

Current situation and trends of female genital mutilation in Netherlands



LEGAL FRAMEWORK

International and European conventions

The Netherlands 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 (CFREU) (2010/C 83/02).

Criminal law

General criminal law, in particular Articles 300–304 of the Penal Code, consisting of the crimes of intentional bodily injury, can be applied in cases of FGM. Furthermore, Article 436 of the Penal Code, relating to the prohibition of unauthorized medical interventions, can be used. According to Article 47–48 of the Penal Code, in addition to the person who actually performs the mutilation, people who assist, and procure to pay a third party to perform FGM are also liable to punishment. Penalties can be increased if the parents or the spouse of the victim carry out the FGM. The statute of expiration for prosecuting serious cases of FGM has been extended to 20 years from the moment a girl reaches the age of 18, the principle of retroactivity 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. As far as protective measures are concerned, FGM can be classified as child abuse under the Dutch Care Act. It assigns Youth Care Agencies the task to function as Child Abuse Counseling and Reporting Centres. If a girl is at risk of being circumcised, a juvenile court can place the girl under the supervision of a family guardian (Article 214 paragraph 1 Care Act) or, in extreme cases, in custodial placement (Article 261 Care Act).

Asylum law

Articles 26–32 of the Aliens Act 2000 provide the legal basis for girls and women in FGM cases (although the Act does not specifically mention FGM). They can apply for an asylum residence permit for a restricted period of time. Despite the fact that most FGM-based asylum cases do not qualify under the particular sector group category, FGM is often classified as a violation of Article 3 of the ECHR relating to inhuman or degrading treatment or punishment. Asylum is granted based on the fear of future persecution, not past persecution. Evaluation of the Aliens Act is given in rules and regulations at lower levels. Paragraph 1.2 of the Aliens Circular (Vreemdelingencirculaire) 2000 specifically mentions FGM. Based on this circular, FGM is to be considered grounds for asylum.

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 undertaken at the request of Valérie Bédaride, Vice-President of the European Commission. It was conducted by the International Centre for Reproductive Health (ICRH) of the Ghent University and Fellow WinStar Management Consultants in Division of I.A.D.C.

The desk research from the 27 EU Member States and Croatia and the in-depth research in nine EU Member States helps 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

Downloads


Current situation of female genital mutilation in The Netherlands
 EN (PDF, 567.63 KB)


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