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The European Consensus on Selected Socially Sensitive Issues as an Expression of the Evolution of European Political Systems

Abstrakt: This article explores the notion of European consensus on selected socially sensitive issues – same-sex relationships, abortion, euthanasia, and assisted suicide. It investigates how these topics are addressed in Western and Central-Eastern Europe, with particular attention to the interplay between EU law and national legal and political frameworks. The research focuses on how customary change is negotiated through legal norms, political debate, and social values. It asks how EU integration and European case law influence national policymaking, and how differing historical and political contexts shape policy divergence. The study is based on a qualitative and comparative methodology, combining legal analysis of European case law, comparative review of national legislation and case law, and discourse analysis of EU institutional debates. Findings suggest that Western European countries generally implement more progressive reforms, while Central-Eastern European states proceed more cautiously, constrained by conservative traditions. The article concludes that while EU legal standards exert integrative pressure, local contexts continue to define the limits of normative convergence. A balance between liberal and conservative approaches is necessary to maintain both legal coherence and cultural pluralism within the EU.

Key words: abortion; assisted suicide; European consensus; euthanasia; same-sex relationships; sensitive issues

Introduction

Socially sensitive issues touch upon fundamental values and often provoke strong emotions, controversial public debates, and significant policy responses. The European Union (EU), founded on principles of democracy, freedom, equality, and respect for human dignity (Treaty on European Union, 2012), requires Member States to uphold these values (Article 2). However, notable differences persist between Western and Central-Eastern Europe, shaped by distinct historical, cultural, and political traditions.

One of the key interpretative tools in assessing the alignment of national regulations with European human rights standards is the doctrine of European consensus. Developed primarily by the European Court of Human Rights (ECtHR) and increasingly referenced by EU institutions, this concept enables a balance between shared European values and national identity. It serves as a flexible mechanism for evaluating whether domestic laws reflect a common standard among Member States, while allowing room for cultural diversity and legal pluralism (Letsas, 2007).

This article investigates how the concept of European consensus on selected socially sensitive issues is negotiated between EU-level legal standards and national sovereignty. It aims to explore the mechanisms through which European consensus is formed on selected socially sensitive issues. The research problem focuses on the tension between

supranational legal standards and national sovereignty in shaping policies on abortion, euthanasia, assisted suicide, and same-sex relationships in Europe.

The article builds on a broad body of literature in European legal studies and political science, including foundational works on EU constitutionalism and human rights interpretation, such as Letsas (2007), and analyses of democratic backsliding in Central Europe, notably Sadurski (2020). It also draws on scholarship examining Western European legal and political culture. Ferrera (2005) and Offe (2006) explore how European integration reshapes welfare and identity in Western democracies, while Peers et al. (2014) and De Schutter (2014) provide insights into the institutionalisation of human rights and legal pluralism across Western EU Member States. Furthermore, the article engages with recent studies on LGBT+ rights, reproductive autonomy, and comparative legal reform, including Kocemba (2025), as well as expert and policy reports from ILGA-Europe (2025), FRA (2023), Amnesty International (2024), and Human Rights Watch (2021).

The study addresses key questions on how European consensus is applied to sensitive issues, how EU norms influence national laws, and whether consensus promotes liberalisation or accommodates diversity. Using a qualitative comparative approach, it combines legal analysis of EU and national frameworks, a review of legislation in Western and Central-Eastern Europe, and discourse analysis of institutional debates. This multi-method design reveals how legal, political, and cultural factors interact in shaping European consensus.

The article is structured to reflect the multidimensional nature of European consensus. It begins with an overview of Western Europe's legal and political culture, followed by an analysis of Central-Eastern Europe's constitutional conservatism. The third section compares political debates across both regions, while the fourth examines European consensus through case law on same-sex unions, abortion, and assisted dying. The conclusion synthesises these insights, highlighting the tension between EU integration and national pluralism in shaping sensitive social policies.

