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TEXTS ADOPTED

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**P9\_TA(2021)0419**

**The state law relating to abortion in Texas, USA**

**European Parliament resolution of 7 October 2021 on the state law relating to abortion in Texas, USA (2021/2910(RSP))**

*The European Parliament,*

- having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 November 2020 on the EU Gender Action Plan (GAP) III – an ambitious agenda for gender equality and women’s empowerment in EU external action (JOIN(2020)0017),
- having regard to the WHO’s guidance entitled ‘Safe abortion: technical and policy guidance for health systems’,
- having regard to the International Covenant on Civil and Political Rights of 1966,
- having regard to the International Covenant on Economic, Social and Cultural Rights of 1966,
- having regard to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979,
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (‘the Istanbul Convention’),
- having regard to the Convention on the Rights of the Child of 1989,
- having regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984,
- having regard to the Convention on the Rights of Persons with Disabilities of 2006,
- having regard to the statement by the Office of the UN High Commissioner for Human Rights of 14 September 2021 entitled ‘UN experts denounce further attacks against right to safe abortion and Supreme Court complicity’,
- having regard to Articles 2 and 3 of the Treaty on European Union,
- having regard to the UN Sustainable Development Goals (SDGs) agreed in 2015 and, in particular, Goals 3 and 5, on promoting health and on gender equality respectively,

- having regard to the Charter of Fundamental Rights of the European Union (“the Charter”),
  - having regard to the 1994 International Conference on Population and Development (ICPD) in Cairo, its Programme of Action, and the outcomes of its review conferences,
  - having regard to the Nairobi Statement on the 25th anniversary of the International Conference on Population and Development (ICPD25) of 1 November 2019 entitled ‘Accelerating the Promise’ and to the national and partner commitments and collaborative actions that were announced at the Nairobi Summit,
  - having particular regard to its resolution of 24 June 2021 on the situation of sexual and reproductive health and rights in the EU, in the frame of women’s health<sup>1</sup>, declaring access to reproductive healthcare a fundamental pillar of women’s human rights, and the denial thereof to be a form of violence against women and girls,
  - having regard to the Beijing Platform for Action and the outcomes of its review conferences,
  - having regard to the Constitution of the United States of America,
  - having regard to the Roe v. Wade ruling of 1973, and affirmed in the Planned Parenthood v. Casey, and Whole Woman’s Health v. Hellerstedt rulings, which establishes the US constitutional right for pregnant women to decide whether to continue a pregnancy pre-viability,
  - having regard to 2021 Texas Senate Bill 8 (SB8) ‘Relating to abortion, including abortions after detection of an unborn child’s heartbeat; authorizing a private civil right of action’,
  - having regard to the US Supreme Court order of 1 September 2021 refusing to block Texas law SB8,
  - having regard to Rules 144(5) and 132(4) of its Rules of Procedure,
- A. whereas on 1 September 2021, the State of Texas enacted SB8, prohibiting women from accessing abortion care following the commencement of foetal cardiac impulses, de facto as little as six weeks since the last menstrual cycle, necessitating two separate ultrasound scans before the procedure may be performed, and with no exception if the pregnancy results from for rape, incest or for foetal health conditions incompatible with sustained life after birth; whereas SB8 amounts to a near-total abortion ban;
  - B. whereas both the USA and the EU must uphold the principle of human rights as inalienable and inherent to all human beings;
  - C. whereas the fundamental nature of the transatlantic partnership means that it is rooted in our shared values, including respect for human rights;
  - D. whereas gender equality, empowering all women and girls, ensuring healthy lives, ending poverty everywhere and promoting well-being for all at all ages are fundamental

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<sup>1</sup> Texts adopted, P9\_TA(2021)0314.

goals set out in SDGs 1, 3 and 5; whereas all UN Member States have assumed duties and obligations to respect and promote these goals set out in the SDGs, including targets 3.7 and 5.6 on sexual and reproductive health and rights (SRHR);

