



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 (2010/C 83/02).

Criminal law

General criminal law, in particular Articles 300–304 of the Penal Code, consisting of the crimes of (grievous) bodily injury, can be applied in cases of FGM. Furthermore, Article 436 of the Penal Code, referring to the prohibition of unauthorised medical interventions, can be used. According to Articles 47–48 of the Penal Code, in addition to the person who actually performs the mutilation, people who assist, aid, procure or 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 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. As far as protective measures are concerned, FGM can be classified as child abuse under the Youth Care Act. It assigns Youth Care Agencies the task to function as Child Abuse Counselling 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 254 paragraph 1 Civil Code) or, in extreme cases, in custodial placement (Article 261 Civil Code).



Asylum law

Articles 28–32 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 social 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. Elaboration of the Aliens Act is given in rules and regulations at lower levels. Paragraph 3.2 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 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

General laws with regard to professional secrecy and disclosure may be applied to report cases of performed or planned FGM. Article 53, paragraph 3 of the Child Care Law stipulates that health professionals have the right to report. The upcoming law 'Reporting Code Domestic Violence and Child Abuse', which should enter into force in 2012, states that professionals are obliged to implement a reporting code in their own organisation and to build capacities on the use and knowledge of this code. Professionals that are targeted with this new code include those from the health care, education, child-care, societal support (including welfare and sport), youth care and justice sectors.

POLICY FRAMEWORK

FGM has been prominent on the public agenda in the Netherlands since the early 1990s, when a research report triggered a public debate, followed by the development of statements and prevention actions. A variety of policies have been put in place since the early 2000s. A policy brief of 2001, issued by the Minister of Justice, detailed the policy of the Dutch government regarding FGM for the next governing period. It tackled legal measures, capacity building

and awareness-raising/training and asylum on grounds of FGM. This was followed by another policy brief from the State secretary of health, welfare and sport in 2005, which, among others, recommended the setting up of an FGM-prevention project in six pilot cities. In 2007, the policy brief of the Minister of Health on violence in interdependent relations also provided detailed measures to address FGM by the provision of care, by early detection and by capacity building on risk detection and prevention of FGM for all relevant professionals. Another policy was developed for 2010 and 2011 that focused, among other things, on the development of medical care for women with FGM, the need for prevalence figures, a national rollout of the prevention project on FGM, and the development of an active policy by the Ministry of Justice to increase the number of reports. Furthermore, FGM is referred to in the 'National Action Plans on Violence against Women 2002–2008' and 'Gender Equality 2008–2011'. With regard to child protection, FGM is dealt with in 'Children Safe at Home' of 2007. Several tools and instruments have been developed to better protect girls from FGM. With regard to prosecution, a number of instruments and actions are envisaged to enhance detection by care providers.

PREVALENCE OF FGM IN THE COUNTRY

The Netherlands will publish the outcomes of a prevalence study on FGM in 2013. This study attempts to take into account the influence of migration, while assessing the prevalence of FGM. In 2009, a survey was conducted among health professionals that aimed at assessing the number of patients with FGM identified within midwifery practices. An earlier qualitative survey focused on a variety of professionals in schools and organisations in two big cities, and aimed at assessing their attitudes towards FGM. A steady increase can be noted in the number of women residing in the Netherlands originating from one of the 29 countries where FGM is performed, according to data from the National Office of Statistics: from 51,000 women in 2005 to 64,000 women in 2011.

Figures

- The number of women coming from one of the 29 countries where FGM is performed rose from 51,000 in 2005 to 64,000 in 2011.
- Although the exact number is not known, asylum was granted in many FGM-based asylum cases.
- To date, there has been one criminal court case regarding FGM (2009).

Facts

- As of February 2012, no representative prevalence study was available in the Netherlands, but a prevalence study is forthcoming in early 2013.
- FGM came to the forefront in the early 1990s, and policies have been put in place in the Netherlands in a comprehensive way since the early 2000s. These policies deal with prevention, prosecution, protection and the provision of care.
- A large number of actors, including a variety of public bodies from different sectors and civil society organisations, deal with FGM in the Netherlands.
- A Commission for Combating Female Genital Mutilation was created in 2004 to study the possibilities for efficiently signalling, detecting and combating FGM, including the development of a registration system for preventing and detecting cases of FGM. This Commission was dissolved in 2005 after its assignment was finalised.
- One civil society organisation (a knowledge centre specialised in medical care for migrants and refugees) hosts a Focal Point on FGM that offers information and counselling on FGM.
- A particular approach in the Netherlands is the so-called 'chain approach', typified by protocols that explain in detail how the problem of FGM should be handled and how the various key stakeholders should cooperate to optimise prevention and care.
- Among the identified tools and methods dealing with FGM, there are guidelines targeted at health and other professionals.
- The first tool developed in the Netherlands specifically addressing FGM dates from 1991.

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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