Political Culture of Western Europe

In Western Europe, civil rights debates – covering LGBTQ+ partnerships, abortion, and euthanasia – are largely shaped by liberal legal reforms rooted in constitutional principles, with strong support from EU institutions promoting human rights and monitoring potential restrictions.

Same-sex unions have seen significant legal progress. Denmark was the first country to introduce registered partnerships in 1989 (*Lov om registreret partnerskab*, 1989) followed by the Netherlands in 1998 (*Wet geregistreerd partnerschap*, 1997). In 2001, the Netherlands became the first country to legalise same-sex marriage (*Wet toetsing levensbeëindiging op verzoek en hulp bij zelfdoding*, 2001). As of 2025, sixteen EU countries recognise same-sex marriage (European Commission, 2025), with others offering registered partnerships or civil unions.

Abortion rights have evolved through legislative and judicial processes. In Germany, abortion was legalised under specific conditions following rulings by the Federal Constitutional Court (*Bundesverfassungsgericht*, 1975; *Bundesverfassungsgericht*, 1993),

culminating in the 1995 law supporting women in special cases (Schwangerschaftsabbruchhilfe-Gesetz, 1995). Spain liberalised abortion through the 2010 law allowing termination up to 14 weeks (Ley Orgánica 2/2010), building on earlier constitutional rulings (Tribunal Constitucional, 1985). France followed a similar trajectory, beginning with the Veil Law in 1975 (Loi n° 75-17, 1975) and culminating in the 2024 constitutional amendment guaranteeing abortion rights (Loi, 2024). Italy's Constitutional Court also affirmed the primacy of the mother's life and health in its 1975 ruling (Corte Costituzionale, 1975).

Euthanasia and assisted suicide have gained legal recognition in several Western EU states. The Netherlands (*Wet houdende toetsing*, 2001), Belgium (Loi relative à l'euthanasie, 2002), and Luxembourg (Loi sur l'euthanasie et l'assistance au suicide, 2009) were pioneers in legalising euthanasia under strict conditions. More recently, Spain (Ley Orgánica, 2/2010), Portugal (Lei n.º 22/2023), Austria (Patientenverfügungs-Gesetz, 2006), and Germany (Bundesverfassungsgericht, 2020) have introduced or expanded frameworks for assisted dying, often following constitutional or parliamentary decisions.

Together, these developments illustrate a broader political evolution toward individual autonomy, equality, and dignity – across sexual orientation, reproductive rights, and end-of-life choices.

Political Debate

In Western Europe, political debate on LGBTQ+ rights, abortion, and euthanasia reflects both progressive reforms and rising conservative resistance.

In Germany, the 2025 elections saw a shift from reform to preservation, with *Alternative für Deutschland* (AfD) threatening recent gains such as the trans self-ID law (Tagesschau, 2025; AfD, 2023). Although an expert commission recommended decriminalising abortion, the new government is unlikely to pursue liberalisation (Bundeszentrale für politische Bildung, 2024).

In Austria, the far-right FPÖ has pledged to reverse transgender rights, including legal gender recognition (Der Standard, 2024). Assisted suicide has been legal since 2022 under the *Sterbeverfügungsgesetz*, allowing terminally ill or chronically suffering adults to end their lives under strict conditions. In December 2024, the Constitutional Court upheld the law's constitutionality but found parts of its procedure partially unconstitutional (Verfassungsgerichtshof, 2024).

In Spain, the Plurinational Parliamentary Group Sumar submitted a proposal to enshrine abortion rights in the Constitution (Grupo Parlamentario Plurinacional Sumar, 2025). However, Vox continues to oppose LGBTQ+ visibility and euthanasia rights (Amnesty International, 2024a).

In France, abortion was enshrined in the constitution in 2024, marking a symbolic victory for reproductive rights (Assemblée Nationale, 2024). The National Assembly also passed a bill legalising assisted dying for terminally ill adults (Assemblée Nationale, 2025), though debate continues in the Senate (Proposition de loi n° 661, 2025).