- E. whereas SRHR are grounded in fundamental human rights, are protected in international and European human rights law such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, CEDAW and the European Convention on Human Rights, and constitute an essential element of comprehensive healthcare provision;
- F. whereas the Committee on the Elimination of all Forms of Discrimination against Women and the UN Committee on the Rights of Persons with Disabilities issued a joint statement in August 2018 emphasising that access to safe and legal abortion, as well as to related services and information, is an essential aspect of women's reproductive health, and urging countries to put an end to restrictions on the SRHR of women and girls, as this threatens their health and lives; whereas access to abortion is a human right, while the delaying or denying access to abortion constitutes a form of gender-based violence and may amount to torture and/or cruel, inhuman and degrading treatment; whereas SRHR are targets under UN SDGs 3 and 5, and whereas gender-based violence and eliminating all harmful practices against women is a target under SDG 5;
- G. whereas access to comprehensive sexuality and relationship education, and SRHR, including family planning, contraceptive methods and safe and legal abortion, as well as every person's autonomy and ability to make free and independent decisions about their bodies and lives, is a precondition for their independence and is thus essential for achieving gender equality in all areas of private and public life, including participation in the labour market and in politics, and eliminating gender-based violence; whereas the principle of 'their body, their choice' applies;
- H. whereas engaging men and boys for and in SRHR is both a goal and a prerequisite for achieving sustainable equality;
- I. whereas the realisation of SRHR is an essential element of human dignity and is intrinsically linked to the achievement of gender equality and combating gender-based violence; whereas the participation of women and girls in the formulation of laws and policies that affect them and concern their human rights, including SRHR and abortion, and ensuring that they can access justice and remedies when their rights are violated, is key to achieving gender equality;
- J. whereas the right to respect for a person's physical and mental integrity is central to the Charter;
- K. whereas in the landmark case *Roe v. Wade*, the Supreme Court legalised abortion across the US, which establishes the US constitutional right for pregnant women to decide whether to continue a pregnancy pre-viability; whereas this was further affirmed in *Planned Parenthood v. Casey* and *Whole Woman's Health v. Hellerstedt* cases;
- L. whereas 12 other US states have enacted bans on abortion early in pregnancy, but have all been blocked from entering into force by being declared unconstitutional by federal courts;

- M. whereas SB8 bans abortion after approximately six weeks of pregnancy and whereas given that prior to SB8, around 85 to 90 % of women who obtained abortion care in Texas were at least six weeks into pregnancy, the law will lead to the de facto end of abortion care in the state;
- N. whereas SB8 is designed to absolve government officials from enforcing the law, but instead incentivises private citizens to seek monetary rewards by suing anyone who provides abortion care or assists someone in obtaining such care in the state, which will most likely lead to legalised harassment of healthcare providers, women in need of abortion care and anyone who helps them, including their loved ones; whereas SB8 will in any case lead to a chilling effect on healthcare providers;
- O. whereas the Committee on the Elimination of Discrimination Against Women has observed that criminalising abortion serves no deterrent value; whereas, as noted by the Working Group on discrimination against women and girls, where there are legal restrictions on abortion, safe termination of pregnancy becomes a privilege of socio-economically advantaged women, while women with limited resources are compelled to resort to unsafe and clandestine abortions, thereby putting their life and health at risk; whereas as has already been seen in other cases of abortion restrictions, SB8 will disproportionately affect people already facing discrimination or obstacles in accessing health care, including racialised people, ethnic minorities, undocumented women and those living on low incomes or in rural areas who do not have the means to travel in order to access these services;
- P. whereas prohibiting abortion and thereby forcing women to seek unsafe abortions results in increased maternal mortality, deaths that are entirely preventable;
- Q. whereas Texas has already enacted 26 abortion restrictions in the past decade, including this year's ban on abortion after six weeks and a ban on abortion that would take effect if *Roe v. Wade* were overturned; whereas during this time, the number of abortion clinics in the state has gone down from 46 in 2011 to only 21 clinics in 2017; whereas this means that women cannot access the care they need;
- R. whereas abortion was already difficult to access in Texas and in other regions across the United States, and those who face barriers to obtaining health care, including marginalised and vulnerable groups, primarily those with lower incomes, are those who feel the greatest impact from a ban such as SB8;
- S. whereas with abortion to all intents and purposes being banned in Texas, patients are heading to reproductive health clinics in neighbouring states and overwhelming the region's fragile abortion infrastructure; whereas more than 56 000 abortions take place in the state of Texas each year; whereas it seems unlikely that neighbouring states would be able to accommodate all the patients who would typically be getting abortions since the enactment of SB8;
- T. whereas among adolescent girls aged between 15 and 19, pregnancy and childbirth complications are the leading cause of death globally; whereas the Committee on the Rights of the Child urges countries to decriminalise abortion and ensure that girls have access to safe abortion services; whereas teenage pregnancy exacerbates the cycle of poverty; whereas Texas is the seventh state with the highest teen birth rates in the US, and the state with the highest rate of repeat births among teens; whereas Hispanic and

