



LEGAL FRAMEWORK

International and European conventions

Estonia has ratified various international conventions condemning FGM, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the Charter of Fundamental Rights of the European Union (2010/C 83/02).

Criminal law

In Estonia, Article 118 of the Penal Code may be applied to FGM-related cases: 'Causing serious damage to health which results in, for example, the loss or cessation of functioning of an organ'. The following articles could also be used: Article 121 'Causing damage to the health of another person, beating, battery or other physical abuse which causes pain' and Article 134 'Taking or leaving a person, through violence or deceit, in a state where it is possible to persecute or humiliate him or her on the grounds of race or gender or for other reasons, and where he or she lacks legal protection against such treatment and does not have the possibility to leave this situation'. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

Child protection law

In Estonia, general child protection laws could be applied in cases of FGM. In cases of impending FGM, two laws might be applied. Firstly, the Child Protection Act, which states

that 'it is prohibited to humiliate, frighten or punish a child in any way which abuses the child, causes bodily harm or otherwise endangers their mental or physical health', could be applied. Adults who violate this principle might be subject to criminal prosecution and a child who has suffered violent treatment is provided with the necessary assistance. Everyone is required to report any child they know to be in need of protection or assistance. Secondly, under the Family Law, parental rights might be restricted or suspended if parents endanger the mental, physical and/or emotional well-being of their child.



About the study

In order to contribute to identifying and filling the gaps in prevalence data collection and support the development of strategies for combating female genital mutilation (FGM), the European Institute for Gender Equality has commissioned the 'Study to map the current situation and trends of female genital mutilation in 27 EU Member States and Croatia'. The study was launched at the request of Viviane Reding, Vice-President of the European Commission. It was conducted by the International Centre for Reproductive Health (ICRH) of the Ghent University and Yellow Window Management Consultants (a division of E.A.D.C.).

The desk research in the 27 EU Member States and Croatia and the in-depth research in nine EU Member States brings about the first collection of information and data, legal and policy framework, actors, tools and methods in the area of FGM in the EU. The different national approaches to tackle FGM in the EU were analysed and compared in order to identify practices with potential in prevention, protection, prosecution, provision of services, partnership and prevalence.

The data provided in this publication were collected through desk research conducted between December 2011 and April 2012. More information and references about the study are available at: eige.europa.eu

INDICATOR COUNTRY	FGM prevalence studies	Asylum granted on FGM grounds	Specific criminal law provision on FGM	National action plan covering FGM	FGM-related child protection interventions	Hospital/medical records of FGM
BELGIUM	✓	✓	✓	✓		✓
BULGARIA						
CZECH REPUBLIC						
DENMARK			✓	✓	✓	
GERMANY	✓	✓				
ESTONIA						
IRELAND	✓	✓	✓	✓		✓
GREECE				✓		
SPAIN			✓	✓	✓	
FRANCE	✓	✓		✓	✓	✓
ITALY	✓	✓	✓	✓	✓	
CYPRUS			✓			
LATVIA		✓				
LITHUANIA		✓				
LUXEMBOURG						
HUNGARY	✓	✓				
MALTA						
NETHERLANDS	✓	✓		✓	✓	✓
AUSTRIA		✓	✓	✓		
POLAND						
PORTUGAL				✓		✓
ROMANIA		✓				
SLOVENIA						
SLOVAKIA		✓				
FINLAND				✓	✓	
SWEDEN		✓	✓	✓	✓	✓
UNITED KINGDOM	✓	✓	✓	✓	✓	✓
CROATIA			✓	✓		

What is female genital mutilation?

- Female genital mutilation (FGM), also known as female genital cutting, is a form of gender-based violence. It comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.
- Female genital mutilation has negative effects on the health of women in the short, medium and long term and may even lead to death. It is carried out for both cultural and social reasons. Religious arguments tend to be used to justify the practice but there is no religious mandate for it.
- According to UNICEF, FGM is practised in more than 20 African countries spreading between Senegal in the west and Somalia in the east.
- Although overall figures are difficult to estimate, thousands of women and girls residing in the European Union may have been genitally mutilated or are at risk of FGM.
- The EU institutions and the Member States are committed to fighting FGM, as it is shown in the Commission's 'Strategy for equality between women and men (2010–2015)'. The Daphne III programme has played a crucial role in putting FGM on the agenda in several EU countries and in providing financial support for the implementation of transnational projects in this field.
- The European Parliament resolution of 14 June 2012 on ending female genital mutilation clearly stipulates that 'any form of female genital mutilation is a harmful traditional practice that cannot be considered part of a religion, but is an act of violence against women and girls which constitutes a violation of their fundamental rights'. The European Parliament calls on the Member States to take a firm action to combat this illegal practice.

Asylum law

The Act on Granting International Protection to Aliens (2005) may be applicable in cases of FGM. The risk of FGM can be categorised as 'persecution', which is defined as physical and mental violence including sexual abuse and gender specific acts and acts directed against minors.

