



RESPONDING TO FEMALE GENITAL MUTILATION *Striking the right balance* IN EUROPE *between prosecution and prevention*

This publication results from a common European research project funded by the EC Daphne Programme. The project was carried out from June 2007 until June 2009 by five partners.

Promotor: Marleen Temmerman, MD, MPH, PhD

Coordinator

ICRH - Ghent University

De Pintelaan 185 P3

9000 Ghent

Belgium

T +32 9 332 35 64

F +32 9 332 38 67

E icrh@ugent.be

ISBN: 978-90-78128-00-7

© International Centre for Reproductive Health - 2009

This document is issued for general distribution. Reproduction and translations are authorized, except for commercial purposes, provided the source is acknowledged.

Hardcopies can be ordered by sending an e-mail request to icrh@ugent.be (no cost, except for postage).

A pdf of the book can be downloaded from the ICRH website: www.icrh.org.

Disclaimer: The views, opinions and content of this publication do not necessarily reflect the views, opinions or policies of the European Commission. The sole responsibility of this publication lies with the authors and the European Commission is not responsible for any use that may be made with the information in this publication.

RESPONDING TO FEMALE GENITAL MUTILATION IN EUROPE

Striking the right balance
between prosecution and prevention

A review of legislation

Els Leye and Alexia Sabbe (coord.)
International Centre for Reproductive Health
Ghent University

JUNE 2009

In partnership with:

- **University of Valencia**, Human Rights Institute, Spain (José García Añón, Ruth Mestre i Mestre)
- **FORWARD** – Foundation for Women’s Health, Research and Development, UK (Naana Otoo-Oyortey)
- **Malmö University**, Faculty of Health and Society, Sweden (Sara Johnsdotter)
- **CAMS** – Commission pour l’Abolition des Mutilations Sexuelles, France (Linda Weil-Curiel)

Table of Contents

4	List of Abbreviations
5	Background
7	Introduction
10	Research methodology
	3.1. Questionnaire
	3.2. Capacity building workshops
12	Legislation in Europe with regard to FGM
	4.1. Criminal laws
	4.2. Child protection laws
	4.3. Professional secrecy provisions
	4.4. Implementation of laws on FGM in Europe
45	Lessons learned and recommendations from the capacity building workshops
	5.1. Belgium
	5.2. France
	5.3. Spain
	5.4. Sweden
	5.5. UK
58	Instrument to assess governments' performance towards stopping female genital mutilation
	6.1. Introduction
	6.2. Methodology of instrument
	6.3. Structure of the instrument
74	Conclusions

List of Abbreviations

CAMS	Commission pour l'Abolition des Mutilations Sexuelles
EU	European Union
FGM	Female Genital Mutilation
FORWARD	Foundation for Women's Health, Research and Development
GAMS	Groupement d'hommes et de femmes africains et européens pour l'Abolition des Mutilations Sexuelles Féminines
GP	General Practitioner (medical doctor offering primary health care)
ICRH	International Centre for Reproductive Health
NGO	Non-Governmental Organisation
PMI	Protection Maternelle et Infantile
UKBA	United Kingdom Border Agency
UN	United Nations
VAW	Violence Against Women
WHO	World Health Organisation

Background

Female Genital Mutilation (FGM) is globally recognized as a violation of human rights and many countries have put in place policies and legislation to ban it. FGM affects between 100-140 million women and girls worldwide and it is estimated that at least three million girls are at risk of undergoing FGM every year. Even though practiced primarily in 28 African countries and in several countries in Asia and the Middle East, international migration has extended the practice to Europe, North America and Australia.

The World Health Organisation (WHO) defines Female Genital Mutilation as all procedures involving partial or complete removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. These procedures are classified into four types ranging from the pricking, piercing, stretching or incision of the clitoris and/or labia¹ (type IV), to the excision of the prepuce² (the fold of skin surrounding the clitoris) and clitoris (type I), excision of clitoris and part or all of the labia minora (type II) and to the stitching / narrowing of the vaginal opening (type III, infibulation³).⁴

FGM has no health benefits, and it harms girls and women in many ways. It involves removing and damaging healthy and normal female genital tissue, and interferes with the natural functions of girls' and women's bodies.⁵

Within the countries of its origin, campaigns against FGM have come to regard it as a "harmful traditional practice", which is both deeply rooted within that society and also familiar to it.

In the last decade, however, eighteen African countries where the practice is embedded, introduced legislation forbidding it. Several of these nations incorporated anti-FGM legislation into their constitutions or criminal laws.⁶ There have also been reports of prosecutions or arrests in cases involving FGM in several African countries, including Burkina Faso, Egypt, Ghana, Senegal, and Sierra Leone.⁷

1 The labia are the 'lips' that surround the vagina.

2 The prepuce is the fold of skin surrounding the clitoris.

3 Infibulation: narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner, and sometimes outer, labia, with or without removal of the clitoris.

4 WHO, <http://www.who.int/mediacentre/factsheets/fs241/en/index.html>

5 *Ibid.*

6 Progress in Sexual and Reproductive Health Research, FGM – New knowledge spurs optimism: http://www.who.int/reproductivehealth/topics/fgm/progress72_fgm.pdf

7 Available at: <http://reproductiverights.org/en/document/female-genital-mutilation-fgm-legal-prohibitions-worldwide>

Although no national reliable data on the number of women with genital mutilation or the number of girls at risk are available, FGM has raised concern at EU policy making level, at legislative level, among health services and affected communities living in Europe.

A rising number of countries develop specific criminal law provision against the practice, and seek to find ways to better implement the law, more particularly in setting up efficient reporting mechanisms. However, female genital mutilation is a cultural practice that is deeply rooted in society, and in order to change this tradition, a change is needed in attitudes and behavior towards it. Such change cannot be accomplished by drafting laws and setting up fierce repressive systems. Hence why the impact of laws or policies to curb the practice needs to be carefully examined. A better understanding of the implementation of legal provisions will strengthen the efforts to end this harmful practice, and will help in finding the right balance between prosecution and prevention. In this context, it is crucial to increase the capacities of professionals that are key in the implementation system and to identify the enabling factors for the enforcement of the legislation.

Introduction

This report is the outcome of a multi-country project, financed by the European Commission's Daphne programme. The project was preceded by a first one, finalised in 2003. Countries represented in the project were Belgium, France, Spain, Sweden and the United Kingdom. The International Centre for Reproductive Health (ICRH), Ghent University, Belgium, coordinated the initiative that was led by Dr. Els Leye. The partnership consisted of the following members:

- **Els Leye, Alexia Sabbe:** International Centre for Reproductive Health (ICRH), Ghent University, Ghent, Belgium
- **Linda Weil-Curiel:** Commission pour l'Abolition des Mutilations Sexuelles (CAMS), Paris, France
- **José García Añón, Ruth Mestre i Mestre:** Human Rights Institute, University of Valencia, Valencia, Spain.
- **Sara Johnsdotter:** Faculty of Health and Society, Malmö University, Malmö, Sweden
- **Naana Otoo-Oyortey:** Foundation for Women's Health, Research and Development (FORWARD), London, UK

In the first project, from January 1, 2003, to June 30, 2004, the European Commission's Daphne Programme financed a study on legislation regarding Female Genital Mutilation (FGM) in fifteen European Member States⁸ and the implementation of these laws in Belgium, France, Spain, Sweden and the UK.⁹

Legal provisions pertaining to FGM are found in various sources, most frequently in criminal laws and child protection laws. Some countries in Europe have developed specific legislation on FGM, while FGM is prosecutable under the general penal code in others.

The research of the first phase showed that the implementation of criminal and child protection laws on FGM is a complex matter. Developing legislation alone is not sufficient. Nor is a specific law more successful in punishing FGM than general criminal law provisions. To be effective, different sectors need to be properly trained for the further implementation of the criminal and child protection laws. The range of professionals involved in this process is numerous: health professionals (paediatricians, gynaecologists, general practitioners, midwives, nurses, etc.), child protection officers, social services, police officers, immigration services and legal professionals.

⁸ In April 2004, the 15 EU Member States were: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, Portugal, Spain, Sweden, the Netherlands and the United Kingdom.

⁹ The project title was "*Evaluating the impact of existing legislation in Europe with regard to female genital mutilation*".

The report of this project is available at:

<http://www.icrh.org/files/icrh%20publications%20n%20comparative%20analyse2.pdf>

Not only does every professional group need training on this topic, the range of sectors need to work together in order to tackle the problem of FGM effectively. One of the two main barriers for the implementation of legislation is the identification of cases, which is principally obstructed by the lack of knowledge among professionals. The second important barrier is the complexity of finding sufficient evidence to bring a case to court.

A **second project** was deemed necessary to enhance the implementation of criminal and child protection laws on FGM in the EU, by focusing on the gap in knowledge among professionals. For that reason, the European Commission's Daphne Programme financed the research project *"Towards an improved enforcement of FGM-legislation in Europe: Dissemination of lessons learned and capacity building of actors in the legal and paralegal field"*, which ran from June 2007 to June 2009.

This second phase aimed to tackle the poor implementation of laws by enhancing the capacities of professionals to identify and properly deal with FGM in five EU countries.¹⁰ It effectively put into practice the lessons learned and recommendations of the first phase, a.o. by organising targeted training and information campaigns about FGM issues, legislation and child protection procedures for stakeholders in order to better protect girls from FGM.

Through a series of workshops for professionals from various sectors, information and training was provided. Simultaneously, the workshops gave country-specific feedback on obstacles for implementing the laws. By disseminating the results and lessons-learned at the European level through a final conference, practical recommendations resulting from these workshops are helpful for other Member States.

In addition, this second phase included an updated and extensive review of laws on FGM in all countries of the European Union, including the new member states.

The five project partners organised capacity building workshops in their respective countries, and each compiled a national report on their country's legislation regarding FGM, the outcome of the workshops and the ensuing recommendations. Copies of these national reports can be requested at the following email addresses and/or websites:

- **Belgium:** Els Leye (els.leye@ugent.be), Alexia Sabbe (alexia.sabbe@ugent.be), ICRH website: <http://www.icrh.org> (under FGM-related projects)
- **France:** Linda Weil-Curiel (w113111@club-internet.fr), CAMS website: <http://www.cams-fgm.org>)
- **Spain:** José García Añón: jose.garcia@uv.es
<http://www.uv.es/garciaj/pub/2009mgf.pdf>
 Electronic journal: Cuadernos Electrónicos de Filosofía del Derecho, 17/2008:
http://www.uv.es/CEFD/Index_17.htm
 Video and texts: http://www.uv.es/legalskills/audiovi/mediateca/mediatecadret/Entradas/2008/10/30_Seminario_Mutilacion_Genital_Femenina.html
- **Sweden:** Sara Johnsdotter (sara.johnsdotter@mah.se), Malmö University website: <http://www.mah.se>
- **UK:** Naana Otoo-Oyortey (forward@forwarduk.org.uk), FORWARD website: <http://www.forwarduk.org.uk>

¹⁰ Belgium, France, Spain, Sweden and the UK.

About the report

This publication comprises the results of the research project *“Towards an improved enforcement of FGM-legislation in Europe: Dissemination of lessons learned and capacity building of actors in the legal and paralegal field”*.

After a brief description in **chapter 3** of the project methodology, **chapter 4** goes into detail on the legal framework regarding FGM in European countries and contains an overview of the present criminal laws, child protection laws and professional secrecy provisions in Europe.¹¹ A depiction and comparative analysis of the capacity building workshops in the five EU Member States is provided in **chapter 5**, followed by the introduction and description of the instrument “Country Assessment Tool”, developed in the course of the project, in **chapter 6**.

Finally, a concise outline of the project conclusions and recommendations for policy advice on law enforcement are provided in **chapter 7**.



.....
¹¹ Data is based on information from the questionnaires and also directly from stakeholders. It reflects the situation up until June 2009.

Research methodology

3.1. Questionnaire

One of this project's main activities involved collecting data for an overview and analysis on applicable FGM-legislation in EU Member States by using a questionnaire. This questionnaire proved successful during the first phase, in the former project "*Evaluating the impact of existing legislation in Europe with regard to female genital mutilation*". Some small changes were made, based on the outcome it yielded in the first phase. This first phase can be considered as a test phase of the questionnaire.

Key informants in Member States received a questionnaire to assess existing criminal legislation, child protection measures and professional secrecy provisions in their respective countries.

In view of the expanding European Union, the questionnaire was extended to include the new Member States: Bulgaria (2007), Cyprus (2004), Czech Republic (2004), Estonia (2004), Hungary (2004), Latvia (2004), Lithuania (2004), Malta (2004), Poland (2004), Romania (2007), Slovakia (2004), Slovenia (2004).

The questionnaire was also sent to Norway and Switzerland as these two countries have experience with FGM that is valuable to enhance knowledge on the implementation of FGM laws. Most informants returned the completed questionnaire.

Respondents who completed the questionnaires stem from a wide range of sectors: NGO's, government institutions, universities and research centres. NGO's that responded, focus on various topics such as FGM, family planning, human rights, children's rights, gender issues, etc. Among the government institutions, several ministries, for example the Ministries of Justice in Denmark and Estonia, and the Ministry of Children and Equality in Norway, participated in collecting the country data for the questionnaire. A range of faculties and research centres also collaborated, such as the Research Centre on Security and Crime in Italy, the Mirovni Institute in Slovenia, the Faculty of Law at the Nicolaus Copernicus University in Poland and the Slovak Academy of Sciences. In the United Kingdom, the Child Abuse Investigation Command of the Metropolitan Police in London completed the questionnaire, thus adding to the diversity of the respondents.

When taking the individual professionals into account, most of the respondents had a legal background. However, there were also anthropologists, criminologists, nurses, medical doctors and a police officer among the individuals who supplied information for the questionnaire.

Several respondents, mostly in Central and Eastern European countries such as Latvia, Lithuania and the Czech Republic, did not complete the entire questionnaire but only responded that “FGM is not an issue” or “an unknown practice” in their respective countries and that “the Criminal Code and legislation in general do not include any provisions with regards to FGM”. In their explanation they linked the absence of this harmful practice to the fact that only “a very small number of ethnic minorities” is present in the country or that “there are practically no migrant communities in the country, respectively no strata of society that could practice FGM”.

