



LEGAL FRAMEWORK

International and European conventions

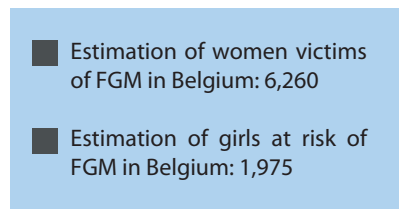
Belgium has ratified various conventions condemning FGM, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 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).

Criminal law

In 2001, a specific criminal law provision on FGM was adopted. Article 409 of the Penal Code prohibits all forms of FGM, ranging from clitoridectomy to infibulation. The criminal offence consists of the performance of FGM, the participation, the facilitation and the attempt to perform it. Committing the offence on an underage female is considered an aggravating circumstance that increases the penalty. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

Child protection law

The general Belgian Child Protection Law, including preventive and protective procedures, could be applied in cases of FGM. Referred cases concerning a possible risk of FGM could be followed up by visiting the family, counselling them on the issue, and assuring them that the practice is illegal in Belgium and that legal action will be taken if an offence is committed. Where the health, security or morality of an underage female are endangered by the behaviour of parents or guardians, law-enforcement authorities may request the intervention of the youth court, based on Article 36.2 of the Child Protection Law.



Asylum law

The Alien's Law of 1980, changed in 2006, is an important addition to the Geneva Convention in terms of what asylum means. Article 48/3 refers to 'acts of prosecution' such as acts of physical or psychological violence including sexual violence, and acts of gender-specific or child-specific nature. Nevertheless, specific asylum law provisions for FGM are not foreseen in this law.

Within the Office of the Commissioner General for Refugees and Stateless Persons there is a special department monitoring asylum claims based on the fear of FGM. The department's personnel are specially trained on gender-specific issues and FGM. Girls granted refugee status on FGM grounds have to submit a yearly medical certificate.

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.

Professional secrecy law

In Belgium, there is a specific legal provision with regard to reporting cases of performed FGM. The general principle of professional secrecy is stipulated in Article 458 of the Penal Code, which states that confidential information may only be disclosed when the professional who is bound to secrecy is required to testify in court or when the law imposes disclosure. Health care providers are specifically mentioned in Article 458, although other professionals bound to secrecy, such as police officials, education staff, officials on youth assistance and social workers are also mentioned. According to jurisprudence, professionals bound to secrecy can disclose confidential information as a last resource in an 'emergency situation'. Article 458 bis of the Penal Code is supplementary to Article 458 and states that each professional bound to secrecy has the right to report to the prosecution authorities: (1) if they know for certain that a crime as described in Article 409 of the Penal Code has been committed against a minor, either because they diagnosed the genital mutilation, or because the victim told them in confidence; (2) if there is serious danger to the psychological and physical integrity of the victim; and (3) if they cannot assure the psychological and physical integrity of the minor. Since 2012, the right to report,

foreseen in Article 458bis, was extended in order to include vulnerable adults along with the minors.

POLICY FRAMEWORK

The Council of Equal Opportunities published the first policy document in 1997, in which a specific criminal law on FGM and child protection measures for girls at risk were requested. The development of the policy framework started around 2004, when a number of proposals for resolutions were introduced in the Parliament. Three resolutions were adopted on FGM, in 2004, 2009 and 2011. Following the request set out in the resolution of 2009, the 'National Action Plan on Domestic Violence 2010-2014' has included a specific chapter proposing a number of measures to tackle FGM in Belgium. The main goals are to attain better knowledge with regard to FGM in Belgium, to inform and to involve selected categories of professionals in the prevention of FGM and to ensure a holistic approach in the care of those who have been subjected to FGM, or who are affected by it. The inclusion of FGM in the national action plan is the result of lobbying of civil society organisations and Members of Parliament. It has already resulted in a number of actions in Belgium, among others a prevalence study in 2011, training sessions for health professionals in hospitals in 2012 and an assessment and improvement of current registration of FGM in hospital records (2012).

PREVALENCE OF FGM IN THE COUNTRY

The most recent prevalence study in Belgium was done in 2011, at the request of the Ministry of Health and following a requirement of the 'National Action Plan on FGM 2010–2014'. The study estimates that 6,260 women with FGM and 1,975 girls at risk of FGM live in Belgium. According to the study, out of all girls at risk, 1,190 girls are aged between 0–5 years. Approximately 80% of these women are from Guinea, Somalia, Egypt, Nigeria, Ethiopia, Ivory Coast, Sierra Leone, Senegal, Burkina Faso and Mali. The study combined four data sources to include not only the female migrant popula-

Facts

- The National Action Plan on Domestic Violence 2010–2014 contains a detailed set of measures aimed at tackling the problem of FGM in Belgium. With the help of these measures by 2014 knowledge about the phenomenon in Belgium will increase, professionals will be better informed and involved in the prevention of FGM, and proper care will be given.
- A number of organisations are working on FGM in Belgium, both at the federal and regional level. Three actors – civil society organisations – whose main aim is the fight against FGM, were identified.

Figures

- The number of females living in Belgium and originating from countries where FGM is practised is 22,840.
- A total of 8,235 women and girls could be affected by FGM in Belgium. These were the findings of a prevalence study published in 2011. The cities where the majority of this population lives are Antwerp, Liège and Brussels.
- In the period 2008–2010, asylum based on the fear of FGM was granted in 141 cases in 2008, 102 in 2009, and 113 in 2010.

tion with legal residence in Belgium, but also the female asylum-seekers population from countries where FGM is commonly practised and 'second generation' girls, identified as those born to a mother from a country where FGM is performed. The study also identified cities or areas where prevalence was higher in order to better target interventions (e.g. the development of health services, community support and training of professionals). Female genital mutilation occurs most often in Flanders, particularly in the province of Antwerp, and in the city of Liège in the Walloon region.

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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ISBN 978-92-9218-237-3
doi:10.2839/74493



Publications Office



MH3113752ENC