

This non-binding resolution violates the EU Treaty and cannot be used to introduce right to abortion, or against the full implementation of ECI(2012)000005. **All EU institutions, bodies and agencies must remain neutral on the issue of abortion.**

### 4. Abortion is not an EU competency, solely a Member State issue

#### **Parliamentary question, 2 December 2011, E-009068/2011**

Answer given by Mrs Reding on behalf of the Commission

*"The Commission acknowledges the differences in national policies and laws with regard to abortion. **According to the Treaty of the European Union and the Treaty on the Functioning of the European Union, the EU has no competences on abortion policy at national level and can therefore not interfere in Member States' policies in this area. The Commission has not funded studies on consequences of legislation on abortion in the Member States.**"*

#### **Parliamentary questions to the COUNCIL, 30 November 2009, E-5125/2009,**

Reply

*The Council would point out that **the issue of abortion is the responsibility of the individual Member States**, the scope of Community action on health issues being strictly defined by Article 152 of the EC Treaty.*

#### **Questions parlementaires, Commission européenne, 11 septembre 2007, E-3087/2007**

Réponse donnée par M. Frattini au nom de la Commission

*(...) **La légalisation de l'avortement relève de la compétence des États membres, seuls compétents pour légiférer dans ce domaine.** (...)*

**Question to the Commission, H-0239/07, Debates, Thursday, 26 April 2007, Answer**

*“The Commission does not assume any positions in favour or against abortion, due to the fact that there is **no community legislation in this respect.**”*

**Parliamentary questions to the COUNCIL, 19 March 2007, E-4955/2006, Reply**

*“Concerning the right to abortion, the Council would inform the Honourable Member that **the issue of abortion from a legal point of view falls under the competence of the individual Member States.**”*

**Questions parlementaires, 6 avril 2006, E-0720/2006**

Réponse donnée par M. Frattini au nom de la Commission

*« **La Communauté ne dispose d'aucune compétence pour légiférer dans les domaines cités par l'Honorable Parlementaire, tels que l'avortement, l'euthanasie (...). Elle se doit par ailleurs de respecter strictement le principe de subsidiarité.** »*

## **5. Member States have differing views on abortion**

There are very different views on abortion among the Member States. Some Member States allow for abortion “on demand”, in some cases up to 18 weeks of the pregnancy. Other have a restricted view on abortion.

Two Member States have recently expressed their positions on abortion at the United Nations:

*“My delegation would like to reaffirm that **any discussion and references to rights and services in connection with reproductive health cannot take place outside the framework of one of the most fundamental of human rights – the right to life.***

*In this regard, **any recommendation related to the Overarching Post-2015 Agenda should not in any way create an obligation on any party to consider abortion as a legitimate form of reproductive health or rights or commodities.**”*

- Statement by H.E. Mr Christopher Grima, Ambassador and Permanent Representative, Permanent Mission of the Republic of Malta to the United Nations, 14 October 2013, United Nations, New York

***“In the absence of any internationally recognised or agreed definition of the parameters of sexual and reproductive rights (SRHR) or sexual and reproductive health services (SRHS), States are free to define these notions under national law.***

*In this context, Poland wishes to put on record, for the purpose of this and future meetings held in the framework of the UNGA, its committees, the ECOSOC and other UN bodies, that it objects to any interpretation of references to SRHR/SRHS used in international documents as including abortion on demand.”*

- Statement by H.E. Agnieszka KOZŁOWSKA-RAJEWICZ , Polish Government Plenipotentiary for Equal Treatment, United Nations, New York, 14 October 2013

## 6. Threats to the rights of the child

According to the Convention on the Rights of the Child, *“in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”* (art. 3).

Furthermore, the child has the right to *“as far as possible, the right to know and be cared for by his or her parents”* (art. 7).

However, the motion for a resolution includes a threat to these rights, namely with regard to article 7 as paragraph 8 of the motion calls on *“Member States to ensure access to fertility treatments and assisted medical procreation also for single women and lesbians.”*

In other words the filiation between a child and his or her mother and father would no longer be respected if the above provision was encouraged.