3.2. Capacity building workshops

In five EU Member States¹² workshops were held for key professionals, stemming from a wide array of sectors, on the implementation and enforcement of legislation regarding FGM. These chosen countries are an assorted mix of states with general or specific criminal laws, with successful court cases or the complete lack thereof, and with reports of FGM or the absence of any such reports.

The design of the workshop(s) took on a different format in each country¹³, although the common focal point was the national legislation, and its implementation, in the five countries.

The workshops resulted in an improved awareness of FGM and its applicable legislation among a variety of professionals in their respective countries.

All five European countries took different aspects of enforcement of FGM-legislation into consideration and concentrated on a variety of stakeholders.

Based on the current needs in the respective Member States, the workshops approached the subject of FGM at a different angle in every country:

- **Belgium:** Focus on child protection and prevention
- **France:** Focus on the judicial system and legal procedures
- **Spain:** Focus on enforcement of FGM legislation and implementation of good practices
- **Sweden:** Focus on the ethical aspects of implementing FGM legislation
- **UK:** Focus on asylum and refugee legislation in the UK

The methodology of these workshops was based on a similar structure: identification of the target group (participants), formulation of key questions & aim of the workshop and drafting of the agenda accordingly. National country reports¹⁴ of these workshops include the specific workshop themes that were discussed and the ensuing results. Based on these national reports, a comparative analysis of the five countries was performed, which resulted in the formulation of recommendations for an enhanced implementation and enforcement of FGM legislation in Europe (see chapter 6).

¹² Belgium, France, Spain, Sweden and the UK.

¹³ Chapter 5 contains a detailed explanation of each workshop.

¹⁴ See page 10 for information on obtaining a copy of these country reports.

Legislation in Europe with regard to FGM

Legal provisions that apply to FGM can be found mainly in **criminal laws** and **child protection regulations**. Several European countries have developed specific criminal legislation on FGM, whereas in other countries the practice is prosecutable under the general penal code. Apart from criminal provisions, child protection measures, applicable to FGM (risk)cases, are also largely present in European states.

Professional secrecy provisions, highly relevant for detecting and reporting FGM cases and girls at risk, merit a thorough examination as well.

4.1. Criminal laws

Two types of criminal laws deal with FGM in Europe: specific laws and general criminal laws. Currently, several national governments, as well as the European Parliament, are debating how existing criminal laws can be better implemented in order to end the practice of female genital mutilation, with a particular emphasis on reporting cases by (health) professionals.

General criminal laws

In the vast majority of countries, FGM is prosecutable under **general** criminal legislation.

Provisions and articles in the penal code dealing with **bodily injury**, **serious bodily injury** and sometimes also **mutilation** are applicable to the practice of FGM and can be used to prosecute in the court of law. The comparative legislative framework in Table I (see page 15) provides details of the prevailing legal terms in these countries.

Specific criminal laws

At present, specific criminal laws have been introduced in ten European countries: **Austria, Belgium, Cyprus, Denmark, Italy, Norway, Portugal, Spain, Sweden and the UK**.

Sweden, the first European country to adopt specific legislation on FGM in 1982, changed the law in 1999 and 1998 in order to impose more severe penalties, change the terminology¹⁵ and remove the exigency of double incrimination¹⁶, consequently making it easier to prosecute FGM performed outside the country's borders. The UK also changed the terminology of its first act (1985) from "circumcision" to "mutilation" in 2004. Norway adopted a specific law about a decade later, in 1996, and altered the law in 2004 to include the statutory "duty to report" for professionals and employees in various public services and religious communities.

The rest of the states adopted their specific criminal provisions between 2001 and 2007. An overview is provided in figure 1.

.....
¹⁵ The original phrasing "female circumcision" was changed into "female genital mutilation".

¹⁶ More information on prosecuting FGM performed abroad is available under the next section regarding "extraterritoriality".

Figure 1 Countries with specific criminal laws in Europe and the year the laws were adopted



In Switzerland, the National Law Commission is working on a draft bill to introduce a specific regulation on FGM, which would amend the Criminal Code. This would make Switzerland the eleventh country in Europe with specific criminal legislation.

Another development was recently witnessed in Germany, where a draft bill to create a specific FGM law was proposed. However, German Parliament did not accept this and subsequently FGM remains prosecutable under the general criminal law.

In the past decade, the introduction of specific legal provisions as a means to prosecute and punish FGM was a noticeable trend throughout Europe. Moreover, European countries were urged by the European Parliament and Council of Europe to adopt specific laws to prohibit and punish FGM. Resolutions dealing explicitly with FGM (2001) and with children's rights (2008) prompted this development.

However, former research from ICRH revealed that having a specific criminal law on FGM was not the decisive factor in having more court cases. The issue is not whether the law is a general or specific one, but rather the manner of implementation. The focus should be on both the professionals who apply it and the population groups to which the law applies. This entails more interventions among the practicing communities to change behaviour and attitudes towards FGM. Equally so, interventions among professionals are vital for properly dealing with FGM.

Resolutions in Europe regarding FGM

→ Council of Europe – Resolution 1247 (2001) on female genital mutilation

“The Assembly calls on the governments of member states:

i. to introduce specific legislation prohibiting genital mutilation and declaring genital mutilation to be a violation of human rights and bodily integrity; ...”

→ European Parliament Resolution of 20/09/2001 on female genital mutilation (2001/2035 (INI))

“The European Parliament,

1. Calls on the Member States, to this end, to: - regard any form of female genital mutilation as a specific crime, irrespective of whether or not the woman concerned has given any form of consent, and to punish anybody who helps, encourages, advises or procures support for anybody to carry out any of these acts on the body of a woman or girl, ...”

→ European Parliament Resolution of 16/01/2008 “Towards an EU strategy on the rights of the child” (2007/2093(INI))

“The European Parliament,

44. Calls on the Member States either to implement specific legal provisions on female genital mutilation or to adopt laws under which any person who carries out genital mutilation may be prosecuted; ...”

It needs to be stressed that the most recent resolution of the European Parliament, Resolution of 24/01/2009 on combating female genital mutilation in the EU, is already different in this respect, suggesting Member States either adopt specific legislation on FGM or prosecute any person who carries out genital mutilation under their existing legislation.

European Parliament Resolution of 24/03/2009 on combating Female Genital Mutilation in the EU:

“The European Parliament,

...

22. Calls on Member States to either adopt specific legislation on FGM or under their existing legislation to prosecute each person who conducts genital mutilation.”

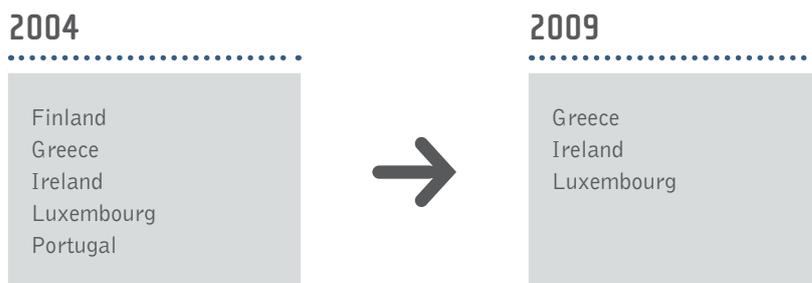
Extraterritoriality

Prosecuting and punishing FGM in Europe would not be effective unless the principle of extraterritoriality applies to these criminal provisions – both specific and general. Most frequently, girls and young women undergo FGM when they are on holiday visiting relatives in their country of origin. The principle of extraterritoriality renders it possible to prosecute the practice when it is committed outside the borders of one of the European countries.

Conditions for the application of this principle differ from state to state. Frequently, either the offender or victim, and sometimes both, must be a citizen or at least a resident of the European country. Occasionally, FGM must also be considered a criminal offence in the country where the crime was committed.¹⁷

The large majority of states include this principle in their criminal provisions, making it possible to prosecute FGM even if it occurs on African, Asian or Middle-Eastern soil. There are exceptions however, where extraterritoriality is not foreseen for criminal laws applicable to FGM. Most notably, this is the case in **Greece, Ireland¹⁸ and Luxemburg**. Compared to the situation in 2004, there is an improvement as the laws in Finland and Portugal have been amended and now also include the principle.

Figure 2 Overview of countries without the principle of extraterritoriality



In this context it is worth mentioning that all countries with specific criminal legislation foresee the principle in their respective laws, which are therefore applicable to FGM performed even on foreign soil.

Table I. Legislation regarding FGM

Table I provides an overview of criminal laws applicable to FGM in all European countries. The first column identifies whether the respective country has specific or general criminal provisions, with more details about the law in the second column. Further, in the third column the principle of extraterritoriality and its prerequisites are explored. The next two columns provide data on possible criminal court cases and reports of (suspected) cases. Column six looks into whether there is any system for collecting information on reports. The final column identifies if a national action plan or strategy to implement the law on FGM is present.

¹⁷ This is the exigency of double incrimination: In order to pursue, to prosecute and to punish the practice of female genital mutilation if the offence was committed outside the borders of the country, the condition applies *that female genital mutilation is also an offence in the country where it was committed*.

¹⁸ In March 2009, it was announced by the Department of Health in Ireland that their Minister for Health, Mary Harney, is examining the possibility of introducing specific legislation to ban FGM. Reactions from activists (AkiDwA – network of African women living in Ireland) emphasized that any new legislation must include the principle of extraterritoriality to reduce the risk to immigrant girls and women taken abroad for the purpose of genital mutilation.

Table I. Legislation regarding FGM

Country	Specific or General Criminal Law provision applicable to FGM	Criminal Offence	Extraterritoriality	Criminal prosecutions for FGM	Reported or Suspected Cases	Information Collecting System of Reports	National Plan or Strategy to implement legal provisions applicable to FGM
Austria	Specific criminal law (01/01/2002) Section 90 of the Penal Code – Gender neutral – Applicable to clitoridectomy, excision, infibulation, re-infibulation	– Performance – Participation – Attempt to	Yes Conditions: – Double incrimination required unless both the victim and offender are Austrians – Offender must be found on the territory if he/she is a foreigner	No	Yes, suspected cases (reported through research conducted by African Women's NGO)	No	No
Belgium	Specific criminal law (27/03/2001) – Gender specific (only women) – Applicable to all forms of sexual mutilation, except piercings and tattoos (as specified in the preparatory works, not the legal provision itself) (Re-infibulation not specifically stipulated as illegal)	– Performance – Participation – Facilitation – Attempt to	Yes Conditions: – Victim is a minor – Offender must be found on the territory	No	No	Not specified, but police and public organisations defending the rights of minors collect this information	Only draft version
Bulgaria	General criminal law	Bodily injury		No	No	No	No
Cyprus	Specific criminal law (2 of 48(i) of 2003): article 233A Criminal Code – Gender neutral – Applicable to clitoridectomy and infibulation	– Performance – Participation – Facilitation	Yes Conditions: Exigency of double incrimination but without the mention of the condition that FGM is also an offence in the country where it was committed.	No	Unknown	No	No

Czech Republic	General criminal law: Articles 221-224 of law related to domestic violence crimes (2004), incorporated in criminal code	Bodily injury among family members	Yes Conditions: – Offender is a Czech national or permanent resident of the Czech republic. – Offender is foreigner: – Double incrimination; – AND – Offender is apprehended in the Czech Republic and not extradited to a foreign state.	No data	No data	No data	No data	No data
Denmark	Specific criminal law: Section 245A of the Penal Code (31/05/2003) – Gender specific (only women) – Applicable to clitoridectomy, excision and infibulation: any procedure that involves removing parts of the female external sex organs (Re-infibulation not specifically stipulated as illegal. National guidelines are provided)	In specific law: – Performance In general provisions of Danish Criminal Code: – Participation – Attempt to	Yes Conditions: Offender is a Danish national or resident AND; – Double incrimination; OR – Sexual abuse child/FGM; OR – Victim is Danish national or resident.	Yes 1 criminal court case (sentenced in 2009)	Yes (one case currently under police investigation)	No	Application of legislation on FGM is continuously followed by the Director of Public Prosecutions.	
Estonia	General criminal law: Articles 118-124 Penal Code – § 118 Causing serious damage to health – § 119 Causing serious health damage through negligence – § 120 Threat – § 121 Physical abuse – § 122 Torture – § 123 Placing in danger – § 124 Refusal to provide assistance	(Serious) bodily injury	Yes Conditions: – Exigency of double incrimination – Victim must be a national from Estonia – Offender must be found on Estonian territory	No	No	Yes see Code of Criminal Procedure for provisions on reporting a criminal offence	No	

Country	Specific or General Criminal Law provision applicable to FGM	Criminal Offence	Extraterritoriality	Criminal prosecutions for FGM	Reported or Suspected Cases	Information Collecting System of Reports	National Plan or Strategy to implement legal provisions applicable to FGM
Finland	General criminal law: Finnish Penal Code	Grievous bodily harm	Yes Conditions: – Victim must be a national or permanent resident of Finland. OR – Offender is a Finnish citizen	No	No	No	No
France	General criminal law: – Article 221-1- & 222-3 Penal Code: torture and acts of barbarity – Article 222-9/10 Penal Code: mutilation	Mutilation	Yes Condition: Victim is a French national or a resident in France.	Yes 37 criminal court cases	Yes Doctors or hospitals inform the prosecutor when mutilation is observed. Suspected cases are reported through a hotline, or by nurses in schools and social workers.	No	Regional guideline in Paris In 2009 the government launched a new campaign against FGM (including informational brochure for the prevention of FGM)

Germany	<p>General criminal law: Sections 224-226 of the Penal Code (Strafgesetzbuch, StGB)</p> <p>Article 224: Dangerous bodily injury (precondition: bodily injury must have been performed with a dangerous instrument (e.g. knife, razor blade, etc.)</p> <p>Article 225: Maltreatment by parents/person having custody</p> <p>Article 226: Serious bodily injury (precondition: loss of essential parts of the body or infertility)</p>	(Serious) bodily injury	<p>Yes</p> <p>Conditions: Double incrimination AND – Either victim is a German national; OR – Offender is a German national and has not been extradited to the country where the crime was committed (apprehended on German soil).</p>	No	Suspected cases	No	No
Greece	<p>General criminal law: – Article 310 Penal Code – Article 6 Law combating violence against women and children inside the family environment which constitutes aggravating circumstances (Law 3500 of 24 October 2006)</p>	<p>Bodily injury</p> <p>Serious bodily injury</p> <p>Voluntary corporal lesion</p>	No	No	Unknown	No data	No
Hungary	<p>General criminal law: XII. title 1</p>	<p>Bodily injury</p> <p>Serious bodily injury</p> <p>Voluntary corporal lesion</p>	<p>Yes</p> <p>Conditions: – Offender must be found on the Hungarian territory. – Other</p>	No	Unknown	No	No

