

Current situation of female genital mutilation in Austria



LEGAL FRAMEWORK

International and European conventions

Austria has ratified various conventions concerning 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 (2000/C 45/02). Austria has signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 218).

Criminal law

In 2005, a specific criminal law provision was adopted through Article 16 of the Penal Code, declaring that nobody can agree to the mutilation of their genitalia if it 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 enshrined 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 risk of FGM.

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 specified. 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 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 Workbook 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 to tackle FGM in the EU were analysed and compared in order to identify practices with potential to prevent, prosecute, provide care, provide services, partnership and prevention.

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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