African American girls have particularly high rates of teen pregnancy, as well as girls with low educational attainment, living in rural areas, in foster care, and those living in poverty; whereas teenage mothers are significantly more likely to discontinue their studies and face unemployment; whereas 65 % of children born to young parents in Texas live in poverty, and are more likely to be in poor health and have low educational attainment;

- U. whereas SB8 is one of the strictest abortion measures in the US, banning abortions in the state after foetal cardiac activity is detectable, with an exception only for medical emergencies but not for rape, incest or for foetal health conditions incompatible with sustained life after birth; whereas this constitutes a form of gender-based violence that may amount to torture or cruel, inhumane or degrading treatment;
- V. whereas the Center for Reproductive Rights and its partners filed an emergency request with the US Supreme Court on 30 August 2021 to block the law in Texas from entering into force;
- W. whereas the bill was opposed by more than 300 Texas lawyers, who said it undermined long-standing rules and tenets of the legal system; whereas more than 200 physicians across Texas expressed deep concerns over their ability to administer healthcare, cautioning that the bill would create a ‘chilling effect’ that would prevent physicians in over 30 specialties, including primary care, emergency medicine, obstetrics-gynaecology and internal medicine, from providing information on all pregnancy options to patients for fear of frivolous lawsuits;
- X. whereas UN human rights experts have denounced the adoption of the SB8 as alarming, as well as the harm the ban will cause to pregnant women in Texas and, in particular, women from marginalised communities, women with low incomes, women living in rural areas, and women from racial and ethnic minorities, as well as migrant women, who will be disproportionately affected by this ban, and have called on the US Government to prevent retrogression in access to abortion and instead enact positive measures to ensure access to safe and legal abortion;
- Y. whereas the US Supreme Court ruled by five to four against blocking the Texas law, stating that the challengers did not carry their burden on the ‘complex and novel antecedent procedural questions’ in the case;
- Z. whereas on 9 September 2021 the US Department of Justice filed a lawsuit against Texas, arguing that the ban violates an individual’s constitutional right to an abortion before viability, and whereas the federal district court has set a preliminary injunction hearing for 1 October 2021;
- AA. whereas President Biden has declared that the bill represents an ‘unprecedented assault on a woman’s constitutional rights’, pledging a ‘whole-of-government effort’ to counter the law and calling for ‘women in Texas to have access to safe and legal abortions’, and affirmed in his statement that the Biden-Harris Administration will always fight to protect access to healthcare and defend a woman’s right to make decisions about her body and determine her future;
- AB. whereas the Guttmacher Institute’s report of September 2019 entitled ‘Abortion Incidence and Service Availability in the United States, 2017’ noted a worrying upward trend of

potentially dangerous non-medical attempts at self-induced abortion in American states with restrictive access to reproductive healthcare;