<p>Norway</p>	<p>Specific criminal law (01/01/1996) Altered on May 23rd, 2004 to include the duty to report for professionals and employees in various public services and religious communities.¹</p> <ul style="list-style-type: none"> – Gender specific – Applicable to all forms of FGM 	<p>Performance Participation Facilitating Attempt to Procurement</p>	<p>Conditions: – Offender is Norwegian national or a person domiciled in Norway. – If offender is foreigner, the exigency of double incrimination applies and the offender must be a resident in Norway or staying within the borders.</p>	<p>Yes 1 criminal court case</p>	<p>15 reported cases in 2006 & 2007 111 suspected cases</p>	<p>In development The Ministry of Children and Equality has established a working group to explore how FGM cases can be registered in sector and/or administrative systems in relevant services.</p>	<p>Action Plan for combating Female Genital Mutilation (2008-2011) Guidelines with a description on roles, tasks and responsibilities of the health service, child welfare service and the police.</p>
<p>Poland²</p>	<p>General criminal law: Article 156 of the Penal code</p>	<p>Serious bodily injury</p>	<p>Yes Conditions: – OFFENDER IS ALIEN: – Victim is a Polish citizen; OR – Offender remains on territory of the Republic of Poland (no decision on his extradition has been taken) and the penalty for the crime does not exceed two years. – OFFENDER IS POLISH: – Double incrimination</p>	<p>No</p>	<p>Unknown</p>	<p>No</p>	<p>No</p>

Country	Specific or General Criminal Law provision applicable to FGM	Criminal Offence	Extraterritoriality	Criminal prosecutions for FGM	Reported or Suspected Cases	Information Collecting System of Reports	National Plan or Strategy to implement legal provisions applicable to FGM
Portugal	Specific criminal law (04/09/2007): article 144 Criminal Code <ul style="list-style-type: none"> – Gender neutral – Any form of sexual mutilation 	Performance Participation Attempt to Procure for Failure to report	Yes Conditions: <ul style="list-style-type: none"> – Victim must be a minor – Offender must be found on Portuguese territory and cannot be extradited. 	No	Suspected cases: Indirect testimonies of community members and media, information offered by NGO. Trips made by young girls to their birth countries for FGM indicate possible situations.	No	Inter-institutional working group between NGO and public entities to implement the measures of prevention, training and cooperation among PALOP's (Portuguese speaking African countries).
Romania	General criminal law: <ul style="list-style-type: none"> – Article 182 of the Penal Code – Article 2 Domestic Violence Law (Law 217 of May 2003) 	Serious bodily injury	No data	No data	No	No data	No data
Slovakia	General criminal law: <ul style="list-style-type: none"> – Section 123, 155, 156 Penal Code: Bodily harm and injury – Section 208 Penal Code: Abuse of a close person and of a person in their custody or care 	Bodily injury Serious bodily injury Mutilation	Condition: Double incrimination	No	No	Slovak National Centre for Human Rights has a special division for monitoring children's rights.	No

<p>Slovenia</p>	<p>General criminal law: – Article 122 Penal Code – Article 123 Penal Code – Article 124 Penal Code Note: Article 125 Penal Code: “<i>Intentional causing of severe or particularly severe bodily injury is not unlawful if the injured person consented with it and if the interest of another person is not affected or any common legal value has not been threatened.</i>”</p>	<p>(Serious) bodily injury Voluntary corporal lesion Mutilation</p>	<p>Conditions: – The victim has to be a Slovenian national or resident. – The offender must be found on the territory of the prosecuting country.</p>	<p>No</p>	<p>Unknown</p>	<p>No</p>	<p>No</p>
<p>Spain</p>	<p>Specific criminal law (01/10/2003) – Gender neutral – Any form of sexual mutilation Note: <i>A woman cannot consent to the mutilation of her own genitalia. However, if an adult woman gives free and explicit consent, the penalty is reduced.</i> (Article 155 Penal Code)</p>	<p>Performance Participation Facilitation Attempt to Procure for Reform of the Judicial Power Law (2005)³</p>	<p>For certain serious crimes (FGM is specifically mentioned), a paragraph was added to the Judiciary Power Law in 2005: – Principle of ‘non bis in idem’ (not sentenced or absolved abroad) – ‘Responsible person(s)’⁴ must be in Spain at the time the offence is committed abroad.</p>	<p>There have been three cases of criminal prosecution for FGM. All three were still treated under the general criminal provisions, before the specific law was introduced (1993, 2000 and 2002).⁵</p>	<p>Yes Child protection procedures are initiated when risk-cases are reported. Reports of suspected FGM are followed up by a preliminary police investigation. A medical/genital examination of the victim is essential to gather evidence.</p>	<p>There are Annual Reports of Public Prosecution (but not specifically for FGM and not detailed enough).</p>	<p>No There is no national plan or strategy. However, Catalonia and Aragon have a regional plan.</p>

Country	Specific or General Criminal Law provision applicable to FGM	Criminal Offence	Extraterritoriality	Criminal prosecutions for FGM	Reported or Suspected Cases	Information Collecting System of Reports	National Plan or Strategy to implement legal provisions applicable to FGM
Sweden	<p>Specific criminal law (01/07/1982)</p> <p>Modified in</p> <ul style="list-style-type: none"> – 1998: change of terminology⁶ and severer penalties – 1999: removal of principle of double incrimination – Gender specific: applicable to women only – Any form of sexual mutilation 	<p>Failure to report</p> <p>Participation</p> <p>Facilitation*</p> <p>Attempt to</p> <p>Procure for *</p> <p>(*exact terminology in Swedish law: 'preparations' and 'conspiracy')</p>	<p>Conditions:</p> <p>Both victim and offender should be or should have been residents in Sweden</p>	<p>2 criminal court cases (2006)</p> <p>1 case of temporary detention (2008)</p>	<p>Yes</p> <p>Reports are gathered in the police record.</p> <p>Suspected cases are discussed in the mass media. Information is available through access to the police register.</p> <p>Certain police officers provide journalists with information.</p>	<p>The police record: national database containing a record of all the reports to the police (whether substantiated or not)</p> <p>Records at BRÅ, Swedish National Council for Crime Prevention</p>	<p>National Action Plan to Prevent Female Genital Mutilation (Ministry of Health and Social Affairs, 2003-2007)</p>
Switzerland	<p>General criminal provisions: Articles 122 – 123 Swiss Criminal Code</p>	<p>(Serious) bodily injury</p>	<p>Condition:</p> <p>Double incrimination</p>	<p>2 criminal court cases</p>	<p>The 2 cases brought before criminal court were reported by a doctor and by a social worker.</p> <p>There have been suspected cases These are reported through the Child Protection Authorities.</p>	<p>No</p>	<p>'Law Commission' of the National Commission is currently working on a draft bill to introduce a specific regulation on FGM/C, which would amend the Criminal Code.⁷</p>

<p>The Netherlands</p>	<p>General criminal provisions: – Abuse: Article 300 – 303 Penal Code – Unauthorized practice of medicine: Article 436 Penal Code – Law on individual health care professions: Article 436, 2</p>	<p>(Serious) bodily injury</p>	<p>Conditions: – Double incrimination – Limitation period</p>	<p>Yes 1 criminal court case (2009)</p>	<p>Yes, currently there are 37 suspected cases under investigation The ‘Advies en Meldpunt Kinder-mis-handeling’ is notified in case of suspicions.</p>	<p>Information is obtainable through the prosecuting authorities. Data on asylum and FGM are made available by ‘VluchtelingenWerk Nederland’.</p>	<p>Yes ‘Handelings-protocol’</p>
<p>United Kingdom</p>	<p>Specific criminal provision: PFC Act of 1985 (Prohibition of Female Circumcision) was changed into FGM Act (03/03/2004) – Gender specific – All forms of mutilation except piercings, tattoos and stretching of the labia</p>	<p>Performance Participation Facilitation Procure for Counsel to procure</p>	<p>Conditions: – Victim is a national or permanent resident OR – Offender is a national or permanent resident</p>	<p>No</p>	<p>Yes Cases are reported through the hotline and the specific code for crimes. Suspected cases are reported through referral by external agencies.</p>	<p>No</p>	<p>Multi-agency prevention & awareness campaign</p>

Footnotes tables

- 1 In the course of 2009, the provisions will most likely be modified again. A proposal for a new Penal Code was submitted. It is proposed to transfer the provisions on FGM to the (new) Penal Code, as acts punishable by a maximum sentence of six years imprisonment or more should be placed in the Penal Code.
- 2 The Law on Counteracting Violence in the Family (2005) is a very important legal instrument in this field. It defines the task of public authorities as well as rules of conduct towards victims and perpetrators. It obliges the Council of Ministers to adopt a National Programme against Domestic Violence (adopted by the Council of Ministers on 25 September 2006). It also imposes specific responsibilities on various branches of public authorities and introduces certain amendments in the Criminal Code and the Law on Social Assistance.
- 3 A parent arranging for FGM to be performed abroad is considered to be a form of authorship, not a preparatory act.
- 4 ‘Responsible person(s)’ include anyone who participated in the offence (performance, participation, attempt, etc.).
- 5 There has been a case of male circumcision under the new, specific criminal law on FGM. The Provincial Court of Castellón (2006) decided that male circumcision is not included as an offence because there is no injury and it is part of the family practice in Muslim and Jewish cultures.
- 6 From FC (Female Circumcision) to FGM (Female Genital Mutilation).
- 7 On March 17th 2005, the parliamentary initiative 05.404 ‘Verbot van Sexuellen Verstümmelungen in der Schweiz oder im Ausland von in der Schweiz lebenden Personen’ (Interdiction of genital mutilation in Switzerland or abroad of persons living in Switzerland) by National Councilor Maria Roth-Bernasconi was passed.

4.2. Child protection laws

Overview

Laws regarding child protection are present in all European countries and can be brought against FGM, as the practice is considered child abuse. Also, in situations where a girl is at risk these laws can be applied.

Voluntary measures, such as hearings with the family, counselling and warnings are the first step. Compulsory child protection measures can be taken when the voluntary actions did not provide results or when there is great urgency.

Compulsory measures range from removing the girl from the family and suspending parental authority to withholding the girls' passport and issuing a non-authorisation to leave the country. These far-reaching measures are subject to court permission.

Certain countries developed specific child protection guidelines or protocols for the protection of a girl at risk of FGM. A few examples are provided below:

- **United Kingdom:** the policy document "Working together to safeguard children", issued by the Department of Health, contains guidelines on how professionals should work together to promote children's welfare. This instrument refers specifically to the practice of FGM.
- In **France** the mother and child healthcare services "Protection Maternelle Infantile" (PMI) has issued a guideline¹⁹ on FGM for the Paris region to protect girls at risk.
- In **Spain** the autonomous regions of Cataluña, Aragon and Navarra and the province of Girona have implemented specific protocols²⁰ for the prevention of FGM, which include useful information such as a helpline for children, for women in situations of violence and for healthcare professionals.
- A protocol for discussing FGM (Gespreksprotocol) was developed in **the Netherlands**, to be used by social workers and health professionals of the Youth Health Service to prevent FGM being performed on young girls.²¹
- The **Swedish** Board of health and welfare issued guidelines regarding the prevention of FGM at national level in 2002.²²

Table II. Child Protection Measures

Table II provides an overview of the child protection instruments, which can be used in FGM (risk) cases, in all European countries. In the first column, specific measures of national child protection law are listed. The second column explores other existing guidelines or policies that are equally applicable to FGM. Subsequently, any child protection cases, explicitly on the topic of FGM, are mentioned. Finally, column four looks into whether this information on child protection is collected at national level.

¹⁹ Guideline regarding the excision of girls: "Conduite à tenir face à l'excision des petites filles".

²⁰ 'Protocol de prevenció de la mutilació genital femenina a la demarcació de Girona' (2002, modified in 2003 and 2006) and the 'Protocol d'actuacions per a prevenir la mutilació genital femenina' for the area of Cataluña in 2002, modified in 2008.

²¹ The Dutch protocol is a guideline for these professionals to raise the subject of FGM and hold a structured conversation with the parents of the girl, and later on with the girl as well. The protocol focuses heavily on 'behaviour change' by motivating families in practicing communities to alter their attitudes towards FGM.

²² "Kvinnlig könnstymning: Ett utbildningsmaterial för skola, socialtjänst och hälso-och sjukvård" (Female genital mutilation: An educational material for schools, social authorities and the health sector).

