



LEGAL FRAMEWORK

International and European conventions

France 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 (2010/C 83/02). France has signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210).

Criminal law

In France, FGM can be treated as a crime, according to the general provisions of the Penal Code. In particular, Articles 221–2, 222–3 and 222–5, referring to acts of torture and barbarity, can be used. Also Articles 222–9 and 222–10, which refer to intended bodily harm causing permanent infirmity or mutilation, could be applied to FGM. Committing the offence against a minor is considered an aggravating circumstance that increases the penalty. The principle of extra-territoriality is applicable, making FGM punishable even if it is committed outside the country.

Child protection law

In France, general child protection law could be applied in cases of FGM. Social protection measures for persons under the age of 18 years old are listed in Article No. 375 of the Civil Code: in cases in which a child suffers psychological or physical abuse at home, a judge can order the child to be placed in public institutions, family shelters or under the responsibility of authorised associations. The Domestic Violence Act (No. 2006–399) refers to the prevention and repression of violence perpetrated against children. As such, perpetrators of violence against children can be evicted

■ Estimation of women victims of FGM in France: 61,000



from their residence and prevented from any contact with the victims. The Act Reforming Children's Protection Provisions (No. 2007–293) replaced the notion of children suffering psychological or physical abuse at home, to become more inclusive of 'endangered children'. Additionally, this act built protective measures upon a collaborative project also including parents, for whom it imposes educational measures. Both acts extend protective measures to illegal under-age migrants.

Asylum law

Based on general laws, FGM can be grounds for seeking asylum. Act No. 1952–893 was adopted to implement the Geneva Convention. In 2003, Act No. 2003/11–76 introduced the status of subsidiary protection for those at risk of execution, inhuman or degrading treatments. After 2006, a doctrine

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.

modification differentiated between the parent with a daughter at risk of FGM who recently arrived in France (status granted), the parent of a daughter born in France with a documented parent (status denied), and the parent of a daughter born in France with an unknown/un-documented parent (status granted to the daughter only). A medical certificate renewed annually must confirm that FGM has not been performed on the female child. A decision in appeal by the Cour Nationale du Droit d'Asile, in March 2009, re-established the principle of family unity, granting subsidiary protection to the mother of an endangered child born in France, even though the father has legal residence in the country.

Professional secrecy law

In France, general law with regard to professional secrecy and disclosure may be applied to report cases of performed or planned FGM. Article 226–14 of the Penal Code concerns medical and social workers and other professionals usually bound by secrecy. They are requested to report physical or psychological abuse perpetrated against children or persons unable to protect themselves due to their age or incapacity. The same applies to physical or psychological abuse noticed by a physician

within the frame of their daily practice and supporting the strong presumption that physical, sexual or psychological violence has been perpetrated against the patient. Sexual mutilations have been explicitly categorised as physical abuses. In the same line, Article 44 of the Code of Medical Ethics, annexed to the Code of the Public Health, states that physical or psychological abuses should be reported to the appropriate (medical, social or legal) authorities, although protective measures have to be taken with 'caution and discernment'.

POLICY FRAMEWORK

The first policy instruments on FGM were adopted at regional level in the mid-1990s, and most were developed after 2004. France focused primarily on criminalising the practice.

A number of policy documents were developed and passed after Act No. 2006–399 of April 2006, which dealt with violence perpetrated by couples against children. These policies consisted of a set of preventive and educational measures taken at regional and national levels (in social, educational and health sectors). These documents, although not compiled in one comprehensive document, were often referred to as 'the Action Plan on FGM'. FGM was equally addressed under the 'National Action Plan on Violence against Women 2008–2010'. 'The National Action Plan on Violence against Women of 2011–2013' contains a specific chapter on FGM with a detailed set of measures and a budget of EUR 288,500. The six actions to be taken include dissemination of the findings of the prevalence study, informing migrants from FGM-practising countries, training professionals and officers from embassies and consulates, generalising the multidisciplinary units for provision of surgical repair and improving the protection of girls with the status of refugee/subsidiary protection granted who are at high risk of FGM. In France, the Maternal and Infantile Protection Services (PMI) seem to play a key role in preventing FGM and monitoring girls at risk of FGM, and they have issued a protocol on FGM addressing the performance of genital screening of minor girls and recommending how to deal with FGM.

PREVALENCE OF FGM IN THE COUNTRY

A French prevalence study, which was commissioned by the Minister of Health, was published in 2007. It estimated the number of women victims of FGM (only over 18 years with both parents from FGM-practising countries) based on available data from the 'Study of family trajectories'. The study formulated three hypotheses (low/medium/high chance) for prevalence of FGM, based on three study groups: women over 18 years whose parents 1) originate from a country at risk, 2) arrived in France aged 15 years or more and 3) were born in Europe. The medium hypothesis of 61,000 women (over 18 years of age) living in France who have experienced FGM is the usual reference number. In France, three studies were also carried out among health professionals (one in 2007 and two in 2009) which aimed at assessing the number of women with FGM, the number of women with health complications due to FGM and the number of women according to the type of FGM.

Facts

- Although France has no action plan dealing with FGM exclusively, its latest National Action Plan on Violence against Women 2011–2013 includes a specific chapter on FGM, and proposes a detailed set of measures to deal with FGM in France, including a budget for each measure. This is unique to the EU 27 and Croatia. The 'Maternal and Infantile Protection Services (PMI)' play a key role in the protection of girls against FGM.
- Despite the fact that there is no specific criminal law provision on FGM, several prosecutions related to FGM were dealt with within general criminal law. The first FGM case denounced before a civil jurisdiction was brought to trial in 1979, after the death of a baby girl following infibulation.
- A significant number of organisations, including public bodies and civil society organisations, deal with FGM in France. An important role is played by the Regional Directorates for Women's Rights and Equality, decentralised public bodies implementing governmental policies on gender equality at regional level. One of these (from Île-de-France) has pioneered the public work on FGM in France. Three civil society organisations whose aim is the combat of FGM in France have been identified.

Figures

- A prevalence study (published in 2007) found that up to 61,000 women older than 18 years living in France might have been subjected to FGM. This number does not take into account the undocumented population, nor does it take into consideration the population under 18 years old that might be at risk of FGM.
- Between 1979 and 2004, a total of 29 FGM court cases were brought before criminal courts, mostly from the mid-1990s onwards and with aggravated sentences.
- In 2009, the Office Français de Protection des Réfugiés et des Apatrides (OFPRA) granted protection to 179 women on grounds of FGM, and 266 medical certificates were produced for children to renew subsidiary protection. In 2010, these numbers were 248 and 1,179 respectively.

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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