

# Portuguese Penal Code (04/09/2007), Articles 144 (Offence against the physical integrity) and 145 (Qualified offence to physical integrity)

The Criminal Code, entered into force the 15th of September 2007 (Law n.º 59/2007) includes a disposition that relates to the matter of female genital mutilation by considering criminal offence the abuse of the body or health of another person hindering the person's ability to sexual fulfilment (Article 144º).

In Portugal, the Female Genital Mutilation/Cut is therefore considered a crime (although not autonomously) under the Articles 144 (Serious offence to physical integrity) and 145 (qualified offence to physical integrity) of the Portuguese Criminal Code. The punishment for this crime may vary between 2 to 10 years and the allegation of tradition or costumes in defence of this practice does not hold.

The Law 27/2008 of 30 June 2008, establishes the conditions and procedures for granting asylum and subsidiary protection and the statuses of asylum applicant, refugee and of subsidiary protection. The practice of FGM/C being a severe violation of the Fundamental Rights it is, therefore, predicted in article 5º, a) f) of this Law.

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## Criminal Law

### Applicability of the principle of extraterritoriality

Yes - Art. 5º from Penal Code - d) When constituting the crimes defined in Articles 144., 163. and 164 º, the victim been a minor and the perpetrator found in Portugal and can not be extradited or delivered as a result of execution of warrant European arrest or other means of the Portuguese international cooperation

### Types of FGM addressed

All forms of FGM are considered in art.144. Nevertheless, specific FGM terminology is not being used, instead the law refers to "fruição sexual" which means sexual fulfilment

## Number of FGM cases registered with judicial authorities

No data available, however in "Leye E., Sabbe A., Responding to Female Genital Mutilation Striking the right balance in Europe between prosecution and prevention - a review of legislation" it is mentioned that there are "Suspected cases: Indirect testimonies of community members and media, information offered by NGO. Trips made by young girls to their birth countries for FGM indicate possible situations"

## Availability of information collecting system or reports

General Directorate for Justice Policy / Ministry of Justice

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## Source

Public Diary, 1º Series – N.º 170 – 4 September 2007 - Article 144.º- Offense Against Physical Integrity

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## Additional information

### Date of entering into force

2007

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## Metadata

**TYPE:** Policy / Legislation

**LANGUAGE:** Portuguese

**TYPES OF GBV:** Female Genital Mutilation

**KEYWORDS:** female genital mutilation, gender-based violence, legislation, criminal law