Table II. Child protection Measures

Country	Measures of child protection law applicable to FGM	Any other guidelines or policies of child protection applicable to the prevention of FGM	Child protection cases or interventions with regard to FGM	Information collecting point
Austria	Removing the child from the family	No	No	No
Belgium	<ul style="list-style-type: none"> – Travel permission – Removing the child from the family – Suspending parental authority Child Protection Law (April 8, 1965)	Regarding special assistance measures to minors at risk: Decrees of Walloon Community (March 4, 1991 and May 12, 2004) Ruling of the Flemish Executive (April 4, 1990)	No	Public prosecutor
Bulgaria	No data	No	No	No
Cyprus	<ul style="list-style-type: none"> – Non-authorisation to leave the country – Suspending parental authority – Removing the child from the family 	No	No	No
Czech Republic	No data	No data	No data	No data
Denmark	<ul style="list-style-type: none"> – Suspending parental authority – Removing the child from the family 	Newly arrived refugees and immigrants, which are covered by the 'integration program', are informed that FGM is forbidden when they are signing the declaration of integration and active citizenship. The Ministry of Integration has a fund that can support projects combating FGM.	Yes Administrative measures have been taken to remove children from their parents.	No
Estonia	<ul style="list-style-type: none"> – Suspending parental authority – Removing the child from the family Child Protection Act (08/06/1992)	No	No	(Code of Criminal Procedure contains provisions regarding reporting of a criminal offence)

Country	Measures of child protection law applicable to FGM	Any other guidelines or policies of child protection applicable to the prevention of FGM	Child protection cases or interventions with regard to FGM	Information collecting point
Finland	<ul style="list-style-type: none"> – Notification to the social welfare board – Taking child into custody Child Welfare Act	No	Yes There have been several notifications to child welfare by public health nurses. Their young patients told them that they feared to be circumcised by their family. In such cases, it is recommended to first notify the parents as well.	No
France	<ul style="list-style-type: none"> – Non-authorisation to leave the country – Removing the child from the family Article 375 of the Civil Code	No	Yes	No
Germany	<ul style="list-style-type: none"> – Non-authorisation to leave the country – Withholding the passports of girl – Suspending parental authority – Removing the child from the family 	Article 1666 BGB (German Civil Code): judicial measures in cases of child endangerment Article 1684 BGB (German Civil Code): Parents' right of access to child	Yes Court orders: – Bundesgerichtshof 15 Dec. 2004: Mother from Gambia is not allowed to bring her daughter to the grandmother still living in Gambia. – Amtsgericht Erfurt 19 Jul. 2007: Mother from Gambia is not allowed to bring her daughter to the grandmother still living in Gambia. – Amtsgericht Bonn 22 Feb. 2008: Father from Burkina Faso is not allowed to leave Germany together with his daughter. – Oberlandesgericht Karlsruhe 5 May 2008: Father from Egypt is only allowed to have supervised access to his daughter. – Amtsgericht Ratingen 3 Jul. 2008: Mother from Gambia is not allowed to leave Germany together with her two daughters. – Amtsgericht Bremen 28 Aug. 2008: Mother from Gambia is not allowed to leave Germany together with her daughter. In addition, the mother has to absolve the responsible paediatrician for breaching professional secrecy.	No

Greece	– Suspending parental authority – Removing the child from the family	Articles 6 and 9 of the Law combating violence against women and children inside the family environment	No	No	Unknown
Hungary	Removing the child from the family	No	No	No	'Gyámhivatal' Child Protection Office
Ireland	Removal from family home (if immediate and serious risk to the health or welfare of a child) Child Care Act 1991	Children's Act 2001, section 246 "It shall be an offence for any person who has the custody, charge or care of a child willfully to assault, ill-treat, neglect, abandon or expose the child, or cause or procure or allow the child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause unnecessary suffering or injury to the child's health or seriously to affect his or her wellbeing"	No	No	No
Italy	– Suspending parental authority – Removing the child from the family (The above list is not exhaustive)	No	No	No	No
Latvia	No data	No data	No data	No data	No data
Lithuania	No data	No data	No data	No data	No data
Luxemburg	No data	No data	No data	No data	No data
Malta	No data	No data	No data	No data	No data
Norway	Withholding the passport	Yes It is a general duty to inform child care services and also a duty to seek to avert FGM, by filing a formal complaint or in another manner.	No criminal case	No	No

Country	Measures of child protection law applicable to FGM	Any other guidelines or policies of child protection applicable to the prevention of FGM	Child protection cases or interventions with regard to FGM	Information collecting point
Poland	<ul style="list-style-type: none"> – Suspending parental authority – Removing the child from the family <p>Note: These measures are applied ex post rather than ex ante (curative rather than preventive measures).</p> <p>Non-authorisation to leave the country and withholding the passport are preventive measures applied in a pending criminal procedure.</p>	<p>No</p> <p>Polish law and social policy recognize various means of detecting and counteracting family violence, nevertheless, in terms of measures aimed at prevention of FGM there is hardly any state practice given the rareness of this phenomenon in Poland.</p>	No	No
Portugal	<p>Law Nr. 147/99 for the Protection of Children and Young Persons (September 1999)</p> <p>The Public Attorney's office represents children and young persons in danger by "proposing actions, requesting protective civil proceedings and using any judicial means necessary to defend and promote their rights".</p>	<p>Comissões de Protecção de Crianças e Jovens (Commissions for the Protection of Children and Youth)</p> <p>Article 2 of Law 147/99 authorizes these Commissions to promote the rights of Children and Young Persons. The law contains the duty for police and administrative authorities to collaborate with these Commissions. This duty also applies to individuals.</p>	Unknown	No
Romania	<p>Law Nr. 272/2004 to promote and protect the rights of children</p>	<p>National Agency for Family Protection</p>	No data	No data
Slovakia	<ul style="list-style-type: none"> – Suspending parental authority – Removing the child from the family 	<p>No</p>	No	Yes Slovak National Centre for Human Rights
Slovenia	<ul style="list-style-type: none"> – Suspending parental authority – Removing the child from the family 	<p>No</p>	No	No

Note: The online databases only include court judgments of the Court of Appeals, the Supreme Court and the Constitutional Court. Therefore the answer is not conclusive.

<p>Spain</p>	<ul style="list-style-type: none"> - Non-authorisation to leave the country - Withholding the passports of parents - Withholding the passport of girl - Suspending parental authority - Removing the child from the family - Order to return after specific period of time - Medical examination by doctor <p>Art. 158 Civil Code Art. 22.3 & 5 Judicial Power Law Art. 134 & 138 Family Code</p>	<ul style="list-style-type: none"> - Procedure to report suspicions of a future crime - Measures recommended in guidelines and protocols: <ul style="list-style-type: none"> - Generic protocols against gender-based violence on national and regional level (including national protocol that includes FGM in Primary Health Care, Emergency Services or Specialist Services); - Specific protocols (Catalonia & Girona, Aragon); - Guidelines for professionals (health, education, police); - Public instructions (for public attorneys and police in Valencia). <p>The specific protocols of Catalonia & Girona include helpful information such as a helpline for children, for women in situations of violence, for healthcare.</p>	<p>Yes</p> <p>There have been some cases or interventions, but it is not possible to provide an exact number.</p> <p>There is documented information of about six court cases regarding child protection measures for FGM between 2000 and 2007.</p> <p>Further, the following information gives an overview of the situation:</p> <ul style="list-style-type: none"> - Data from the Home Office (Ministry of Internal Affairs): 31 cases of FGM between 2004 and 2007 - Department of Social Action and Citizenship: 65 cases between 2003 and 2005, and more than 100 girls at risk in Girona - Home Secretary of Catalonia: 58 cases where FGM was prevented (2007 – first semester of 2008) - Aragon: around 50 families at risk 	<p>No</p>
<p>Sweden</p>	<ul style="list-style-type: none"> - Removing the child from the family (first step) - Suspending parental authority (second step, if prerequisites are met) 	<p>Information and counselling</p> <p>Based on the Social Service Act</p>	<p>No actual intervention to remove parents' custodial rights.</p> <p>No actions from child protection for the prevention of FGM. However, general measures, such as 'contracts' with parents visiting Somalia, have been taken.⁸</p> <p>There have been interventions when there are suspicions that FGM is already performed on a girl.</p>	<p>No</p>

Country	Measures of child protection law applicable to FGM	Any other guidelines or policies of child protection applicable to the prevention of FGM	Child protection cases or interventions with regard to FGM	Information collecting point
Switzerland	<ul style="list-style-type: none"> – Non-authorization to leave the country – Withholding passport of girl – Suspending parental authority – Removing child from the family – Recurring gynaecological examinations of the girl as a preventive measure – Supervision and assistance of the family by a social worker 	<p>When a girl child is born to a circumcised mother, health professionals in some hospitals inform parents about the prohibition of FGM/C in Switzerland and the health risks. There is a lack of prevention programmes on federal level and in most cantons. The canton of Geneva is the only canton that has an explicit prevention programme against FGM/C (<i>“Prise en charge de la problématique des mutilations génitales féminines dans le canton de Genève”</i>).</p> <p>This programme has three axes:</p> <ul style="list-style-type: none"> – Information campaign aiming to change attitudes among the Eritrean, Ethiopian, Somali and Sudan population groups. – Activities to encourage women’s autonomy in these communities. – Information and raising awareness among health professionals about FGM/C. 	<p>Yes</p> <p>Information from three cantons was collected in the UNICEF report⁸:</p> <ul style="list-style-type: none"> – Base1: no cases – Geneva: Child Protection Authorities were called for informal preventive work in several cases, no formal child protection measures reported. – Zurich: The Child Protection Authority of the city of Zurich has ordered regular (every six months) preventive gynaecological examinations of three sisters of a Somali family (aged five, six and eight) as a formal child protection measure. 	No
The Netherlands	<ul style="list-style-type: none"> – Removing child from the family (temporary or long term) <p>Child Protection Law (Art. 254, 1 and 261 of the Civil Code)</p>	<p>Yes</p> <p>Placing the child under supervision (request for asylum of minor)</p>	No	<p>Yes</p> <p>Advies en Meldpunt Kindermis-handeling’ (Advice and Notification Child Abuse) or ‘Council of child protection’ or police</p>
United Kingdom	<ul style="list-style-type: none"> – Non-authorization to leave country – Withholding passports of parents – Withholding passport of girl – Suspending parental authority – Removing the child from the family <p>Children Act 1989</p>	<p>Police Protection Court Orders (72 hours protection)</p>	Yes	No

Footnotes tables

- ⁸ Parents who take their daughter(s) with them on holiday to Somalia, are asked to sign an agreement not to subject their daughter(s) to FGM while visiting the relatives in their country of origin.
- ⁹ Cottier Michelle, Zivilrechtlicher Kinderschutz und Prävention von genitaler Mädchenbeschneidung in der Schweiz, 2008.



4.3. Professional secrecy provisions

Overview

Health professionals, social workers and teachers play an important role in identifying girls at risk and reporting cases of FGM. In general, European countries have foreseen professional secrecy provisions for these sectors, sometimes also extended to personnel of public bodies or services, making it illegal for these professionals to disclose incriminating information obtained in the context of their occupational activities.

However, there are situations where, for reasons of child welfare or public health, disclosure is allowed or required. Still, there are great differences between countries whether these professionals, as regards child abuse, have a “duty to report” or merely are offered the “right to report”. Four European countries merely have a ‘right to report’ for all categories of professionals. This is the case for Belgium²³, Ireland, Germany and The Netherlands²⁴. Other states established a “duty to report” for at least one of the key professional categories.

Detailed information on 23 countries was collected through the questionnaire. Data is incomplete for six countries.

Figure 3 Countries with a right to report for professionals

Right to report

Belgium
Ireland
Germany
Netherlands

²³ With the exception of article 422bis of the Penal Code: duty to assist persons in need (conditions apply).

²⁴ Secretary of State (Bussemaker) announced that there are plans to formalize the “reporting code”: when a doctor, teachers or social worker suspects FGM, he or she must act on it by informing a colleague or the central notification board.

Figure 4 Countries with a duty to report for at least one category of professionals

Duty to report	Doctors	Social Workers	Teachers
Austria	X		
Bulgaria			X
Cyprus	X	X	
Denmark	X	X	X
Estonia	X	X	X
Finland	X	X	X
France	X	X	X
Greece			X
Hungary	X		
Italy	X	X	
Norway	"Practitioners (doctors) and personnel of public bodies or services"		
Poland	X	X	X
Portugal	X	X	X
Slovakia	X	X	X
Slovenia	X	X	X
Spain	X	X	X
Sweden	X	X	X
Switzerland		X (state employed)	X (state employed)
United Kingdom	X	X	X

The "duty to report" is not only limited to professionals. In a range of countries, even citizens have the duty to report FGM to the social services or prosecution authorities. This is the case in the following states: Cyprus, France, Greece, Hungary, Norway, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

Table III. Professional Secrecy

Table III provides information about professional secrecy regulations in all European countries. The first column examines if statutory obligations regarding reporting of child abuse are present for professionals. Subsequently, the sectors of professionals are identified, while the third column specifies whether it involves a right or a duty to report for the respective professional categories. The fourth column takes a closer look at possible disciplinary sanctions, imposed by the professional order to which the involved professional belongs. Finally, the citizen's right or duty to report is explored.

Table III. Professional secrecy

Country	Professional secrecy provision(s) (statutory obligations for professionals regarding reporting of child abuse)	Which professionals are envisaged?	Professionals' duty or right to report	Internal disciplinary sanctions in case of non-reporting?	Citizens' right or duty to report
Austria	Yes	Health professionals (doctors) Teachers	Doctors: Duty Teachers: Right	Yes	Right to report
Belgium	Yes	Health professionals "Other professionals bound to secrecy" such as education staff and social workers	Right to report General duty to assist person in need (art. 422 bis Penal Code)	Several court rulings regarding school physicians who were found guilty of failing to offer assistance to a child in grave danger	Right to report
Bulgaria	Yes	Health professionals (doctors) Social workers Teachers	Doctors: Right Social Workers: Right Teachers: Duty	No	Right to report
Cyprus	Yes	Health professionals (doctors) Social Workers Teachers	Doctors: Duty Social workers: Duty Teacher: Right	No	Duty to report to police, family counselor, social services
Czech Republic	No data	No data	No data	No data	No data
Denmark	Yes	Health professionals (doctors) Social Workers Teachers	Doctors: Duty Social workers: Duty Teachers: Duty	Yes	Right to report
Estonia	Yes	Health professionals (doctors) Social Workers Teachers	Doctors: Duty in case of violence Social workers: Duty Teachers: Duty	Failure to report a crime is a criminal offence in the Penal Code.	Duty to report to social services, police or some other body providing assistance. When? If the person knows of a child who is in need of protection or assistance.

