



Access to Contraceptives in the European Union

Human Rights, Barriers and Good Practices

Human Rights Framework*

Under international human rights law, states have an obligation to provide women with access to a full range of contraceptives and contraceptive information.** This obligation is firmly rooted in women's right to decide the number and spacing of their children, the right to health, the rights to equality and non-discrimination and the right to privacy. By reducing the number of unintended pregnancies and allowing women to properly space births, modern contraceptives help prevent 215,000 pregnancy-related deaths and 2.7 million infant deaths worldwide every year. Additionally, being able to plan pregnancies increases women's status and decision-making power, which results in enhanced access to education and employment. It also allows women to provide adequate care, nutrition, housing and education for their existing children. Recognizing as much, international bodies repeatedly call on states to ensure women have access to contraceptives. The United Nations (UN) Committee on Economic, Social and Cultural Rights, for example, has made clear that the right to health encompasses the right to sexual and reproductive health, which obligates states to ensure affordable access to contraceptives and contraceptive information. Similarly, the UN Committee on the Elimination of Discrimination against Women, fearing that lack of access to contraceptives leads women to use unsafe medical procedures, such as illegal abortions, has encouraged states to increase access to contraceptives through insurance coverage and considers such access part of the right to health. The UN Human Rights Committee is likewise concerned that lack of access to contraceptives puts women's life at risk and, citing the right to privacy and non-discrimination, has made clear that women should be ensured access to contraceptives.

* This fact sheet was drafted by Roseanne Kross from White & Case LLP.

** A "full range of contraceptives" includes female-controlled contraceptives – providing access to condoms alone is not enough. While condoms are an important birth control and help protect against sexually-transmitted infections, women may not always be able to negotiate their use with a partner. Therefore, access to female-controlled contraceptives is crucial.

Barriers to Access

Despite a clear obligation under international human rights law and sound public policy justifications, women are still faced with significant barriers to accessing contraceptives. One of the main barriers is their relatively high cost. Especially in countries where contraceptives are not covered by public health insurance, they are out of reach for many women. Also standing in the way of access is the lack of sound information on contraceptives. In many countries sexuality education is inadequate, and family planning services provided by health professionals, sometimes based on an improper use of conscientious objection, may fall short. In places where the Catholic Church hierarchy plays an important role, its influence may reinforce these barriers. The inability to use modern contraceptives exposes women to unwanted pregnancies and puts their health and well-being at risk. For young women, an unintended pregnancy could mean having to drop out of school and being forced into marriage. For some families, the financial burden of an unwanted pregnancy can be serious and undermine the well-being of existing children. For women in violent relationships, not being able to control their own fertility may lead to bringing children into a violent home, while increasing dependence on the abuser, who will often control all finances. If women are to fulfill their potential and break cycles of poverty and abuse, access to modern, female-controlled contraceptives is key.

WHO Model List of Essential Medicines

Since 1977, the World Health Organization (WHO) has been publishing a Model List of Essential Medicines. Essential medicines, as explained by the WHO, satisfy the priority healthcare needs of the population and should be available “at all times in adequate amounts...at a price the individual and the community can afford.” A wide range of modern contraceptives, including oral hormonal contraceptives, injectable hormonal contraceptives, intrauterine devices (IUDs), barrier methods, implantable contraceptives and emergency contraception, is found on the WHO’s Model List. Under the right to health guaranteed by the International Covenant on Economic, Social and Cultural Rights it is a core state obligation to provide access to drugs on this list. **European Union countries thus must ensure that contraceptives are available to all women, whether rich or poor.**

Contraceptive Access in the European Union

Citing human rights, but also public health, social policy and economic grounds, a majority of countries in the European Union aim to make affordable contraceptives and contraceptive information available to women. Yet, in some Member States, for example in Austria, Bulgaria, Poland, Lithuania and Slovakia, access remains an issue. In several of those countries, a comprehensive legal and policy framework on reproductive health and rights is not in place. Most importantly, and perhaps as a result, contraceptives are not subsidized under public health insurance schemes, which put them out of reach for many women. In Slovakia, for example, contraceptives used solely for pregnancy prevention are understood as “life-style drugs” and are as such explicitly banned from coverage under public health insurance by law.

