

Current situation and trends of female genital mutilation in Spain



LEGAL FRAMEWORK

International and European conventions

Spain 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 Trafficking and Other Crises, 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 (2000/C 364/01). Spain has signed (but not ratified) the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No 218).

Criminalisation

Since 2005, Spain has a specific criminal law provision on FGM. The Organic Act 11/2005 on concrete measures in the field of citizen security, domestic violence and social integration of aliens amended Article 149 of the Penal Code, stating that "Anyone who causes another person to suffer any form of genital mutilation shall be punishable by imprisonment for a term of between six and twelve years, unless the victim is a minor or a person of limited capacity, parental custody-holder care will be withdrawn for a period of five to ten years. The content of an additional provision to the mutilation of her genitalia does not affect the legal qualification of the act, however it does reduce the penalties. The principle of subsidiarity is applicable, leaving FGM punishable even if it is committed outside the country."

Child protection law

At the national level, the Organic Act 1/1996 on the Legal Protection of Minors requires the obligation of state public agencies to intervene in case a minor's health or security is at risk, or when the minor has been abandoned. This same right therefore be applied if there is a risk of being subjected to FGM or when it has already been performed. Moreover, Article 158 of the Civil Code, modified by the Organic Law 1/2005, allows judges to adopt protective measures, especially relevant in cases of impending risk of FGM.

Child protection laws have also been approved by all the Autonomous Communities and all norms have similar content, although some state that their respective public agencies have the duty to intervene in case of risk or neglect, as well as to take the minor into custody when necessary. The most recent regulations approved in the regions of Valencia and Catalonia, to take explicit reference to FGM offences, Law 12/2008 for the integral protection of childhood and adolescence of the Community of Valencia states in Article 9 that FGM is a type of mistreatment that should be taken by the regional authorities in Catalonia. Law 18/2010 on the rights and opportunities during childhood and adolescence establishes specific measures to combat FGM.

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 Valérie 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 I.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, actions, tools and methods in the area of FGM in the EU. The different national approaches for tackling FGM in the EU were analysed and compared in order to identify practices with potential to prevent, protect, prosecute, provide services, partner ship and empower.

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.

Downloads



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