Country	Professional secrecy provision(s) (statutory obligations for professionals regarding reporting of child abuse)	Which professionals are envisaged?	Professionals' duty or right to report	Internal disciplinary sanctions in case of non-reporting?	Citizens' right or duty to report
Finland	Yes	Health professionals (doctors) Social workers Teachers	Doctors: Duty Social workers: Duty Teachers: Duty	Yes	Right to report to the Child Welfare or the Police
France	Yes Article 226-14 and Article 434-3 of the Penal Code	Doctors Social workers Teachers	Doctors: Duty Social workers: Duty Teachers: Duty	No	Duty to report to administrative and/or judicial authorities
Germany	Yes	Health professionals (doctors)	Doctors: Right	No	Right to report cases of child abuse.
Greece	Yes	Teachers	Teachers: Duty	Unknown	Duty to report to the police and the district attorney Failure to report could be considered a felony.
Hungary	Yes	Health professionals (doctors) Social workers Teachers	Doctors: Duty Social workers: Right Teachers: Right	Yes	Duty to report cases of child abuse to the police
Ireland	Yes Detailed procedures for reporting suspected child abuse: "Children First: National Guidelines for the Protection of Children"	Health workers Teachers Child care workers	'Particular responsibility' for reporting suspected child abuse	No	Right to report
Italy	Yes	Doctors Social workers Teachers	Doctors: Duty Social workers: Duty Teachers: Right	No	Right to report

Latvia	No data	No data	No data	No data	No data	No data
Lithuania	No data	No data	No data	No data	No data	No data
Luxemburg	No data	No data	No data	No data	No data	No data
Malta	No data	No data	No data	No data	No data	No data
Norway	Yes Child Welfare Services Act Introduction Act (Act on an introduction programme and Norwegian language training for newly arrived immigrants)	Practitioners Personnel of public bodies or services	Duty to report to child welfare service in case of a justified suspicion or concern that child may be subjected to FGM. In some cases also duty to report when FGM has been carried out.	Yes	Duty to report to the child welfare services or to the police.	
Poland	Yes	Health professionals (doctors) Social workers Teachers	Doctors: Duty Social workers: Duty Teachers: Duty	Yes Any public official is under the legal obligation to report any suspicion of a crime.	Right to report Child abuse should be reported within the scope of civic duties.	
Portugal	Yes	Health professionals Social workers Teachers Police officers and public functionaries (in general)	Duty for all categories	Internal sanctions for professionals in case of non-reporting of child abuse		
Romania	No data	No data	No data	No data	No data	No data
Slovakia	Yes	Doctors Social workers Teachers	Doctors: Duty Social workers: Duty Teachers: Duty	Yes	Duty to report to police or prosecution authorities in case of criminal offence of violence against children according to the Penal Code.	

Country	Professional secrecy provision(s) (statutory obligations for professionals regarding reporting of child abuse)	Which professionals are envisaged?	Professionals' duty or right to report	Internal disciplinary sanctions in case of non-reporting?	Citizens' right or duty to report
Slovenia	Yes	Health professionals (doctors) Social workers Teachers Any state body or body with public authority	Doctors: Duty Social workers: Duty Teachers: Duty State body or public authority: Duty to report criminal act (prosecuted ex officio/automatically)	Yes	Duty to report to the Police or the Public prosecutor's office
Spain	Yes – Article 262 and 355 of the Criminal Procedure Law – Article 16.1.a of Doctors' Code of Ethics	Health professionals (doctors, nurses, midwives) Social workers Teachers "Anyone who by reason of their status or profession has knowledge about a committed crime"	Duty to report (legal obligation for all professionals) to the prosecutor, the competent court, the instruction judge or the police.	Yes – Administrative sanction – Art. 42.3 Doctors' Code of Ethics	Duty to report to the prosecutor, the competent court, the investigating judge or the police (no sanction foreseen, except in the case of being witness to a crime) Article 264 Criminal Procedure Law
Sweden	Yes FGM Act Social Service Act	Health professionals (doctors) Social workers Teachers	Doctors: Duty Social workers: Duty to report to the social authorities (possibility to report to the police) Teachers: Duty	Yes If health care professionals fail to report child abuse to the social authorities, they risk sanctions (a formal warning from HSN, the Medical Responsibility Board, and also the risk that they may lose their certificate). Everyone, irrespective of professional background (with the exception of professionals at social authorities), may be punished for not reporting FGM to the police according to the FGM Act .	According to the Social Service Act every citizen should report knowledge of child abuse to the social authorities. According to the FGM Act every citizen has a duty to report FGM to the police.

<p>Switzer-land</p>	<p>Yes Note: Regulations regarding the rights and obligations to report cases of child abuse are a cantonal matter. The provided information is valid for most cantons. However, some cantons may differ.</p>	<p>Health professionals (doctors) Social workers Teachers</p>	<p>Doctors: Right Social workers: – state employed: Duty – non state employed: Right Teachers: Duty</p>	<p>No</p>	<p>Right to report</p>
<p>The Netherlands</p>	<p>Yes Article 53, paragraph 3 Child Care Law</p>	<p>Health professionals</p>	<p>Right to report</p>	<p>Yes Sanctions when health professional should have intervened to prevent worse from happening.</p>	<p>Right to report to police (Politiewet, Article 161 Sv: “Any person who has knowledge of a committed crime, is entitled to report it or press charges.”)</p>
<p>UK</p>	<p>Yes “Working Together to Safeguard Children” Professional guidelines</p>	<p>Doctors Social workers Teachers</p>	<p>Doctors: Right or Duty Social workers: Right or Duty Teachers: Right or Duty</p>	<p>Yes</p>	<p>Duty to report to social services</p>

4.4. Implementation of laws on FGM in Europe

An overview of the various existing legal provisions that can be used to prosecute or prevent FGM was presented in the previous sections. Providing a general outline of current laws, however, is only scratching the surface. Assessing the level of implementation of these laws throughout Europe, provides valuable feedback to determine which approaches are most effective and why.

As the questionnaire equally collected data on the number of court cases, the presence of reports of (suspected) cases and any child protection interventions related to FGM, this information allowed for an in-depth comparison of FGM activity between European countries. Figures 6 and 7 contain an outline of this multi-country assessment.

Criminal court cases

In recent years, there have been numerous developments. Whereas there had only been criminal court cases in France and Spain at the conclusion of the previous research, an increase in court proceedings throughout Europe can be observed. In light of the ongoing debate on the most effective legal instruments to enforce FGM-legislation, it is useful to study the unfolding events closely both in states with specific or general criminal laws on FGM.

Currently, ten European states have **specific** criminal provisions to tackle FGM. Despite the fact that this number has steadily increased over the years, criminal court cases under the specific law are still limited:

- **Sweden:** In 2006, there were two cases brought to court and tried under the specific law. In one case a mother was charged, while the other case involved formal allegations against a father. Both cases led to convictions and prison sentences of respectively three and two years.
- **Denmark:** In January 2009, a mother was sentenced to a two-year prison sentence.
- **Norway:** A criminal case on FGM is ongoing in court.

Among the countries with **general** criminal provisions regarding FGM, **France** has been the pioneer and the country with the most criminal court cases. At least 37 cases have been tried in the "Cour d'Assises", the highest criminal court in the country, resulting in extensive media coverage on the topic of FGM in France.²⁵ Before the introduction of the specific criminal law in **Spain** in 2003, three criminal court cases were held under its previous general criminal law (in 1993, 2000 and 2002), but none after 2003.

Other countries with general criminal provisions can be added to this list, as new court cases have come up recently:

- In 2008, two criminal court cases were tried in **Switzerland**. In the first case, a woman was sentenced to six months imprisonment for not having protected her half sister from FGM. The second case led to suspended prison sentences of two years for parents who had subjected their daughter to FGM in Switzerland.
- There's also a criminal case on grounds of FGM in **the Netherlands**, which is the absolute first in the country. Just recently, the court cleared the father of performing FGM on his daughter. Judges stated there was no doubt the girl had undergone FGM, but there was not enough evidence to lead to a conviction. Nevertheless, the father was convicted of beating and biting his daughter, for which he was sentenced to a three-month prison sentence.

²⁵ All cases were brought to court and tried under the general criminal law concerning "mutilation" (art. 222-9/10 of the Penal Code concerning mutilation).

Figure 5 Evolution of criminal court cases regarding FGM in Europe²⁶

Criminal Court Cases Situation in 2004

France
Spain



Criminal Court Cases Situation in 2009

Denmark
Netherlands
Norway
Sweden
Switzerland

Child protection interventions, reports of (suspected) FGM cases

When considering best practices for the implementation and enforcement of FGM-related laws, legal instruments and policy measures on the whole must be considered. Limiting the scope to criminal laws and prosecutions is too restricted, as these are also quite scarce. A criminal law is applied when a crime is committed, whereas child protection measures are put in place to protect a girl at risk of FGM.

Up to seven European countries have experienced specific FGM-related child protection interventions. The figure rises to eleven countries that have reports of (suspected) FGM cases.²⁷

Upon closer examination of the countries with criminal cases, child protection interventions or reports of (suspected) cases, it emerges that ten out of the twelve countries have implemented a **duty to report** for at least one category of professionals. In addition, ten states have some form of **action plan, strategy or guidelines issued at policy level**.²⁸ It is noteworthy that this category contains both countries with general and specific criminal legislation on FGM. The table in figure 6 provides a general overview.²⁹

The questionnaire did not include information on training initiatives for professionals concerning FGM. Nonetheless, this might equally be a decisive factor for reporting (suspected) cases of FGM and taking effective measures.



²⁶ Countries in red have adopted *specific* criminal FGM-legislation.

²⁷ See the comparative legislative framework (Table I and Table II) for more details on the child protection interventions, reports and suspected FGM cases.

²⁸ See the comparative legislative framework (Table I, II and III) for details on the reporting duty for professionals and the nature of policy instruments regarding FGM.

²⁹ Countries in red have adopted *specific* criminal FGM-legislation.

Figure 6 Overview of countries with FGM-related cases, interventions or reports of (suspected) cases

Countries	Criminal court cases & child protection interventions	Reported and/or suspected cases	Prof. secrecy	National Action Plan or Strategy
Austria	/	Suspected cases	Duty to report	/
Denmark	Criminal Child prot.		Duty to report	Follow-up application of FGM-law by Dir. Public Pros.
Finland	/	Notifications to Child Welfare	Duty to report	/
France	Criminal Child prot.	Reported and suspected cases	Duty to report	Regional guideline National campaign
Germany	Child prot.	Suspected cases	Right to report	Campaign to educate doctors on FGM
Norway	Criminal	Reports	Duty to report	National Action Plan
Portugal	/	Suspected cases	Duty to report	Inter-institutional working group – National Action Plan
Spain	Criminal & Child prot.	Reported and suspected cases	Duty to report	Regional action plans & protocols
Sweden	Criminal Child prot.	Reported and suspected cases	Duty to report	National action plan (expired)
Switzerland	Criminal & Child prot.	Reported and suspected cases	Duty to report	Prevention campaign (Geneva)
Netherlands	Criminal	Reported and suspected cases	Right to report	Guidelines: preventive 'conversation protocol'
UK	Child prot.	Reported and suspected cases	Duty to report	Multi-agency prevention and awareness campaign

In stark contrast, other European countries have had no criminal court cases and child protection interventions, not even any official reports of (suspected) FGM cases.³⁰ When taking an in-depth look, it becomes apparent that there are no national campaigns, nor strategies issued at policy level in these nations.³¹ A larger proportion of states in this group, two out of five, also merely have a right to report for professionals. Figure 7 includes a listing of this second category of countries. Again, this group consists of both states with general and specific criminal provisions.³²

There is also an absence of reported cases in Central and Eastern European member states. In the next section these countries will be examined separately.

³⁰ There is conflicting evidence about the situation in Italy. A criminal court case under the previous general law has been mentioned, but the information gathered through the questionnaire makes no reference to this.

³¹ Recently, national action plans have been developed in Greece and Ireland, which makes it interesting to follow future developments.

³² Countries in red have adopted *specific* criminal FGM-legislation.

Figure 7 Countries without FGM-related cases, interventions or reports of (suspected) cases

Countries	Criminal court cases & child protection interventions	Reported and/or suspected cases	Prof. secrecy	National Action Plan or Strategy
Belgium	/	/	Right to report	/
Cyprus	/	/	Duty to report	/
Greece	/	/	Duty to report (only for teachers)	/
Ireland	/	/	Right to report	/
Italy	/	/	Duty to report	/

Figures 6 and 7 outline the in-country situation at the time of the survey. Recent events are important to consider for re-evaluation of the situation in the future. Notably, action plans were adopted in Greece and Ireland. Italy is also planning to launch a campaign to focus on FGM. The Italian Equal Opportunities Minister plans to run a series of ads on state-run television to convince parents to end the practice. Belgium is currently developing a national action plan, which includes a chapter on FGM, a guide for health professionals and also a prevalence study on FGM. Forthcoming developments in these countries will prove interesting for comparative purposes.

Note on Central and Eastern European countries

Presence of large immigrant population groups, especially from countries where the prevalence of FGM is very high³³, is a decisive factor, which would explain the absence of reported cases in Central and Eastern European countries. According to the respondents from these states, there are no immigrant communities that practice FGM, and, moreover, the practice is largely unknown. Yet, without understanding of the practice among the health professionals, social services and teachers, it is even less likely for potential FGM cases to be noticed.

At present, other important issues are demanding the attention of policy makers. Violence against women, in particular domestic violence, is a massive problem.³⁴ In the last couple of years these countries have increasingly adopted national action plans on domestic violence. New specific laws have also been introduced in a number of states, offering more protection and sometimes classifying domestic violence as a specific criminal offence.³⁵

Human trafficking is another recurring problem in Central and Eastern European nations for which new measures have often been introduced.

.....
³³ Examples are Somalia, Sudan, Egypt, Ethiopia, Mali, Gambia, etc.

³⁴ Every 4th Bulgarian woman is affected by domestic violence. Roughly 37% of Czech women experienced physical or sexual violence from their partner. Every 3rd woman is affected by domestic violence in Slovakia. Every 5th Hungarian and Slovenian woman experiences violence. Source: Country Report 2008, Wave-Network, available at http://www.wave-network.org/images/doku/wave_country_report_2008.pdf

³⁵ National action plans or strategies on VAW or domestic violence were introduced in Bulgaria, Latvia, Lithuania, Poland, Romania and Slovakia. Specific laws on domestic violence have been adopted in Bulgaria, Czech Republic, Latvia, Poland, Romania, Slovakia and Slovenia.



However, in light of increased international migration from African, Middle-Eastern and Asian countries, immigrant communities will continue to grow. It is, therefore, not unforeseeable that Central and Eastern European states will be faced with the issue of FGM, making it important to raise awareness about the issue. If the groundwork is already laid, future preventive efforts can prove all the more effective.