In Italy, courts challenged the Meloni government's restrictive stance by recognising same-sex parenthood (Corte Costituzionale, 2025). A popular initiative to legalise eu-

thanasia gained momentum, but faces opposition from the ruling coalition (Senato della Repubblica, 2022; Parlamento Italiano, 2024).

In Belgium, euthanasia is widely accepted, with nearly 4,000 cases in 2024 (Scienzano, 2025). Political debate has focused on extending the abortion deadline from 12 to 18 weeks, with broad support from progressive parties (De Meyer et al., 2025; RTBF, 2024).

In Denmark, the government agreed to extend free abortion access to 18 weeks and remove parental consent for minors aged 15–17 (Folketinget, 2025). Public support for euthanasia is high (“Politiken”, 2025), but legalisation remains controversial (Folketinget, 2024).

In Luxembourg, abortion access was expanded and a proposal to enshrine it in the constitution is under parliamentary review (Chambre des Députés, 2024). LGBT rights face challenges from far-right petitions opposing inclusive education (Chambre des Députés du Grand-Duché de Luxembourg, 2025).

In the Netherlands, despite a long history of progressive laws, recent parliamentary moves to repeal the transgender law signal growing political polarisation (Ministerie van Justitie en Veiligheid, 2025). Euthanasia remains legal, with ongoing debate about expanding eligibility (Rijksoverheid, 2024).

Political debate in Western Europe on LGBT rights, abortion, and euthanasia reflects ongoing tension between progressive reforms and conservative resistance. Countries like France, Spain, and Belgium have advanced legal protections, while others such as Germany, Austria, and the Netherlands face growing right-wing opposition, particularly on gender and LGBT issues. Euthanasia remains divisive, with varying legal frameworks and public attitudes. Overall, the region presents a complex picture of human rights progress amid cultural and ideological polarisation.

Harris et al. (Harris et al., 2018) emphasise the ethical tension in European biomedical law between individual autonomy and the protection of life, highlighting how these principles are interpreted differently across member states. According to the Center for Reproductive Rights, most Western European countries have liberalised abortion laws. In contrast, many Central and Eastern European states retain restrictive frameworks rooted in conservative moral values (Center for Reproductive Rights, 2022).

Political Context of Central-Eastern Europe

In Central and Eastern Europe, debates on same-sex unions, abortion, and euthanasia are shaped by traditional values and constitutional conservatism.

Marriage is constitutionally defined as a union between a man and a woman in Hungary (Magyarország, 2011, Art. L) and Bulgaria (Конституция на Република България, 1991, чл. 46), while Romania’s Civil Code explicitly prohibits same-sex marriage (Codul civil al României, 2011, Art. 277). Some scholars argue that Polish Constitution (Konstytucja Rzeczypospolitej Polskiej, 1997, Art. 18) does not necessarily preclude legal recognition of partnerships (Łętowska, Woleński, 2013, p. 22), because Polish Constitution guarantees that a marriage as a union between a man and a woman is under special protection, without imposing any bans on other similar institutions.

Although the European Court of Human Rights requires legal recognition of same-sex couples (ECtHR, 2023a–c), most countries in the region have not implemented equal rights frameworks. Hungary has gone further, banning Pride events and restricting LGBTQ+ rights through legislation (2025. évi III. törvény, 2025).

Sadurski (2020) analyses Poland's constitutional crisis as a case study of the tension between national legal frameworks and European standards, illustrating how democratic backsliding can challenge the coherence of EU legal and human rights norms. The author shows that Poland's constitutional crisis reveals the fragility of the EU's rule of law safeguards.

Abortion laws across the region vary, but Poland stands out as the only country with a highly restrictive framework. Following the 2020 Constitutional Tribunal ruling that banned abortion in cases of fetal abnormalities (Trybunał Konstytucyjny, 2020; Amnesty International, 2021), access is now limited to cases of rape, incest, or threat to the mother's life. This contrasts with other Central-Eastern European countries such as Czechia, Slovakia, Romania, and Bulgaria, where abortion is generally permitted on request up to 12 weeks of pregnancy (Zákon č. 66/1986 Sb., 1986; Zákon č. 73/1986 Zb., 1986; Codul civil al României, 2011; Naredba № 2 от 1 февруари 1990 г., 1990; Center for Reproductive Rights, 2022).

