



## LEGAL FRAMEWORK

### International and European conventions

Luxembourg 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). Luxembourg has signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210).

### Criminal law

The general criminal law (Articles 398–400) is applicable to FGM, in particular Article 400 of the Penal Code punishing 'intended bodily harm causing a permanent illness, invalidity, total loss of an organ or a severe mutilation'. Article 401 bis states that if the intended violence referred to in Article 400 is performed against a child under 14, the sentence is between 10 to 15 years, and it is a life sentence if the perpetrator is a legal tutor or ascendant. The principle of extraterritoriality is not applicable; therefore FGM is not punishable when committed outside the country.

### Child protection law

In Luxembourg, child protection law refers explicitly to FGM. Two relatively recent acts, passed in 2003 and 2008, have reinforced protection measures. The Perpetrators act on domestic violence (2003) stipulates that the perpetrators of intended bodily harm against a person with whom they regularly live or their legitimate ascendants or descendants can be temporarily evicted from their residence. Notably, this



protection measure can apply to violence against underage descendants. The Act on children and family assistance (2008) contains, in its second Article, the first explicit reference to FGM in domestic legislation, prohibiting inhuman or degrading treatments and genital mutilations within families or educational communities. However, the law does not establish specific protection measures, it only provides a framework for measures of assistance to children at risk. Article 11 lists interventions that can be proposed with the support of parents or tutors, and which are subject to possible legal prosecution.

### Asylum law

The act on asylum rights and subsidiary protection measures can be used in cases of FGM. Article 31 refers to acts of a gender-specific or child-specific nature. Article 37 provides the

## 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](http://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.

possibility to grant subsidiary protection in case of risk of inhuman or degrading treatments.

### Professional secrecy law

General law with regard to professional secrecy and disclosure may be applied to report cases of performed or planned FGM. According to Article 458 of the Penal Code, doctors, surgeons, health care officers, midwives and other professionals bound to secrecy can be requested to disclose information by the courts. The Code of Criminal Proceedings states that authorities, public officers and other professionals representing public interest, are obliged to report any legitimate suspicion of crime or physical abuse to the law enforcement authorities.

### POLICY FRAMEWORK

By February 2012, two policy documents on FGM had been issued in Luxembourg, by the National Women's Council: 'La politique d'égalité entre femmes et hommes du Gouvernement. Prise de position du Conseil National des Femmes du Luxembourg' of 2009, and the 'Rapport alternatif Beijing +15' of 2010. In these policy documents, the National Women's Council requests that a specific criminal law be drafted and specific

protection measures for girls at risk be adopted. On Zero Tolerance to FGM Day 2012, officials indicated that the specific law on FGM would be presented to the Parliament in the near future.

## PREVALENCE OF FGM IN THE COUNTRY

The most comprehensive data available on migrant populations was obtained through the national census, carried out in 2001. However, given the lack of disaggregation by country of origin, only a total number of 2,679 migrants from the African continent could be obtained. Data from the 2011 census will be available at the end of 2012. More recent data are from 2009, from the Annual Report on Migration and International Protection Statistics, which indicates that 880 women came from 'less developed countries'. Anecdotal evidence from maternity wards indicates, however, that they have not encountered cases of women with FGM. There is no representative prevalence study on FGM available for Luxembourg (by February 2012).

### Figures

- A national census from 2001 revealed that 2,679 migrants from the African continent were living in Luxembourg.
- The most recent statistics of 2009 provide an indication that 880 women came from 'less developed countries', without indicating the country of origin.
- Two cases (from Benin and Guinea) are documented where an FGM-based asylum claim was refused. No record was found of any asylum case accepted on the grounds of FGM.
- There have been 13 documented cases of requests for international protection mentioning threat of (persecution on grounds of public protest against) FGM, but all 13 were refused.

### Facts

- As of February 2012, no prevalence study on FGM has been carried out in Luxembourg.
- In Luxembourg, interest at policy level is recent. Various NGOs and individuals have started to raise public awareness. Since 2009, the National Women's Council has brought the issue of FGM to public attention. Efforts are underway to have a specific criminal law on FGM.
- An advocacy network on FGM now exists in Luxembourg, associating a number of civil society organisations with the support of the Ministry for Equal Opportunities and the Ministry of Health. In 2010, the National Women's Council and the NGO *Initiativ Liewensufank*, with the support of both ministries, developed a leaflet, which was published and distributed in 2011 to raise awareness among general public. International publications from Belgium, Germany, France and Switzerland have been collected in order to develop guidelines for health professionals. In addition, the involvement and support of health professionals is being organised.
- The celebration, in Luxembourg, of the International Day against Female Genital Mutilation on 6 February 2012, in the presence of Waris Dirie, received extensive public attention and exceeded the expectations of the convenors, shaping interest for further cooperation on this issue. International NGOs and UNICEF Luxembourg have launched fundraising campaigns among residents in Luxembourg to support work aimed at preventing FGM in the countries concerned.

## 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](http://eige.europa.eu)

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