## 7. Sexual education and parental rights

Parents are the first and primary educators of their children, and as such **“have a prior right to choose the kind of education that shall be given to their children.”** (Universal Declaration of Human Rights, art. 26.3)

**The motion for a resolution however only refers to parents as “other stakeholders”** when referring to the development, implementation and evaluation of the programmes (43). It further *“encourages the use of peer educators in sexuality*

*education as a good way to lead to empowerment and **calls on the Member States and candidate countries to make use of other various methods in reaching out to young people, such as publicity campaigns, social marketing for condom use and other methods of contraception, and initiatives such as confidential telephone helplines.***

It also *“calls on Member States to provide adolescent-friendly sexual and reproductive health services (...) are to be accessible without the consent of parents or guardians”* (46).

**In other words parents are both considered as a stakeholder amongst others, namely peers of their children, and supposed to be left out of issues that have a major impact on their children.**

## **8. What kind of sexual education?**

Referring to sexual education the motion for a resolution calls for making *“sex education classes compulsory for all primary and secondary school children”* (para 43).

It also *“reminds Member States that they must **ensure that children and young people can enjoy their right to seek, receive and impart information related to sexuality, including sexual orientation, gender identity and gender expression, in an age-appropriate and gender-sensitive manner**”* (para 50).

The motion for a resolution refers to the report of the World Health Organisation Regional Office for Europe and the German Federal Centre for Health Education (BZgA) entitled **‘Standards for Sexuality Education in Europe: A framework for policy makers, educational and health authorities and specialists’**<sup>3</sup>, published in 2010.

**This is the sole reference included in the motion for a resolution.**

Whilst including important aspects of education, these “standards” also invite educators to do the following:

### **Age 0-4 years**

*“Give information about enjoyment and pleasure when touching one’s body, **early childhood masturbation**”*

*“Enable children to gain an awareness of **gender identity**”*

*“Give the right to explore **gender identities**”*

### **Age 4-6 years**

*“Give information about **early childhood masturbation**”*

*“Enable children to **consolidate their gender identity**”*

*“Help children **develop a positive gender identity**”*

*“Give information about same-sex relationships”*

*“Give information about different kinds of (family) relationships and **different concepts of a family**”*

*“Help children develop respect for different norms regarding sexuality”*

### **Age 6-9 years**

*“Help children to develop a positive **gender identity**”*

*“Give information about **the basic idea of contraception** (it is possible to plan and decide about your family) and **different methods of conception**”*

*“Give information about enjoyment and pleasure when touching one’s own body, **early childhood masturbation**”*

*“Give information about friendship and **love towards people of the same sex**”*

### **Age 9-12 years**

*“Give information about different types of contraception and their use; myths about contraception and **enable children to use condoms and contraceptives** effectively in the future”*

*“Give information about gender orientation and **differences between gender identity and biological sex**”*

*“Give information about pleasure, **masturbation, orgasm**”*

*“Give information about **sexual rights as defined by the International Planned Parenthood Federation** and the World Association for Sexual Health”*

### **Age 12-15 years**

*“Give information about **pregnancy (also in same-sex relationships) and infertility**”*

*“Give information about **gender identity and sexual orientation**, including coming-out/homosexuality”*

*“Give information about pleasure, **masturbation, orgasm**”*

*“Enable teenagers to obtain and use condoms and contraceptives effectively”*

*“Give information about **sexual rights as defined by the International Planned Parenthood Federation** and the World Association for Sexual Health”*

### **Age 15 and up**

*“Give information about fertility changes with age (**surrogacy, medically assisted reproduction and “designer” babies, genetics**)”*

*“Help teenagers to develop a **critical view of different cultural/religious norms related to pregnancy, parenthood, etc.**”*

*“Help teenagers to develop a change from possible negative feelings, disgust and hatred towards homosexuality to acceptance and **celebration of sexual differences**”*

*“**Give information about** sexual rights: access, information, availability, violations of sexual rights, **right to abortion**”*

## 9. The failure of mandatory sexual education and free access to contraceptives and abortion, the case of Sweden

The explanatory statement presents the Member States with the **highest number of reported abortions**, among which Sweden is found. **Sweden has mandatory sexual education at school since 1955 (first country among the Member States), free access to contraceptives and abortion, without parental consent for adolescents.**

**At school pupils are offered a mandatory sex education curriculum in all subjects, ranging from maths to music.** A recent proposal from the Swedish National Planned Parenthood Association (RFSU) called “Sex in School”<sup>4</sup> has brought about a lot of debate, namely on the behalf of parents who are shocked by its contents. **The programme aims at deconstructing gender stereotypes, at school. No room is intended for parental involvement.**

The result: **19,8 abortions per 1000 women aged 15-19 years** in 2011<sup>5</sup>. Moreover, the general health of adolescents is bad, the main death cause for this age group is suicide.