Euthanasia and assisted suicide remain prohibited throughout Central and Eastern Europe. The absence of legal regulation reflects a conservative approach, prioritising the protection of life over individual autonomy.

Political debate

In Poland, the 2020 Constitutional Tribunal ruling restricting abortion sparked mass protests in over 100 cities (Kocemba, 2025), despite 62% public support for legal abortion in cases of fetal defects (CBOS, 2023). Political leaders portrayed the protesters as “dangerous” and called on citizens to defend the nation against “everything that may destroy us” (Human Rights Watch, 2021).

In Hungary, Viktor Orbán's government institutionalised anti-LGBT rhetoric, culminating in a 2025 constitutional amendment banning Pride events (Magyarország, 2025). The 2021 “Child Protection Act” equated LGBT content with moral threat, despite international condemnation (Amnesty International, 2024b; European Parliament, 2021).

In Romania, political debate remains polarised. While the Save Romania Union opposed the 2018 referendum against same-sex marriage, the nationalist AUR party continues to campaign against LGBTQ+ visibility (ISCOADA, 2024). The 2023 ECtHR ruling on same-sex unions received little political response (ILGA-Europe, 2023), and 81% of LGBTQ+ individuals avoid public displays of affection (FRA, 2023).

In Bulgaria, LGBTQ+ rights debates intensified after a school ban on LGBT representation, sparking protests and harassment of public figures (ILGA-Europe, 2025). A 2024 survey found that 67.6% of LGBT students experienced verbal harassment (Single Step Foundation, 2024).

In Czechia, Parliament rejected marriage equality despite public support, opting for registered partnerships from 2025 (ILGA-Europe, 2025). LGBT education initia-

tives faced conservative backlash (Stašek, Semlerová, Musil, Doležalová, 2023), and the SPD party circulated anti-LGBT leaflets during elections (ILGA-Europe, 2025). Meanwhile, euthanasia has gained public and political attention, with growing support and parliamentary debate shaping future legislation (Havelec, Polák, 2023; Doležal, Černý, 2025).

These examples illustrate how political debate – through protests, party platforms, and public statements – shapes the trajectory of socially sensitive issues in the region.

European Consensus – Aiming to Balance Differences

Norris and Inglehart (Norris, Inglehart, 2019, pp. 211–260) describe a cultural backlash in Europe, where liberal reforms often provoke conservative responses, especially in societies with strong national traditions. Kuhnle et al. (Kuhnle et al., 2019, pp. 92–105) argue that EU social policy must accommodate local contexts, demonstrating the normative pluralism that characterises the Union's approach to social integration.

A central mechanism balancing national traditions and shared values is the doctrine of European consensus, which enables courts and institutions to promote rights while respecting local contexts. European courts play a key role in mediating these tensions, with judicial rulings reflecting and shaping broader debates on rights, liberalisation, and resistance.

Same-Sex Unions Case Law

One of the first significant rulings by the Court of Justice of the European Union (CJEU) concerning the protection of the rights of non-heteronormative individuals is the case *P v. S* (CJEU, 1996), which affirmed that individuals who undergo gender reassignment have the right to have their gender legally recognised under EU employment law – marking a key step in protecting transgender rights within EU jurisprudence.

In the case *E.B. v. France* (ECtHR, 2008) the Court ruled that member states cannot deny marriage rights to citizens if such marriages are recognised elsewhere in the EU – strengthening recognition of same-sex marriages and pressuring states without such legislation. The ruling in *Schalk and Kopf v. Austria* (ECtHR, 2010) was another important step, as it recognised the rights of non-heteronormative individuals to protection of their family life.

