



LEGAL FRAMEWORK

International and European conventions

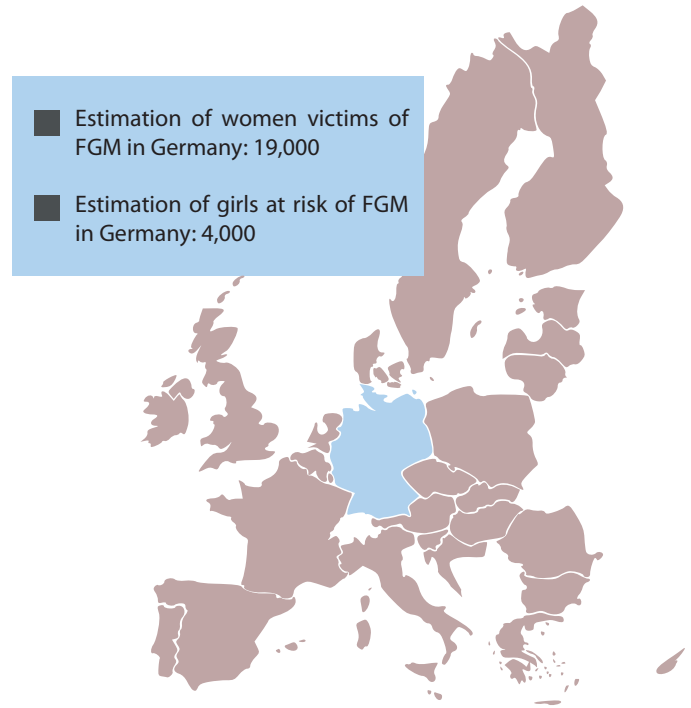
Germany has ratified various international conventions condemning FGM, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or 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). Germany has signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210).

Criminal law

In Germany, FGM cases can be criminally prosecuted through Articles 224, 225 and 226 of the Penal Code, referring respectively to criminal offences of grievous bodily injury, maltreatment by parents or persons having custody, and grievous bodily injury having as consequence the loss of essential parts of the body or infertility. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country. In 2011, an amendment to the Penal Code was proposed with the aim to include a specific criminal law provision on FGM. However, it has not yet entered into force.

Child protection law

In Germany, general child protection law could be applied in cases of FGM, particularly the German Social Code, Book VIII, Section 8a. It refers to 'Protective Assignment in Case of Threat of the Child's Welfare'. Therefore, if a girl becomes a victim of, or is threatened by, FGM, and this represents an existing or impending



ing danger of child abuse, measures can be taken to avert the danger. Measures to protect the girl may include accommodating her away from her family, as well as counselling, therapy, family support and other services.

Asylum laws

Immigration Law §60, Section 1, No. 3 refers to the Geneva Convention. Granting asylum on the basis of FGM is linked to membership of a particular social group, defined by Article 10 of the Qualification Guideline. The Federal Agency has to evaluate whether refugee status can be granted to women who are in danger of 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 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.

Professional secrecy law

In Germany, general law with regard to professional secrecy and disclosure may be applied to reporting cases of performed or planned FGM. According to §3 of the Regulation of the Medical Profession, doctors have the right, however not the duty, to report physical or psychological abuse, which underlines their discretionary authority in this matter.

POLICY FRAMEWORK

Policy development started in Germany in the mid-1990s, with the publication of a document of the German Federal Parliament on FGM worldwide. Since then, the issue has been raised many times in Parliament, with a request to draft a specific criminal law on FGM. In 2008, Germany developed the national action plan to ameliorate the situation of women victims of FGM and to protect girls in Germany. The German national action plan was developed by a consortium of CSOs in 2008, amongst others the German-wide network INTEGRA, in the framework of the Daphne project 'Developing National Action Plans on Female Genital Mutilation in the EU'. Germany is one of the eight countries in the EU 27 and Croatia that have developed a national action plan specifically dealing with

FGM. However, there has not been any further follow up by any authority nor have resources been allocated to implement it. The NAP asked, among others, for a specific criminal law on FGM, more scientific research on the issue, the participation of migrants in further development of measures and a broad protection of girls at risk and provision of services for victims of FGM. Besides the national action plan, several parliamentary questions requested the introduction of a specific criminal law in Germany, which have so far been unsuccessful as of February 2012.

PREVALENCE OF FGM IN THE COUNTRY

A study on the prevalence of FGM in Germany was carried out in 2007, issued by the civil society organisation 'Terre Des Femmes'. It estimated the number of women victims of FGM at 19,000 and the number of girls at risk at 4,000. The total female population in Germany originating from countries where FGM is performed was at least 66,302 in 2011. A study among health professionals was carried out in 2005 to assess their experiences with FGM, and a qualitative study among practising communities that took place in Hamburg in 2011 provided insights into their knowledge, attitudes and practices regarding FGM.



Facts

- The issue of FGM has been raised at policy level since the mid-1990s. The 'German National Action Plan on FGM' was developed in 2008 under the framework of the Daphne Project 'Developing National Action Plans on FGM in the EU'.
- A significant number of actors, mostly civil society organisations, deal with FGM in their activities. Nine actors have been identified to have FGM as their main focus. Of these, a network of 24 German organisations have joined forces to fight FGM worldwide, and several civil society organisations working for the abandonment of FGM provide specific services, such as counselling or an emergency telephone hotline.

Figures

- In 2007, an estimated 19,000 women victims of FGM and 4,000 girls at risk were living in Germany. The number of women and girls in Germany originating from countries where FGM is performed was 66,302 in 2011.
- There are records of 183 requests for asylum based on FGM.

What is gender-based violence?

- Gender-based violence is a violation of human rights and a form of discrimination. It is defined as violence directed against a person on the basis of gender. Gender-based violence reflects and reinforces inequalities between men and women and results in physical, mental and sexual harm. It includes, among others: domestic violence, rape, sexual harassment, sexual violence during conflict, female genital mutilation, forced marriages, forced prostitution, forced sterilisation, female infanticide and prenatal sex selection.
- In the European Pact for Gender Equality (2011–2020) the Council of the European Union reaffirms its commitment to fulfil EU ambitions regarding gender equality as mentioned in the Treaty. In particular, it emphasises the need to combat all forms of violence against women in order to ensure the full enjoyment of human rights by women and girls and, as a consequence, to enhance gender equality with a view to creating inclusive growth and development in labour markets in Europe.
- The European Parliament Resolution on the elimination of violence against women of 26 November 2009 urges Member States to improve, among others, their national laws and policies to combat all forms of violence against women, in particular through the development of comprehensive national action plans to combat violence against women.
- The European Commission's Strategy for Equality between Women and Men 2010–2015 emphasises the importance of combating violence against women. The Stockholm Programme 2009 highlights the need for special support and legal protection for victims of violence against women. In addition, the Women's Charter 2010 envisages the implementation of a comprehensive and effective policy framework to combat gender-based violence as well as the strengthening of the measures to eradicate female genital mutilation and other acts of violence.

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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