Concluding remarks

The data shows that the amount of reports of FGM does not necessarily depend on the type of criminal law – either general or specific – in any given country. At present, ten states have adopted a specific criminal law on FGM, whereas in 2004 – at the conclusion of the previous project – this was the case for eight European countries. In 2004, the principle of extraterritoriality was not foreseen in five countries, whereas, currently only three states remain that do not include this principle. Concerning the number of countries with criminal court cases, this has multiplied from two to five countries in Europe since 2004.

There's an indication in countries with existing national action plans or policies that the numbers of reports is higher, although other aspects that were not part of the survey might equally have influenced this, such as sensitisation campaigns, inclusion of FGM in professionals' curricula and training of professionals. Both categories – countries with or without FGM-related cases, interventions and reports – include a mix of states with general and specific criminal legislation. To sum it up, there is no data that a specific criminal law leads to more prosecutions of FGM than a general criminal law.

On a final note, it is remarkable that FGM is decidedly absent in Central and Eastern European countries.

Lessons learned and recommendations from the capacity building workshops



Leye E, Sabbe A, García-Añón J, Johnsdotter S, Otoo-Oyertey N, Weil-Curiel L, Mestre i Mestre R

The following is a resume of the advantages of an enabling policy and legal framework, the obstacles to the implementation of laws and some recommendations that were identified in each of the country workshops.

5.1. Belgium

Belgium has a specific criminal provision dealing with FGM. Until now, no cases have been brought to court, no child protection interventions were done nor has a case of performed FGM been reported.

Findings from the 2004 research revealed an apparent lack of knowledge among key professionals, a lack of cooperation between various authorities and the need for guidelines for professionals to respond to actual and suspected cases of FGM. This second research did not find any substantial improvement to this situation.

The Belgian workshop aimed at informing participants about FGM and legislation, at identifying difficulties in protecting girls at risk and at getting feedback on the development of a protocol for professionals when dealing with FGM.

Workshop Belgium	“Obstacles to protect girls at risk of FGM: Views from the child protection sector and health professionals”	
	<p>Workshop 1: Female Genital Mutilation: Obstacles to protect girls at risk Key actors from the Family Services and Child Protection Agencies were invited to participate in the workshop.</p> <p>The focus was on the identification of obstacles to protect girls at risk of FGM, how these barriers can be overcome, and whether it would be useful to introduce a protocol for professionals in Belgium.</p> <p>Participants were informed about FGM and applicable legislation in Belgium in order to raise awareness, as the lack of knowledge among professionals seriously hinders the detection and reporting of FGM.</p> <p>Insights into the difficulties to adequately handle (risk)cases were gained. Participants also provided feedback about the development of a Protocol for professionals when dealing with FGM cases. Overall, a preventive approach is preferred above a focus on the criminalization of the practice.</p>	Ghent, October 29, 2008
	<p>Workshop 2: Setting up a network to prevent FGM & the development of a protocol Key stakeholders from the child protection sector, education sector and health sector participated in this workshop. Professionals from Family Services, the Student Guidance Centre, Child Protection Services, the Flemish Association of Midwives, the Coalition of Flemish Midwives and the Organisation of Gynaecologists and Obstetricians were present.</p> <p>The main objective was to examine the possibility of setting up a network between stakeholders and developing a protocol for the prevention of FGM. A discussion was initiated among stakeholders about dealing with FGM cases. Examples of existing networks and protocols in neighbouring countries were presented as a starting point to consider a network and protocol in Belgium.</p>	Ghent, February 6, 2009

Obstacles to the implementation of the law

Lack of knowledge

- Lack of knowledge among child protection officers is still apparent, both about FGM and about the law.
- Lack of knowledge of FGM among prosecutors.

Risk assessment

- Lack of tools for risk assessment (identifying families at risk).
- Timing of informing prosecuting authorities: magistrates only take protection measures when there's undeniable and tangible proof of a child in immediate danger, which is difficult to assess based on the fact that a child leaves for holiday. It is not easy to assess the element of urgency by prosecuting authorities.

Attitude of professionals

- Repressive nature of the criminal law to deal with FGM: FGM is a one-off act, not chronic child abuse. Denouncing parents means disintegrating functional families. Hence, decision making on denouncing, and when to denounce, is difficult.
- They do not want to interfere in norms and traditions of other cultures for fear of being intolerant or of moralizing people.

Reporting of cases

- Is more difficult than with other sexual child abuse: FGM is hidden and child protection officers have no know-how or experience.
- No duty to report child abuse – few resources available in the sector.
- New Decree extending rights of minors and allowing them to consent or refuse an intervention. This Decree made care workers more hesitant and reluctant to share information out of fear for infringing professional secrecy.

Compulsory genital screening

- In schools such screening is not feasible during check-ups (time constraint, no free choice of physician, patient-physician trust of girls seeking advice for other serious problems is jeopardised).
- No sanctions for those not showing up for medical check-ups.
- Refusal by parents to subject their daughters to check-ups.
- Selective screening/general screening is discriminatory and unconstitutional/meets opposition of parents.
- Although selective screening is done for disorders in populations groups that are identified as high risk populations, screening for FGM might not meet all prerequisites (detectable condition, good test available, screening should not have a worse effect than not screening, condition occurs frequently or causes grave damage in case of rare condition).

Fragmented government structure in Belgium

- Is a barrier to set up a comprehensive network.

Workshops' call for action

On protection of girls at risk

- Introduce "registration law", to register risk cases and follow up on families at risk.
- Create one centralized institution or centre to collect all notifications of families at risk.
- Develop instruments for child protection officers to deal with families at risk.
- Provide information for child protection officers on background of FGM.
- Develop a risk assessment protocol for professionals.
- Main focus should be on prevention, involving all stakeholders, and not on criminalizing FGM and a repressive policy to tackle the issue.

On gynaecological screening of girls

- Seek ethical advice to debate compulsory genital screening of girls to detect FGM and child sexual abuse.

On provision of care

- Develop a referral system for girls at risk and women with FGM, which would enhance implementation of law and improve follow-up and care for women with FGM.
- Provide training for health professionals, child protection officers, education sector, police on the use of the (still to be developed protocols).
- Set up a network of health professionals.
- Share real-time experiences with professionals from neighbouring countries on instruments that are used to handle FGM.
- Set up a central "general notification board", which should investigate all notifications before informing the public prosecutor's office, and aid the flow of information between professionals.

5.2. France

In France, female genital mutilation, or female sexual mutilation as it is called in France, is punishable under Art 222-9/10 of the penal code. This article refers to violent acts that have a mutilation or permanent damage as consequence. Over 35 cases of FGM have been brought to the Assize court in France, since the eighties. Art. 226-14 of the penal code concerning the professional secrecy, stipulates that this secrecy does not apply when FGM on a minor is concerned. Governmental agencies have been involved in the prevention campaign, and specific guidelines were developed for health professionals that could be faced with FGM (i.e. for the "Protection Maternelle et Infantile).

France is often considered as a good example in Europe when it comes to implementing the law on FGM. The basis of this perception is the visibility given to the many court cases in France, and the fact that France is the only European country, which has such a track record.

The French workshop documented the procedures followed when a case is reported, and identified obstacles and successes experienced by key actors in the judicial system.

Workshop France	"Female Sexual Mutilations. The application of the law in France & difficulties facing the professionals"	
	<p>Key actors from the French law enforcement system participated in this workshop to discuss the application of the French law and the present obstacles in the implementation of FGM legislation. Participants included the Public Prosecutor's office, the Child Protection Police Squad, the Counsel for prosecution at the Assize Court and the Assize Court President, as well as a representative from an NGO.</p> <p>Presentations and ensuing discussions concerned the following topics:</p> <ul style="list-style-type: none"> – Government policy (in the past few decades); – Public Prosecutor's role in mutilation cases; – The role and activities of the police during the inquiry; – Overview of cases of female sexual mutilations handled by the police in the past few years; – The role of the counsel for the prosecution at the Assize Court; – The jury trial at the Assize Court and its difficulties. 	Paris, November 27, 2009

Advantages of an enabling policy and legal framework

- *Joint efforts of ministries* responsible for the issue (in the early eighties when the practice emerged, Ministry of Justice, Health and Interior worked together).
- In those early days, a *strategic plan* was developed.
- Over time, France managed to develop and implement *targeted activities* at various levels, that were adapted to the changing reality over time, such as sensitization of health professionals in the PMI centres, the *recommendation* to examine the girls' genitals during medical check ups, the efforts of NGOs such as GAMS and CAMS, training of professionals (police, interpreters, magistrates)...
- The *duty to report* for professionals, and protection – of those who report – against legal actions (no disciplinary sanctions against those who report).
- Sexual mutilations are not specifically mentioned in a law, but it is the simple fact of a mutilation, whatever its nature is, that is sanctioned by the French Penal Code. Female *sexual mutilations are thus considered a crime*, and have been tried in Assize Court.

- The *trials in Assize Court* contributed to the sensitization of the communities (who stand on trial): other than in Tribunal court, a trial in Assize takes time: all parties are heard, debates take several days, there's a jury, ...
- The *existence of special units* within the police that deal with minors, the so-called "Child Protection Police Squad" (Brigade des Mineurs).

Obstacles to the implementation of the law

Persistence of practice

The workshop in France also underscored again that FGM is persistent, and that, despite the visible enforcement of the law through the numerous trials, those in favour of the practice continue to find ways of holding on to tradition:

- The first trials in France were on FGM being performed in France, while nowadays the trials focus on FGM performed abroad, on girls that are taken to Africa during school holidays.
- Parents are aware of the law, and claim 'presumed innocence' since they state that FGM was done on their girls while they left the child with others (a grandmother for example), although they oppose the practice.
- Parents delay the mutilation (after six years, when regular check ups by PMI are no longer done).

Finding sufficient evidence

- Now FGM is usually performed on girls when they travel abroad, which makes it difficult to find sufficient elements of charges (see findings of 2004 study).
- Finding sufficient elements to put the perpetrator on trial: most often the excisor is not found, and parents appear as accomplices. The problem here is to assess the complicity of both (father claims not knowing anything about this 'women's issue').

Risk assessment

- The assessment of a girl at risk is essential, but is a difficult process.

Reporting

- Duty to report is not always known to professionals.
- Reluctance with professionals to report.
- Victims do not report parents due to the relationship of dependency and loyalty.

Court trials

- Language barriers might be an obstacle to assess the neutrality of the interpreters.
- Cultural relativism.
- Parents claim their culture is put on trial.
- Parents perceive it an injustice to apply French law to non-French people and that culture and tradition stand above French law.
- Recent trend by district courts to take parents to trial for non prevention of a crime, not as accomplices.

Workshops' call for action

Importance of reporting (the basis of any legal procedure), which entails thorough *training of professionals*.

5.3. Spain

In Spain, a specific criminal code provision on FGM was introduced in 2003, and the principle of extra-territoriality was added in 2005. The several changes to the legislation on FGM have not led to any court cases yet; six cases reached the court before 2003 (in Cataluña and Mallorca) but were filed due to lack of sufficient evidence. Some areas in Spain developed specific protocols on FGM, and more particularly in the regions of Cataluña, Aragon and Navarra, for various target groups. Additionally, guidelines for professionals have been developed. Several preventive measures have been taken in Spanish courts to protect girls that were thought to be at risk of FGM. In most of these cases, measures were taken to prevent a girl from travelling to the country of origin, only in two cases parental rights were taken away.

In the last decade, Spain saw an increase of the immigrant population, characterized by a concentration of certain foreign nationalities in some districts of Spain.

The workshop in Spain focused on capacity building of those involved in implementing the law, and discussed several aspects, including the cases of FGM, Spanish legislation, protocols and guidelines, ethical aspects and racial conflicts in legislation and prevention measures and good practices in implementing the law.

Workshop Spain	"Prevention and Enforcement of Female Genital Mutilation. Legislation in Spain: some proposals in Penal Law, Asylum Law and Protocols of Prevention"	
	<p>Participants of the workshop included key people from NGO's, community-based organisations, prosecutors, judges, health care professionals, social authorities, child protection authorities, police and academics (criminal law professors, human rights professors, procedure law professors).</p> <p>Objectives were:</p> <ul style="list-style-type: none"> – The evaluation and discussion of known FGM cases in Spain; – To evaluate Spanish legislation (criminal, procedure law, etc.); – To present an overview of protocols and prevention guidelines and to evaluate these instruments, including their enforcement; – The assessment of services and bodies for FGM prevention; – The evaluation of ethical aspects and racial conflicts in legislation and in prevention measures; – To formulate practical recommendations to EU countries. <p>Participants were divided into panels, according to the topic and their expertise. Conclusions from each panel and the workshop were drawn and are available online, in an electronic journal and in the country report.</p> <p>Electronic journal: Cuadernos Electrónicos de Filosofía del Derecho, 17/2008; http://www.uv.es/CEFD/Index_17.htm</p> <p>Online: http://www.uv.es/legalskills/audiovi/mediateca/mediatecadret/Entradas/2008/10/30_Seminario_Mutilacion_Genital_Femenina.html</p>	<p>Valencia, October 30 & 31, 2008</p>

Advantages of an enabling policy and legal environment

- Existence of specific protocols and guidelines on FGM in some regions (Cataluña, Aragon and Navarra), for different target groups, including one protocol for the regional police in Cataluña and an instruction of the Attorney General of Valencia Community.
- Existence of specific guidelines for professionals.
- Change of legislation extending the principle of extraterritoriality to FGM in 2005.
- Preventive measures taken in courts to protect girls at risk.

Obstacles to the implementation of the law

- *Scarce knowledge* about FGM, the law and the connection to bodily injury.
- Legal interventions regarding FGM are necessary but it is unclear how to lead such interventions; there's a *lack of coordination* among those involved in such interventions.
- Reporting of cases remains problematic: the *identification of risk groups* and their residential location in Spain is *difficult* due to the increasing migration and the mobility of the population.
- Professionals (health professionals, lawyers, social workers, etc) have a *lack of knowledge and instruments* when confronted with cases that they come across.
- *Finding sufficient evidence* remains problematic.

Workshops' call for action

More coordination

- Coordination is needed between services, organizations and communities.
- Coordination at local level is needed between various key agencies for adequate prevention e.g. discuss cases at risk (social services, immigration services, schools, health professionals, police, child care services).