The case *Coman* (CJEU, 2018) dealt with the rights of a Romanian citizen who married an American citizen in Belgium. The CJEU ruled that individuals in same-sex marriages, legally concluded in one member state, have the right to free movement and residence in other member states. This judgment was seen as one of the key rulings regarding the recognition of same-sex marriages in the EU, especially in the context of differences between member states concerning the legal status of same-sex marriages and the right of an EU citizen to move freely with their spouse.

Political Examples of European Consensus on Social Issues

The Charter of Fundamental Rights of the EU (CFR, 2000) is a key human rights document. Article 21 prohibits discrimination, including based on sexual orientation, reflecting EU consensus on equality and non-discrimination.

Peers et al. (2014) highlight the Charter's role in shaping Member States' obligations regarding civil liberties and dignity, while De Schutter (2014) situates it within global human rights frameworks. These perspectives help explain the European Parliament's advocacy for LGBT rights, including its 2018 resolution urging action against homophobia and recognition of same-sex marriages (European Parliament, 2018).

Scholars such as Ferrera (2005) and Offe (1998) argue that European integration reconfigures welfare boundaries and creates tensions between supranational governance and national identity. The EU's commitment to democratic values and human rights (European Commission, 2010) is reflected in tools like accession conditionality and structural funding.

Abortion Case Law

In the *Grogan* case (CJEU, 1991), the CJEU ruled that abortion constitutes a service under the EU Treaty and therefore falls within the scope of the free movement of services. This interpretation established that travelling to another Member State to access abortion services is protected under EU law.

In the *Tysi c* case (ECtHR, 2007), the Court examined the state's responsibility to ensure effective access to legal abortion. The applicant was denied the procedure despite fulfilling the legal requirements under domestic law. The ECtHR ruled that failing to provide effective mechanisms for access amounted to a violation of her rights, particularly concerning health and private life. This reasoning was later reinforced in *P and S* (ECtHR, 2012), where the Court again found that Poland had not secured access to abortion services in cases where they were legally permitted. The ECtHR clarified that merely allowing abortion in law is insufficient unless accompanied by effective procedures ensuring real access in practice.

Taken together, European courts, despite differing legal systems, are shaping a shared standard: abortion must be both legally recognised and practically accessible. This judicial trend reflects a growing European consensus on sensitive social issues, balancing national traditions with human rights commitments.

Political Examples of European Consensus on Abortion

The Charter of Fundamental Rights (CFR) guarantees the right to privacy and health care (CFR, Article 3), forming a basis for protecting access to legal abortion in the EU. These rights support women's autonomy over their bodies, especially in countries with restrictive laws.

The European Parliament has called on Member States to ensure access to abortion and reproductive rights, notably in its 2019 resolution (European Parliament, 2019). EU policy encourages Member States to provide appropriate abortion services and supports education and access to contraception.

Euthanasia and Assisted Suicide Case Law

One of the first ECtHR cases on assisted suicide was *Pretty v. United Kingdom* (ECtHR, 2002), where the Court ruled that Article 2 does not confer a right to end one's life, leaving legalisation to Member States due to the lack of European consensus. In *Haas v. Switzerland* (ECtHR, 2011), the Court reaffirmed this margin of appreciation, finding that restrictions under Swiss law did not violate Article 8. Similarly, in *Lopes de Sousa Fernandes v. Portugal* (ECtHR, 2017), the Court acknowledged national discretion in end-of-life decisions, while stressing the need for clear legal safeguards if euthanasia is permitted.

These rulings reflect the Court's cautious stance, consistently deferring to national authorities. This approach contrasts with the Parliamentary Assembly of the Council of Europe, which has taken more explicit positions on assisted dying.

Political Examples of European Consensus on Euthanasia and Assisted Suicide

The EU promotes dignified end-of-life care and protection of the terminally ill as part of its broader commitment to health and fundamental rights. However, euthanasia and assisted suicide remain regulated at the national level, with no unified EU legal stance. Despite this, EU institutions consistently urge Member States to uphold human dignity and ensure access to quality palliative care, as outlined in the European Pillar of Social Rights (European Parliament, 2017).