Professional secrecy law

In Estonia, the general law on professional secrecy and disclosure may be applied to report cases of performed or planned FGM. According to §768 of the Law of Obligations Act, health care providers are bound by the duty of confidentiality. It is permitted to deviate from this duty if failure to disclose information might cause significant damage to the patient or to other persons. The Family Law states that if the well-being of a child is endangered, an official of a state agency or local government authority, police officer, health care professional, judge, prosecutor, teacher or any other person who has information concerning the endangered child shall notify the authorities of the child's residence or a court thereof.

POLICY FRAMEWORK

The 'Guidelines for Development of Criminal Policy until 2018' suggest that criminal policy should consider future possible risks of harmful traditional practices, and be ready to prevent and respond to problems such as forced marriage and honour-related violence. It does not, however, specify FGM as one of the practices that should be taken into account, or specify how to deal with or what measures to use in the case of such risks. The absence of policies on FGM is probably due to the unregistered cases of FGM in Estonia, the small number of women from countries where FGM is practised as well as a lack of knowledge about the phenomenon in Estonia.

PREVALENCE OF FGM IN THE COUNTRY

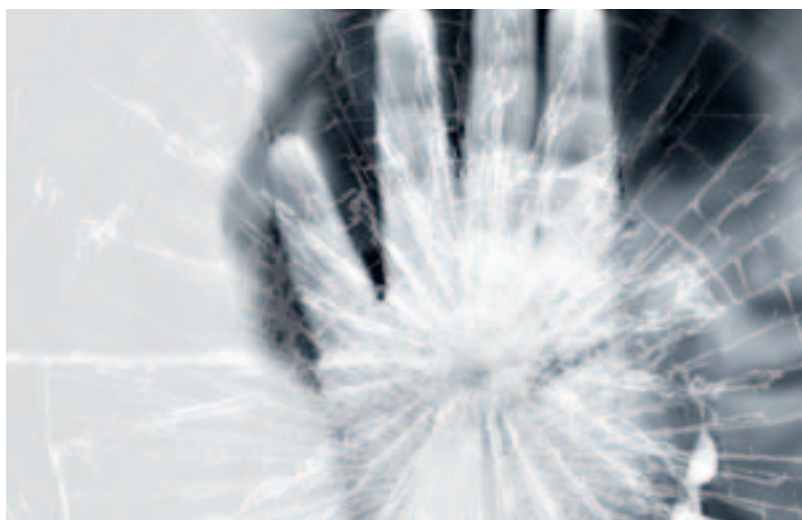
In Estonia, there are only very few women originating from countries where FGM is performed. As of 1 July 2011, only 84 citizens of countries where FGM is practised hold a valid residence permit in Estonia, but no information on the age or sex of these persons was/is provided. Moreover, Estonia has one of the lowest numbers of asylum seekers in the EU. Between 1997 and 2011, only 272 asylum seekers came to Estonia, of which only 53 were women and girls. Of these 53, only six originate from countries where FGM is performed. There is no information on the FGM status of this female population.

Facts

- As of February 2012, the number of people living in Estonia from countries where FGM is performed appears to be very low. Only six women from FGM-practising countries sought asylum in Estonia between 1997 and 2011.
- 'The Guidelines for Development of Criminal Policy until 2018' suggest taking into consideration future risks of harmful practices, although they do not specifically refer to FGM.
- No applications for asylum based on the fear of FGM have been received so far.

Figures

- As of 1 July 2011, 84 citizens of countries where FGM is practised hold a valid residence permit in Estonia.
- Between 1997 and 2011, 272 asylum seekers came to Estonia, of which 53 were women and girls. Of these 53, six originate from countries where FGM is performed.



What is gender-based violence?

- Gender-based violence is a violation of human rights and a form of discrimination. It is defined as violence directed against a person on the basis of gender. Gender-based violence reflects and reinforces inequalities between men and women and results in physical, mental and sexual harm. It includes, among others: domestic violence, rape, sexual harassment, sexual violence during conflict, female genital mutilation, forced marriages, forced prostitution, forced sterilisation, female infanticide and prenatal sex selection.
- In the European Pact for Gender Equality (2011–2020) the Council of the European Union reaffirms its commitment to fulfil EU ambitions regarding gender equality as mentioned in the Treaty. In particular, it emphasises the need to combat all forms of violence against women in order to ensure the full enjoyment of human rights by women and girls and, as a consequence, to enhance gender equality with a view to creating inclusive growth and development in labour markets in Europe.
- The European Parliament Resolution on the elimination of violence against women of 26 November 2009 urges Member States to improve, among others, their national laws and policies to combat all forms of violence against women, in particular through the development of comprehensive national action plans to combat violence against women.
- The European Commission's Strategy for Equality between Women and Men 2010–2015 emphasises the importance of combating violence against women. The Stockholm Programme 2009 highlights the need for special support and legal protection for victims of violence against women. In addition, the Women's Charter 2010 envisages the implementation of a comprehensive and effective policy framework to combat gender-based violence as well as the strengthening of the measures to eradicate female genital mutilation and other acts of violence.

About the European Institute for Gender Equality (EIGE)

The European Institute for Gender Equality is the EU knowledge centre on gender equality. EIGE supports policymakers and all relevant institutions in their efforts to make equality between women and men a reality for all Europeans and beyond, by providing them with specific expertise and comparable and reliable information on gender equality in Europe.

More information: eige.europa.eu

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