## 10. Exporting abortion abroad – the new colonialism?

The motion for a resolution calls for a specific line on SRHR under the thematic lines of the Development Cooperation Instrument (para. 73) and also *“urges the EU to ensure that European development (...) has a strong and explicit focus, and concrete targets on SRHR, paying particular attention to family planning services, maternal and infant mortality, **safe abortion**”*(para 78).

## 11. Respect for the principle of subsidiarity?

The principle of subsidiarity is one of the cornerstones of the European Union. This motion for a resolution does not take this principle into consideration given the fact that neither abortion, nor sexual education or access to fertility treatments and assisted reproduction lies within the competency of the EU. The approach is all the more surprising considering the very different views on these issues as outlined above.

**The motion for a resolution is clearly an attempt to impose a view on these sensitive issues that is inconsistent with national legislations and cultures, so also in the case of development aid beyond the EU itself.**

## 12. Freedom of conscience

*“The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.”* (art. 10.2)

The human right of conscientious objection does not compete with the responsibility of the state to ensure that patients are able to access medical care, in particular in cases of emergency prenatal and maternal health care.

Conscientious objection is a right, it is also a safeguard in the medical practice which becomes all the more important as technology offers new solutions: these solutions are sometimes **technical responses to human needs but do not necessarily take into account the human dimension with full respect for the dignity of each person, at every stage of life.**

No person, hospital or institution should therefore be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to practices which could cause the death of a human embryo or fetus.

## 13. The EU leading the way forward?

It is positive that the issue of surrogacy motherhood is addressed with an emphasis on *“the commodification both of women’s bodies and children, and represents a threat to the bodily integrity and human rights of women”* (para 9).

Two questions arise: is it in the competency of the EU to act on this issue and if so what is it doing to prevent this practice?

According to the UNFPA and the WHO 287 000 women die every year due to complications linked to pregnancy and child birth. This is clearly stated in the report presented by Mrs Estrela. However, **abortion is not a solution to this problem.** Abortion is a technical solution to a human problem, it does not meet the full needs of women and children. In fact, women die because they do not have access to basic health care, both pre and post natal.

**How is the EU planning to develop appropriate help?**

The motion for a resolution underlines *“that in no case must abortion be promoted as a family planning method”* (para 32) and that *“the Member States should implement policies and measures aimed at preventing people from having abortions for social or economic reasons and providing support to mothers and couples in difficulties”* (para 33). Further it *“Insists that Member States draw up measures providing for work with young and under-age mothers and expectant mothers to support them in*

*coping with the problems of early motherhood and to prevent cases of new-born babies being killed”* (para 51).

**Question: If abortion is not to be promoted as a family planning method, the very motion for a resolution is inconsistent as it seeks to widen access to abortion both in the EU and beyond. What does the EU do to encourage Member States to support young mothers and fathers?**

“Young people have access, from an early age, to pornographic and degrading content, especially via the internet” (para 54) and the “**phenomenon of sexualisation of young girls in audiovisual and digital content** to which young people have access” (para 55) are two problems referred to in the motion.

However, it seems that **the protection of minors on the internet is challenged by the idea of free access to data**. Regarding the sexualisation of young girls it is deplorable that the Committee of Women’s Rights and Gender Equality did not manage to present the report on this issue launched by Polish MEP Joanna Katarzyna Skrzydlewska in June 2012.

**What does the EU do to protect minors from inappropriate contents, whether it be on the internet or other media?**

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<http://curia.europa.eu/juris/document/document.jsf?text=&docid=111402&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=11491>

<sup>2</sup> [www.oneofus.eu](http://www.oneofus.eu)

<sup>3</sup> <http://www.bzga-whooc.de/?uid=88d2a324545841d0b5c068043bca8bf7&id=Seite4489>

<sup>4</sup> <http://www.rfsu.se/sv/Sexualundervisning/Metod-och-handledning/Planera/Sex-i-skolan---ett-stodmaterial/>

<sup>5</sup> <http://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/18877/2012-11-6.pdf>