1. Joins the vocal condemnations across the USA of the adoption by the Texas Legislature of SB8, which de facto amounts to a total ban on abortion with no exception for rape, incest or for foetal health conditions incompatible with sustained life after birth, as a strong attack on women's freedom and SRHR which are fundamental human rights, and as a violation of US women's constitutional rights; is deeply concerned about the extent to which this prohibition will contribute to the trauma experienced by rape and incest victims;
2. Calls on the Government of the State of Texas to swiftly repeal SB8, to ensure safe, legal, free and good quality abortion services in the State and to make these services easily accessible to all women and girls;
3. Expresses its firm solidarity with and support to the women of Texas and those involved in both the provision of and advocacy for abortion healthcare in such trying circumstances;
4. Welcomes President Joe Biden's efforts in directing the Council and the Office of the White House Counsel to launch a whole-of-government effort to respond to the decision, in order to ensure that women in Texas have access to safe and legal abortions as protected by *Roe v. Wade*; welcomes the fact that on Friday 1 October 2021, President Joe Biden's Administration urged a judge to block the ban on abortion imposed by Texas;
5. Expresses its full support and solidarity to medical professionals and those engaged in legal challenges against Senate Bill 8, in the hope that their work will result in the restoration of Texan women's right to reproductive healthcare; recognises the role played by NGOs as service providers and also as advocates for SRHR in the US, and encourages them to continue with their work as advocates for these fundamental rights; affirms that these NGOs need a proper level of funding in order to operate;
6. Underlines that on 14 September 2021, the UN experts stressed that 'women's human rights are fundamental rights that cannot be subordinated to cultural, religious or political considerations', and that 'adding that the influence of ideologically and religiously motivated interference in public health matters has been particularly detrimental to the health and well-being of women and girls';
7. Deeply regrets the fact that the US Supreme Court, by a sharply divided split decision (four to five), declined to rule on blocking the introduction of the unprecedented SB8; recalls that this decision does not mean that the law has been deemed constitutional;
8. Calls on President Joe Biden to continue his efforts to ensure access to safe and legal abortions; encourages further efforts to be made in order to ensure that abortion and contraception are integrated within the provision of comprehensive SRHR information and services, that they are universally accessible, and in order to secure continued access during emergency situations, such as the COVID-19 pandemic;
9. Calls on the United States Government to fully decriminalise abortion, which requires not only putting an end to the penalisation of pregnant women and girls, healthcare

providers and others for accessing, assisting with or providing abortion services, but also removing abortion from criminal law statutes and abolishing all other punitive laws, policies and practices;

10. Calls on the United States Government to establish federal legal protection for universal access to abortion; stresses that health is a human right, and that it is the obligation of the state to provide accessible healthcare to all;
11. Calls on the United States Congress to pass federal legal protection for access to abortion through the Women's Health Protection Act (WHPA), which recently passed the US House of Representatives in an historic vote and which safeguards abortion from the imposition of state-level bans and restrictions;
12. Stresses that highly restrictive laws prohibiting abortion do not reduce the need for abortions, but result in women having to seek clandestine abortions, to travel in order to obtain abortions or to carry their pregnancy to term against their will, which is a violation of human rights and a form of gender-based violence affecting women's and girls' rights to life, physical and mental integrity, equality, non-discrimination and health;
13. Highlights that only education, information and universal access to contraception, the eradication of sexual violence and shared responsibility for contraception can reduce the number of unintended pregnancies; stresses that universal access to age-appropriate and evidence-based sexuality and relationship education, to a range of high-quality and universally accessible modern contraceptive methods and supplies, to family planning counselling and information on contraception, and guarantees of safe and legal abortion care should be prioritised;
14. Is deeply concerned about the fact that this law will disproportionately affect people experiencing socioeconomic hardships, people living in rural areas, racialised people, LGBTIQ+ people and those experiencing multiple and intersecting discrimination, mostly vulnerable groups of women who, due to financial or logistical barriers, cannot afford to travel to reproductive health clinics in neighbouring states, leaving them at greater risk of undergoing unsafe and life-threatening procedures, and at greater risk of being forced to carry their pregnancy to term against their will;
15. Deeply questions the moral context and is, furthermore, concerned about the design of this law which empowers and gives monetary incentives to private citizens to sue anyone who may have helped women obtain an abortion, such as abortion providers or abortion care advocates, thus opening the floodgates to harassment and frivolous lawsuits from anti-abortion vigilantes and laying the groundwork for witch hunts in the 21st century;
16. Calls on the United States Government to put an end to any bounty-based system of state or individual enforcement of abortion bans that creates a climate of fear and intimidation;
17. Is deeply concerned about the effect of Texas law on other US states, which will be encouraged by the inaction of the US Supreme Court, and will attempt to pass abortion bans across the country, as has already been seen in Florida;