CFR reinforces this framework by guaranteeing human dignity, the right to life, and health care. Article 2 prohibits arbitrary deprivation of life, implying that if euthanasia is legalised, it must be carefully regulated to protect life and dignity. The CFR's recognition of health rights also supports access to palliative and voluntary end-of-life care.

Overall, the EU balances its commitment to life and health with respect for national discretion. This cautious approach reflects the diversity of ethical and legal traditions across Member States, allowing for variation while maintaining fundamental rights standards.

Conclusion

This study offers key insights into how European consensus forms around socially sensitive issues. EU case law significantly influences national policymaking by encouraging alignment with European standards, though its impact varies due to historical, cultural, and political differences.

Social change is negotiated through law, politics, and values in a dynamic process. Western European countries tend to adopt progressive reforms, while Central-Eastern states proceed more cautiously, shaped by local contexts.

Although EU legal standards provide a common framework, they do not override national realities. Normative convergence requires balancing integration with cultural pluralism.

The study also underscores the need to reconcile liberal and conservative approaches to ensure legal coherence and social legitimacy. EU strategies should uphold shared standards while respecting national specificities.

Ultimately, while EU law exerts integrative pressure, national contexts remain decisive. The tension between harmonisation and pluralism is especially visible in areas tied to cultural and ethical values. Future developments may involve stronger conditionality, enhanced human rights monitoring, and more inclusive dialogue.

Beyond its analytical scope, this study invites reflection on the broader implications of European legal integration. As Member States navigate the balance between unity and diversity, the role of law as a mediator of social change will remain central. Future research should explore how legal norms intersect with societal values in shaping Europe's evolving identity.

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Europejski konsensus w wybranych kwestiach społecznie wrażliwych jako wyraz ewolucji europejskich systemów politycznych

Streszczenie

Artykuł podejmuje problematykę europejskiego konsensusu w wybranych kwestiach społecznie wrażliwych – związkach jedнопłciowych, aborcji, eutanazji i wspomaganiem samobójstwa. Analizuje, w jaki sposób tematy te są regulowane w Europie Zachodniej i Środkowo-Wschodniej, ze szczególnym uwzględnieniem relacji między prawem UE a krajowymi ramami prawnymi i politycznymi. Badanie koncentruje się na tym, w jaki sposób zmiana obyczajowa jest negocjowana przez normy prawne, debatę polityczną i wartości społeczne. Stawia pytania o to, w jaki sposób integracja europejska i orzecznictwo europejskie wpływają na krajowe procesy decyzyjne, a także jak odmienne uwarunkowania

historyczne i polityczne kształtują rozbieżności w politykach publicznych. Analiza opiera się na jakościowej i porównawczej metodologii, łączącej analizę prawną orzecznictwa europejskiego, porównawczy przegląd ustawodawstwa i orzecznictwa krajowego oraz analizę dyskursu debat instytucji unijnych. Wyniki wskazują, że państwa Europy Zachodniej generalnie wprowadzają bardziej progresywne reformy, podczas gdy państwa Europy Środkowo-Wschodniej działają ostrożniej, ograniczane przez tradycje konserwatywne. Artykuł konkluduje, że choć europejskie standardy prawne wywierają presję integracyjną, to konteksty lokalne wciąż wyznaczają granice normatywnej konwergencji. Utrzymanie równowagi między podejściem liberalnym a konserwatywnym jest niezbędne dla zachowania zarówno spójności prawnej, jak i pluralizmu kulturowego w UE.

Słowa kluczowe: aborcja; eutanazja; konsensus europejski; kwestie wrażliwe; wspomagane samobójstwo; związki jedнопłciowe

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Competing interests: The author have declared that no competing interests exist
(**Sprzeczne interesy:** Autor oświadczył, że nie istnieją żadne sprzeczne interesy)