



LEGAL FRAMEWORK

International and European conventions

Austria has ratified various 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). Austria has signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210).

Criminal law

In 2001, a specific criminal law provision was adopted through Article 90 of the Penal Code, declaring that nobody can agree to the mutilation of their genitals if this would cause a lasting impairment of sexual sensation. The criminal offence consists of the performance, the participation and the attempt to perform the mutilation. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

Child protection law

General child protection law could be applied in cases of FGM, despite the fact that there are no specific provisions addressing FGM. In order to strengthen the position of children, their rights were enrolled in the Federal Constitution Law on the Rights of Children (2011).

Asylum law

The threat of FGM is taken into account when adjudicating asylum application, despite the fact that measures to fight FGM have not been integrated directly into the legal system for immigration and asylum. Refugees are not eligible for asylum based on the fear of FGM.



The immigration law for asylum seekers Asylgesetz 2005, amending and replacing Asylgesetz 1997, does not include gender-specific persecution.

Professional secrecy law

Medical staff, health care workers and nurses, midwives, and social workers are bound by the obligation of confidentiality, both under criminal and medical professional law. The principle of professional secrecy can only be overruled in exceptional cases, such as grievous bodily harm, as integrated in the Penal Code. In these cases, there is an obligation to report. However, sanctions for non-reporting are not foreseen. Moreover, there is no monitoring system for reporting such cases.

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.

POLICY FRAMEWORK

At the policy level, FGM was first briefly dealt with under the 'National Action Plan on Child Rights' of 2003. In 2005, a joint policy brief on harmful traditional practices was issued by six ministries, and presented a comprehensive set of measures to deal with such practices, including FGM. Austria was one of only eight countries that developed a national action plan specifically dealing with FGM. This Action Plan 2009–2010 was issued by the African Women's Organisation and was developed under the framework of the Daphne project 'Developing National Action Plans to Prevent and Eliminate Female Genital Mutilation'. An initiative to stop violence against women and FGM was carried out in 2010 in the Parliament; it aimed at increasing awareness among parliamentarians and the public regarding the negative impact of violence against women and FGM, in particular. The initiative united numerous politicians and civil society organisations in Austria. The latest policy initiative is the inclusion of FGM in the 'National Action Plan on Integration' of 2010, issued by the Ministry for Internal Affairs and the Secretary of State for Integration, and it draws on the measures which were proposed in the 'National Action Plan on FGM' from 2009.

PREVALENCE OF FGM IN THE COUNTRY

There are no representative prevalence data available on women and girls affected by the practice in Austria. A qualitative study was carried out in 2000 by the African Women's Organisation among 250 African migrants from Burkina Faso, Somalia, Sudan, Ethiopia, Egypt, Kenya, Nigeria, Mali, Senegal, Ghana and Sierra Leone. The study assessed that 88 of the 252 girls (35%) considered in this study had been subjected to FGM, and the study also made a rough estimation of about 8,000 women and girls in Austria affected by FGM. Two other surveys took place in 2006 among health professionals, mainly gynaecologists, paediatricians and midwives, providing insights in the experiences of these professionals with FGM. These studies were done by the Institute for Parents' and Children's Rights and the Women's Health Organisation FEM Süd. At that time, the Minister for Health and Women was instrumental in putting FGM on the policy agenda, by commissioning one of the 2006 studies.



Facts

- Austria is one of eight countries in the EU 27 and Croatia that has developed a national action plan, dealing exclusively with FGM. This action plan was taken into account in the 'National Action Plan on Integration' of 2010, issued by the Ministry for Internal Affairs and Secretary of State for Integration.
- A significant number of organisations, public bodies and civil society organisations, deal with FGM in their activities. Six central players whose main aim is the fight against FGM have been identified: the Austrian Platform Stop FGM, Bright Future, FEM Süd, Orient Express, Frauengesundheitsprogramm der Stadt Wien and FGM Hilfe in Kärnten.
- Austria has an FGM-specific criminal law provision; nonetheless there has not been a criminal court case so far.
- A possible next step is the inclusion of a physical examination on FGM in the Mother-Child-Passport (Mutter-Kind-Pass).

Figures

- Reliable FGM prevalence data for Austria are not available, but a qualitative study performed in 2000 estimated that approximately 8,000 women and girls living in Austria are affected by the practice.
- In total, 20 women have been granted asylum on the grounds of fear of FGM. Four cases of women who have been granted asylum based on FGM have been reported.

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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