18. States that this law, one of 26 restrictions on abortion already enacted in Texas in the last decade, constitutes a further attempt to undermine women's rights and their reproductive freedom, as well as their right to healthcare, and takes into account neither women's constitutional rights nor the will of the people;
19. Is concerned that this law not only leads to a de facto ban on abortion, but also flagrantly violates women's human rights, in complete disregard of international human rights standards, including the principle of non-retrogression, and that it limits access to healthcare by reducing the number of care facilities treating women, leading to a care gap for women and further endangering women's lives;
20. Strongly condemns the backsliding in women's rights and SRHR taking place in the US and globally, and calls on the European External Action Service (EEAS), the Commission and all EU Member States to use all instruments at their disposal to strengthen their actions to counteract it; recalls that SRHR are fundamental human rights which should be enhanced and cannot in any way be watered down or withdrawn;
21. Underlines that, in keeping with the Beijing Platform for Action and the ICPD Programme of Action, the right of all individuals to bodily integrity and autonomy needs to be protected, and access to essential services giving effect to this right need to be ensured; calls for a comprehensive approach in the essential sexual and reproductive health package, including measures for preventing and avoiding unsafe abortions, as well as the provision of post-abortion care, to be integrated into the national universal health coverage strategies, policies and programmes;
22. Is concerned by the upcoming consideration of the Supreme Court with *Roe v. Wade* and that this groundbreaking ruling which guarantees women's rights could be overturned in the near future; fears that this would have a severe and broad impact on the access to healthcare and free choice of women in other states, given the fact that a further 11 states have so-called trigger laws banning the right to abortion currently in place, which would automatically enter into force in the event that *Roe v. Wade* were overruled;
23. Welcomes the Biden Administration's lifting of the global anti-abortion gag rule and its intention to restore US funding to the United Nations Populations Fund (UNFPA), the UN's sexual and reproductive health agency; urges that this restoration of funding enter into effect without delay;
24. Recalls that one of the five pillars of GAP III of the EEAS is promoting SRHR; calls for the EU and its Member States to ensure that human rights clauses, including the right to free and safe abortions, are respected and promoted in all international relations with the US;
25. Calls on the EU delegation in the US to monitor the situation of SRHR in Texas and other states, and to prioritise SRHR in its engagement with the relevant US authorities and in its local implementation of GAP III;
26. Calls for the EU and the Member States to offer all possible support, including financial support, to US-based civil society organisations protecting and promoting SRHR in the country, as an expression of its universal commitment to these rights; calls further on the Member States to offer a safe haven for all medical professionals who might be at



risk of legal or other forms of harassment as a result of their legitimate work; recalls that a total ban on abortion care or the denial of abortion care is a form of gender-based violence;

27. Calls on the EU Special Representative for Human Rights to denounce this violation of women's sexual and reproductive rights in his exchanges with US officials;
28. Calls on the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy to condemn and denounce this violation of women's sexual and reproductive rights and their right to healthcare in his exchanges with US officials;
29. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Human Rights, the President of the United States of America and his Administration, the US Congress and to the Governor and Legislature of the State of Texas.