More regions to be included

- Assessment of number of women affected by FGM in each region in order to assign appropriate social, health and welfare services.
- Protocols and policies should be decentralized and issued per region.
- Protocols that were developed in one area in a specific sector should be expanded to other areas (eg police in Cataluña).
- Already existing information should be distributed to other areas with high prevalence of communities where FGM is common.

Improvement of service delivery

- Approach should be culture-sensitive and based on dialogue.
- Genital problems should be registered in a standardized way.
- Training is needed for health professionals on 1) health and legal aspects and 2) on reporting, identification and intervention in cases of girls at risk.
- Specific standards should be developed for the prevention, identification, care, protection and reconstructive surgery.
- Develop initiatives to help communities at risk but living in Europe resist pressure in the countries of origin:
 - Document of preventive commitment for parents, with information on legal and health consequences of FGM, to be signed by parents and health professionals (voluntarily).
 - Building networks between families, NGOs and professionals to reinforce families who wish to stop the practice.
- Need to invest in project in countries of origin to end the practice.

5.4. Sweden

Sweden legislated against FGM as the first European country in 1982. Since the law came into effect in 1982, twenty reports on suspected FGM have reached the police, only two cases were taken to court and ended up in custodial sentences. Nearly all cases of suspected FGM in Sweden have concerned families with origin in Somalia.

Guidelines in Sweden for all concerned professional groups do exist and they are easily accessible on the website of the Swedish Board of Health and Welfare. Exposure to the topic of FGM also includes the two recent court cases of FGM and the recurrent discussions on FGM in the media. The Swedish public is generally quite familiar with the existence of FGM.

The Swedish workshops discussed ethical aspects and the issue of discrimination regarding the implementation of laws in Sweden. In this respect, the views of both professionals (health professionals, social authorities, police, key officials of governmental agencies) and Somali community were taken into account.

Workshop Sweden	"Discrimination of certain ethnic groups? Ethical aspects of implementing FGM legislation in Sweden"	
	<p>Workshop 1: Ethical aspects of the enforcement of the FGM legislation</p> <p>Key actors from the health care sector, the social authorities, and the police were present, as well as researchers in the fields of law, social work, and anthropology, and also key officials from government organisations.</p> <p>The focus of the workshop was to identify situations, in the field of enforcement of FGM legislation, that involve ethical dilemmas. Possible actions or procedures were suggested that minimize effects, which may stigmatize the concerned group as a whole or violate the integrity of the individuals involved in specific cases.</p>	Malmö, September 26, 2008
	<p>Workshop 2: Voices from the Swedish Somali Community</p> <p>Participants included men and women from the Swedish Somali community.</p> <p>The workshop focused on how the Somali residents in Sweden view the Swedish FGM legislation, especially their stance on the enforced genital examinations without consent that have been performed in the country.</p> <p>Internal views on the implementation of FGM legislation among Swedish Somalis were mapped and ethical aspects of this implementation were highlighted through conveying some of their voices.</p>	Stockholm, November 2, 2008

Obstacles to the implementation of the law

Level of suspicion/risk assessment

- To assess the risk of a girl and to assess the appropriate moment to report (duty to report in Sweden).

Strong political will to identify illegal cases of FGM and to sentence the culpable in Sweden

Clash of goals

- Tension between various public sectors that come in contact with FGM: health and social sector (priority = health and wellbeing of individual) have different objectives and operational goals than the police (investigate crime).
- Actions undertaken in the best interest of child/to defend rights of child differ according to the sectors' mandate and objectives.

Risk of discrimination

- Suspicions of FGM and subsequent actions are sometimes based on ethnic background of the family and NOT on factual circumstances.
- Onus of proof is in some cases moved to the suspect (which is contrary to legal praxis of a suspect not having to provide proof of innocence) by urging/forcing girls to a genital examination.
- Provision of care and support to girls and women is jeopardised by professionals focusing too strongly and singularly on the issue of FGM.
- Lack of accurate knowledge, guidelines and protocols gives space to discrimination and arbitrariness in decision making which families to report.
- Attitudes of professionals sometimes judging and offensive and assuming that all Somalis have the intention of having their girls excised; or attitudes are ignoring the problem; such attitudes and personal emotions may influence actions and decisions.

Views from Somalis on implementation of law

- Somalis feel vulnerable in Swedish society and fear not to receive fair treatment in legal system.
- Somalis are unaccustomed to acting in democratic society, where issues are discussed in public.
- Somali men feel vulnerable since their spouses may play the "FGM card" during conflict and pending divorce.
- FGM in the media etc has caused discrimination and stigmatisation.

Compulsory gynaecological screening

- No support for compulsory gynaecological screenings among Somali.
- Professionals were divided about this.
- Enforced examinations imply loss of parental authority (according to Somali).
- Enforced examinations depict Somali parents as irresponsible and careless for their children.

Shortage of relevant knowledge on FGM in Sweden

- Lack of prevalence data.
- Lack of specific knowledge among professionals, including about the importance of following guidelines and protocols in case of girl at risk or suspicion of a case.
- Lack of coordinated actions between various professionals where access to immediate consultations with experts is available.
- Lack of knowledge of professionals about changing attitudes regarding FGM among communities.

Workshops' call for action

Protection of girls at risk

- To avoid arbitrariness in reporting, relevant guidelines and protocols on the best way to handle suspected cases are needed.
- Sensitisation campaigns directed toward professionals must always be accompanied by relevant knowledge and proper guidelines.
- Swedish Board of Health and Welfare could design protocols on risk assessment for various sectors, and give clear instructions on the point at which a case should be reported to the police.
- To avoid stigmatisation and making faulty decisions due to emotionality, FGM policies should stress that FGM is a form of child abuse that should be dealt with within existing structures handling child abuse and crimes committed against a child.

Avoiding discrimination

- Professionals need to treat people as individuals and not as representatives of specific ethnic groups.
- Professionals need to be aware of their own attitudes towards FGM.

Improvement of service delivery and cooperation

- Patience and continuous support is preferable above repression and punishment.
- European policies on FGM should be framed not only in repressive terms, but also with a focus on positive social change, thereby enhancing the climate for preventive measures to be fruitful.
- If a gynaecological screening is necessary, a family and/or girl should be able to choose her own doctor to create feeling of security and diminish dramatic element.
- Continuous efforts are needed to mould opinions of newly arrived families from Somalia.
- More systematic cooperation is needed among Somali in Sweden.



5.5. UK

In England, Wales and Northern Ireland, all forms of FGM are illegal under the FGM Act 2003. This FGM Act has not yet had any tangible impact and no criminal proceedings have been initiated for violation of law. Often difficulties in determining when and where the violation has occurred, makes the law problematic to enforce. To date there have not been any prosecutions in relation to the law on FGM. In general statutory professionals are duty bound to share information where a child is at risk of significant harm. Child protection procedures recognize FGM as a form of child abuse. In spite of the legal and policy provisions pertaining to FGM in the UK, there is a serious lack of adequate data on numbers of girls who are at risk of FGM in the UK. Additionally there is no national system for collating child protection related cases on FGM. The UK does not as yet have a national action plan for tackling FGM, nor a lead government agency that has sole responsibility for providing policy and guidance.

While the UK government legislation and policies on FGM provide protection and safeguards for UK permanent residents and citizens from FGM, there does not seem to be clarity or guidance on similar protection or care for asylum seekers and refugees affected or at risk of FGM.

The UK focus of the workshop on asylum was in direct response to the need for learning lessons in relation to legislation and policy on asylum.

Workshop UK	“FGM, Asylum and Refugee Legislation in the UK. Rights of asylum seekers versus obligations of governments”	
	<p>The target audience were policy makers, young refugees, practitioners and key agencies working on legal, health and asylum issues in the UK.</p> <p>The main objectives were:</p> <ul style="list-style-type: none"> – to review the implications of the UK policy on FGM for asylum & refugees and explore its impact on girls, young women and women at risk or affected. – to share new evidence on the context of FGM and specific health and support needs and implications for child protection of children of refugees and asylum seekers. – to outline obligations of the UK government in relation to the duty to respect, protect and fulfil the human rights of girls and women at risk and affected by FGM in refugee and asylum seekers. <p>UK policies were examined and the new Code of Practice of the United Kingdom Border Agency (UKBA), which came into force in January 2009, was explained. Other raised issues included legal support for female asylum seekers, working with young refugees and asylum seekers, special health needs of asylum seekers affected by FGM and developing a policy advocacy agenda on the topic of FGM, asylum and refugees in the UK.</p>	London, January 30, 2009

Advantages of an enabling policy and legal environment

- Statutory professionals have a *duty to report* child at risk of abuse.
- *Child protection procedures recognize FGM* as a form of child abuse.
- UK Border Agency’s new Code of practice “Keeping children safe from harm”- new process of dealing with children regarding asylum and immigration – that gives particular attention to identify children whose circumstances mean they may be at risk of harm when they come in contact with the immigration system. Harm and ill-treatment are specifically mentioned.
- “Charter of Rights of Women Seeking Asylum”: has been produced by Asylum Aid and endorsed by 157 organisations. The *Charter* calls on the UK Border Agency to treat *women seeking asylum* with fairness, dignity and respect by adopting systems which recognize the particular issues which cause women to seek asylum.
- Ambition among young asylum seekers to abandon FGM if more awareness and information would be available.

Obstacles to the implementation of the law

Lack of integrated approach and coordination

- There’s a disjointed and fragmented approach to tackling FGM in the UK due to lack of government coordination and strategy.
 - UK government policy on asylum seekers and refugee dispersal policy makes it impossible for women and girls affected by FGM to access needed services.
- No lead government agency which has sole responsibility for providing policy and guidance although a similar agency exists for tackling forced marriage issues, however the UK government has just announced the recruitment of a cross government focal person to lead on the work of FGM for a year and will be based in the Forced Marriage Unit. This post will have to be long term sustained and adequately funded to enable the post holder to provide continuous leadership.

Lack of data

Serious lack of adequate data on numbers of girls who are at risk of FGM in the UK or have granted asylum on the grounds of FGM; No national system for collating child protection related cases on FGM.

Lack of clear laws and guiding policy regarding asylum on ground of FGM

- Current asylum and immigration laws and policies in the UK are extremely complicated and unclear when it comes to women and girls who seek asylum on grounds of FGM.
- Failure to prosecute any family on ground of FGM.
- Specific legislation applies to UK nationals and permanent residents only, does not include students, new arrivals, those given leave to remain for an indefinite period, asylum-seekers or refugees leading to the fact that many women at risk are not protected by the law.
- Very little guidance or information on responding to asylum seekers and refugees affected or at risk of FGM: new policy "One Stop Services" for asylum seekers and refugees does not include a focus on FGM information or support services.
- Little improvement in quality of decision making or a change in "culture of disbelief".

Poor service provision and legal support provision to female asylum seekers

- No sufficient screening procedures to identify victims of torture or mental illness before detention.
- Inability to access specialist FGM services for women with FGM: the majority of the 15 specialist centres are located in London and some in other urban centres, and due to the dispersal policy and their own inability to travel due to financial or familial constraints, many cannot access appropriate care.
- Provision of appropriate care is difficult due to problems in identifying female asylum seekers and refugees affected by FGM (due to taboo and fact that health problems are not attributed to FGM).
- Limited funding for community based support services resulting in further difficulties in accessing local services.
- Restrictions in payment of legal representatives led to unaccompanied interviews, residual preparatory resources for cases and reduced quality of representation.
- Counseling centres for women in dispersal areas with lots of asylum seekers are unfamiliar with FGM, and this causes problems in referring distressed clients for counseling, in obtaining medical evidence and in obtaining medico-legal reports.
- Few FGM specialists that can accommodate clients in the process of applying asylum based on FGM.
- Women who fail in obtaining asylum need to return to their home countries and leave their daughters in UK to avoid they undergo FGM, hence these daughters become unaccompanied minors.

Poor access to health services for asylum seekers and refugees

- Some GPs refuse to provide treatment because they are unclear of the health entitlements of asylum seekers and refugees.
- Some GPs are reluctant to register asylum seekers because of the increased level of treatment such patients require.
- The need to provide a permanent address in order to register with a GP.

Obstacles identified among young people from FGM practicing communities

- Limited awareness and knowledge of FGM.
- Perceived rationale behind FGM.
- Mixed attitudes towards FGM.
- Stigmatisation of FGM.
- Peer pressure of FGM.
- 6 month restraint on access to health and education under asylum status.

In conclusion, not much has changed since 2004 study on FGM legislation.

Workshops' call for action

Integrated policy framework

- Charter of rights of women seeking asylum to be endorsed by as many agencies as possible to increase the profile of these issues with the UKBA.
- Urgent need for policy reform and for targeted training at key agencies.
- Policies on asylum seekers and refugees at risk or affected by FGM in Europe should aim to uphold the human rights outlined in international law (women at risk of FGM can be considered as members of a particular social group; FGM can be used as valid grounds for asylum).
- Government officials should apply gender guidelines regarding UK citizens who face gender based crimes to women who seek asylum on the basis of FGM; Gender based policies need to be monitored and appropriate sanctions applied.
- Development assistance should also aim to raise awareness on FGM.
- Need for government coordinating body with a mandate to lead on policy as well as guidance on support services.

Support services

- Great need for training of specialists.
- Models of providing legal support need to be replicated in other dispersal areas.
- Need for more information and communication on FGM among young asylum seekers.
- Sexual health services need to be more easily accessible for young people and need to take into account specific needs of this group.
- Multi-agency forum in some dispersal areas can help in raising awareness and training of police and youth services.
- FGM specialist services should form part of an essential package of holistic support, including counseling and psychosexual support.
- Training of key professionals such as staff at immigration dispersal centres, police, immigration officers, teachers, health and social workers and lawyers.
- Strengthening of support services.
- Undertaking community action to end the practice of FGM among refugees and asylum seekers will require adequate funding of community based organisations.
- Research is needed to 1) assess evidence in relation to child protection issues when girls are left in the UK in order to protect them from FGM and 2) Data on numbers of failed and successful asylum seekers who have used FGM as grounds of asylum.

Streamlining case management

- FGM casework should be conducted in line with mirroring the shift in the criminal justices system with regards to gender based issues; country information on FGM should be more readily available and updated and limitations of national laws should be recognized when relocating asylum seekers.