Promoting Access to Contraceptives: Selected Good Practices from Across the European Union

Germany – In Germany, using subsidized contraceptives requires a prescription. With a prescription, hormonal contraceptives, emergency contraception and IUDs are completely covered by the country's mandatory health insurance scheme for women under the age of 18. For women aged 18 and 19 there is a 10% co-pay, capped at 10 euros per prescription. For women who are 20 years or older, contraceptives are only covered when used for reasons other than pregnancy prevention (for example to prevent menstrual pain). Seeing a doctor, including to obtain a prescription or for consultations on contraceptives, is free for everyone under the age of 18 and is 10 euros per quarter for adults.

Romania – In Romania, all citizens are insured under the country's national health insurance scheme and are generally required to make contributions to the national healthcare fund. Women who make the required contributions or are exempt from contributing can obtain hormonal contraceptives and IUDs for free, and injectable hormonal contraceptives at half their regular price if they have a prescription. Getting a prescription is free of charge, as are family planning consultations. For those who are required to make contributions but fail to do so, a minimum health insurance package is in place. That package includes free family planning consultations, but does not include access to subsidized contraceptives or free prescriptions. In addition to providing subsidized contraceptives through insurance, Romania's National Program for the Healthcare of Women and Children makes condoms and hormonal contraceptives available for free at family planning centers throughout the country for the most vulnerable groups of society, such as those who live in rural areas, are unemployed, receive social benefits or are in school.

Spain – In Spain, the National Health System covers all residents and is administered on a regional level by the country's Autonomous Communities (ACs), which each have their own regulations regarding contraceptive subsidization. However, both male and female condoms are generally available free of charge or at subsidized prices. Additionally, all pharmacies in Spain are required to dispense emergency contraception without a prescription and with no age restrictions. Emergency contraception typically costs around 18 euros, although some ACs provide it for free in public health clinics. In March 2010, a new law on reproductive health led to the Ministry of Health for the first time subsidizing hormonal contraceptives as birth control. The law covers three types of hormonal contraceptives. As a result, all women covered by the National Health System are now able to obtain some contraceptives at reduced prices (around 6-7 euros for one packet of hormonal contraceptives).

United Kingdom – Prescription drugs, including contraceptives, are completely subsidized in Wales, Northern Ireland and Scotland. In England, there is a standard prescription charge of around GBP 7 per item. However, free prescriptions are available for certain groups, including adolescents and low-income women. In addition, in most of the UK, women and girls 16 years or older have access to emergency contraception without a prescription. Emergency contraception can be obtained free of charge at contraception clinics and most sexual health clinics, which also provide free family planning consultations. It may also be purchased from private clinics and pharmacies for around GBP 25 or free of charge for women of all ages if they have a prescription. In Wales, emergency contraception is available without a prescription and for free, including at pharmacies, for girls who are 13 years or older. Contraceptive subsidization in the UK is intended to reduce unplanned pregnancies, decrease the number of abortions and protect against the spread of sexually-transmitted infections. It is estimated that for every pound spent on teen pregnancy prevention and contraceptive subsidization, as much as GBP 11 are saved.

Recommendations

The ability of women to control their own fertility is essential to their health and empowerment. It is also essential to achieving gender equality in the EU. The following recommendations include some of the key actions that EU institutions and Member States should undertake.

All European Union Institutions should

- recognize that sexual and reproductive rights, including access to contraceptives and contraceptive information, are fundamental to the achievement of gender and health equality in the EU.

The Commission should

- systematically collect data on sexual and reproductive health indicators, including contraceptive prevalence and the unmet need for contraceptives in all Member States, to serve as a measure of gender and health equality.
- organize the exchange of best practices and establish guidelines on sexual and reproductive health, particularly relating to access to contraceptives, as authorized by the Treaty of Lisbon.

Member States should

- act on the Parliament's Resolution of 8 March 2011 on equality between women and men in the EU, which stresses that women must have control over their sexual and reproductive rights and calls for easy access to contraceptives.
- ensure access to all modern contraceptive methods for women from all socioeconomic classes and age groups and collect, on a systematic basis, sound data related to sexual and reproductive health and rights, including data on contraceptive use and unmet need for contraceptives.