Instrument to assess governments' performance towards stopping female genital mutilation

6.1. Introduction

The third major component of this study was to draft an instrument to assess a country's level of performance regarding the prevention of FGM. Such an instrument should contain indicators that can be used to measure commitments and efforts of a country regarding the prevention of FGM, and in extension, of all forms of sexual and gender based violence. By developing such indicators, the instrument can be used to also measure progress and to hold governments accountable for implementing the laws on FGM, child protection policies, ratifying important international treaties, developing national action plans, providing training for professionals, etc.

This assessment tool aims to give a clear overview of the level of efforts and commitments in any given country. In addition, it provides an insight into the various country approaches and ongoing initiatives to bring FGM to a halt.

Overall, the application of the instrument would facilitate a coordinative approach, and simultaneously provide NGO's and other interest groups with a tool to pressure governments to take action.

In 2007 a UN expert group meeting was held to discuss indicators to support states to assess the frequency of Violence Against Women (VAW).³⁶ Collecting this data is important to guide legislative and policy reforms, monitor trends and progress in eliminating VAW, etc. However, as there is an undeniable link between the government's approach (efforts, policies, etc.) and the increase or decrease in violence, it is very useful to examine the extent of initiatives taken. Individual States' response is of the utmost importance, even inherent, to the gradual eradication of all types of violence against women. Endeavours to properly evaluate the efforts of States in this regard have been limited. The Special Rapporteur on Violence Against Women of the UN Human Rights Council, Yakin Ertürk, refers to the urgency to develop indicators on State response, not only to allow individual countries to track their own progress over time, but, more notably, to *"give international monitoring mechanisms, such as the Committee on the Elimination of Discrimination against Women, a framework of benchmarks to take into account when considering State responses."*³⁷

.....
³⁶ UN, *Indicators to measure violence against women. Expert group meeting, 8 - 10 October 2007, Switzerland.* (http://www.un.org/womenwatch/daw/egm/IndicatorsVAW/IndicatorsVAW_EGM_report.pdf)

³⁷ Ertürk Yakin, Human Rights Council. Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural, including the Right to Development. Report of the Special Rapporteur on violence against women and State response. January 2008, p. 18. (<http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-6.doc>)

Arguments for developing these indicators include:

- To make broad comparisons between countries to monitor efforts of the criminal justice system to prevent and control FGM;
- To strengthen the knowledge;
- To develop more effective policies and intervention strategies;
- To inform legislative reforms;
- To measure victim's access to justice, effective protection, and redress.³⁸

This country assessment tool, currently in a draft version, needs to be worked out further with legal experts, academics, UN agencies, etc. ICRH and designated partners will develop the tool further in a future project.



6.2. Methodology of instrument

Indicators provide a simple summary of a complex picture, abstracting and presenting in a clear manner the most important features needed to support decision-making.³⁹ In light of the purpose of this instrument, it is recommended to include indicators that capture aspects of States' commitment and efforts in the elimination of VAW. There are two major categories of such indicators, structural and process indicators.⁴⁰ Both have a different goal: structural or institutional indicators measure commitments, whereas process indicators measure efforts. In order to do so, the first category looks at which international instruments are ratified, whether there is a national action plan, etc. The second category, respectively, includes access to justice and reporting indicators, victim protection indicators, prevention indicators, and training indicators.

State structures do vary greatly when it comes to the government structure and competencies at different levels. This makes it particularly difficult to capture all the nuances of decentralized systems such as federalism and confederalism. However, the national government is ultimately responsible for adhering to international conventions and, consequently, guaranteeing the fundamental rights depicted in these international instruments. Therefore, the national government is accountable for fulfilling its obligations and must ensure compliance with the human rights standard. This entails taking necessary measures to eradicate FGM countrywide.

³⁸ Based on: Skinnider Eileen and Dandurand Yvon. *Indicators on the criminal justice response to violence against women*. Workshop on the occasion of the 17th session of the UN Commission on Crime Prevention and Criminal Justice, Vienna, April 14 2008. *Eliminating Violence Against Women. Forms, Strategies and Tools*, UNICRI (eds.), 2008.

³⁹ UN, *Indicators to measure violence against women*. Expert group meeting, 8 - 10 October 2007, Switzerland, p. 4.

⁴⁰ Ertürk Yakin, 2008, p. 9.



The table below provides an overview of the indicators per category.

Structural or institutional indicators		Process indicators	
What?	These indicators measure commitments: ratification of international instruments, national legislative framework and policies.	What?	These indicators measure efforts: access to justice, reporting, victim protection, prevention, training indicators.
Types	<ul style="list-style-type: none"> – Relevant international treaties, conventions, protocols – Constitutional guarantee or statutory recognition of women's equality – National debate on specific criminal law provision of FGM – Child protection laws – National Action Plan on FGM – Budget for National Action Plan – Government body responsible for NAP 	Types	<ul style="list-style-type: none"> – National data collection of criminal and juvenile justice system – National data collection through health sector – FGM integrated in curricula of medical students, teachers, (para)legal students, social sector students – Training on FGM for following sectors: health, family and child protection services, teachers, legal professionals (judges, magistrates, lawyers), immigration officers, law enforcement officials – Government guidelines for different sectors – Monitoring and Evaluation by government – Awareness raising campaigns – Victim protection efforts – Outreach to communities by government agencies

6.3. Structure of the instrument

Draft country assessment tool

Structural indicators

	Indicator	Further analysis	In depth	Measured by (or Reference Point)
1	<p>Ratification of the Convention on the Elimination of Discrimination against Women, UN General Assembly resolution 34/180, 1979</p> <p>0 Not signed or acceded to the Convention 1 Still to be ratified 2 Ratification with significant reservations contrary to the object and purpose of the Convention 3 Ratification with few reservations 4 Ratification without reservations</p>	<p>Add section about the 'interpretation' of the articles by the respective countries</p>		<p>Countries who have become party to the treaty (States parties) are obliged to submit regular reports to the Committee on how the rights of the Convention are implemented. During its sessions the Committee considers each State party report and addresses its concerns and recommendations to the State party in the form of concluding observations.</p>
2	<p>Ratification of the Optional Protocol of the Convention on the Elimination of Discrimination against Women, 1999</p> <p>0 Not signed or acceded to the Convention 1 Still to be ratified 2 Ratification with significant reservations contrary to the object and purpose of the Protocol 3 Ratification with few reservations 4 Ratification without reservations</p> <p>By ratifying the Optional Protocol, a State recognizes the competence of the Committee on the Elimination of Discrimination against Women – the body that monitors States parties' compliance with the Convention – to receive and consider complaints from individuals or groups within its jurisdiction.</p>	<p>Add section about the 'interpretation' of the articles by the respective countries</p>		<p>In accordance with the Optional Protocol to the Convention, the Committee is mandated to: (1) receive communications from individuals or groups of individuals submitting claims of violations of rights protected under the Convention to the Committee and (2) initiate inquiries into situations of grave or systematic violations of women's rights. These procedures are optional and are only available where the State concerned has accepted them.</p>

Draft country assessment tool

Structural indicators

	Indicator	Further analysis	In depth	Measured by (or Reference Point)
3	<p>Ratification of the Convention on the Rights of the Child, UN General Assembly resolution 44/25, 1989</p> <p>0 Not signed or acceded to the Convention 1 Still to be ratified 2 Ratification with significant reservations contrary to the object and purpose of the Convention 3 Ratification with few reservations 4 Ratification without reservations</p> <p>Optional Protocols are not related to FGM: – Optional Protocol on the Involvement of Children in Armed Conflict – Optional Protocol on the sale of Children, Child Prostitution and Child Pornography</p>	<p>Add section about the 'interpretation' of the articles by the respective countries</p>		<p>The Committee on the Rights of the Child (CRC) is the body of independent experts that monitors implementation of the Convention on the Rights of the Child by its State parties. It also monitors implementation of two optional protocols to the Convention, on involvement of children in armed conflict and on sale of children, child prostitution and child pornography. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of 'concluding observations'.</p>
4	<p>Ratification of relevant regional conventions (specify for Africa and Europe)</p>			
5	<p>Constitutional guarantee or statutory recognition of women's equality and repeal of discriminatory laws</p>	<p>0 There is no reference to women's equality in a constitutional law/framework. 1 A provision on the equality between men and women has been adopted in a constitutional law/framework.</p>		<p>Presence of a codified constitution or a statute (written law passed by a legislative body). (Statute → f.ex Code/Act in the UK: "Statutory Code of Practice for the Gender Equality Duty" based on the Sex Discrimination Act 1975 and the Equal Pay Act 1970)</p>

6	There has been a national debate to move away from a general criminal provision in favour of a specific law on FGM.	<p>0 No debate at national level has been held to discuss the introduction of a specific criminal law on FGM</p> <p>1 The introduction of a specific criminal law (and the effectiveness of the general criminal provision) on FGM has been considered at national level.</p>	<ul style="list-style-type: none"> - Effectiveness of the legal system: <ul style="list-style-type: none"> - actual court cases based on this provision; - actual court cases that lead to convictions/ criminal charges - Attrition rates for prosecution and conviction of FGM (proportion of reported cases that fail to result in any form of sanction for the perpetrator) 	Evaluate whether the law allows, either by specific provisions or omissions, conditions that create special vulnerabilities for women.	
7	Child Protection Law is adopted (Provisions in Civil Law/ Family Law are included)	<p>0 There are no provisions, either in the general Civil law or in a specific Child Protection Law, to protect the physical and mental well-being of children.</p> <p>1 There are provisions in the general civil law or in a specific Child Protection Law that protect the physical and mental well-being of children.</p>	Magistrates have the power and authority to take (provisional) measures to ensure the well-being of the child, such as protection and restraining orders	Specialist judges and a specialist Court are in place that handles these cases.	
8	National Action Plan on FGM with a strategy/policy to stop FGM is adopted.	<p>0 There is no general policy or strategy at the national level to bring FGM to a halt.</p> <p>1 There is a general policy on the national level, but no specific National Action Plan has been drafted to bring FGM to a halt.</p> <p>2 A National Action Plan is in place, establishing a firm strategy to bring FGM to a halt.</p>	<ul style="list-style-type: none"> - All relevant stakeholders have been consulted. - All relevant stakeholders are involved in a multi-disciplinary approach. - An adequate budget is allocated towards the implementation of the National Action Plan. 	National Action Plan is monitored by an independent external oversight body with specific violence against women mandate (national observatory, national human rights institution with violence against women mandate)	

Draft country assessment tool

Structural indicators

	Indicator	Further analysis	In depth	Measured by (or Reference Point)
9	<p>Government body/committee is appointed to implement the general policy or the specific National Action Plan and coordinate between all involved stakeholders</p> <p>0 No Government body or committee is appointed to deal with the issue of FGM. 1 A Government body or committee has been appointed to take action against FGM according to a general policy or strategy. 2 A specific Government body or committee is appointed to implement a specific National Action Plan on FGM and to coordinate between all involved stakeholders.</p>	<p>Governmental financial assistance is provided to the committee</p>	<p>There is inter-ministerial coordination on FGM policy, including high-level leads across ministries.</p>	
10	<p>Allocation of resources, as part of national and local budgets, to prevent FGM.</p> <p>0 No resources are allocated to prevent FGM. 1 Resources are available to a limited number of organisations working towards the prevention of FGM. 2 Resources are available to organisations working towards the prevention of FGM, including to research.</p>	<p>Number of registered civil society organisations involved in the prevention of FGM and protection of victims and those at risk</p>		<p>Amount of resources as % of national budget on Gender Based Violence (track progress of actual amount over time)</p> <p>Public Expenditure Tracking Surveys (PETS) PETS are used to find out whether public funds have been spent in line with government policies. Monitors track the release of funds from the original allocation right through to the levels of government where they are supposed to be turned into goods or services. They monitor how much of the promised resources actually reach the right level, as well as the time it takes for resources to flow through the government bureaucracy.</p>

Process indicators

	Indicator	Further analysis	In depth	Measured by (or reference point)
1.1	<p>Effective national data collection of the criminal and juvenile justice system (Effective case-tracking system is in place)</p>	<p>Accessibility of the data (published for the public or easily available in another way)</p>	<p>Regular monitoring of the data collection</p>	<p>Data should be collected on reported cases, legal proceedings and outcomes. The Ministry of Justice is responsible for the data collection.</p>
1.2	<p>National data is collected on the prevalence of FGM through health professionals (Effective case-tracking system is in place to measure the prevalence of FGM through health professionals)</p>	<p>Accessibility of the data</p>	<p>Regular monitoring of the compliance of health personnel</p>	<p>This would not infringe on the 'right to report' versus 'duty to report'!! Reporting of cases by health professionals is merely done to add to statistics and is anonymous (in no way jeopardizing the doctor-patient confidentiality).</p>
1.3	<p>Awareness of FGM is integrated in the curricula of students.</p>	<p>Proportion of Medical Schools and Nursing Schools that include FGM in their core curriculum</p>	<p>% of trained professionals per category (doctors, nurses, midwives, psychologists etc.) and geographical area</p>	<p>– Ministry of Health: national criteria for health education – Survey of Medical Schools and Nursing Schools</p>
	<p>0 No data on prosecutions or child protection cases is collected. 1 Data has been collected as a one-off initiative. 2 Regular (bi-annual or annual) data on prosecutions and child protection cases are collected and compiled.</p>			
	<p>1 No reporting or tracking system exists in the health sector. 2 Data on the prevalence of FGM in the health sector is collected at random and very irregularly. 3 A centralised information collection point is fully operational and is consistently used by health professionals.</p>			
	<p>Students in Medical and Nursing Schools Student teachers 0 FGM is not integrated in the curriculum of health professionals. 1 FGM is integrated in the curriculum of SOME health professionals. 2 FGM is integrated in the curriculum of ALL health professionals</p>			

Draft country assessment tool

Process indicators

	Indicator	Further analysis	In depth	Measured by (or reference point)
1.3	<p>Student teachers</p> <p>0 FGM is not integrated in the education of teachers.</p> <p>1 FGM is integrated in the education of SOME teachers.</p> <p>2 FGM is integrated in the education of ALL teachers.</p>	<p>Proportion of Teaching schools that include FGM in their curriculum</p>	<p>% of trained teachers per category:</p> <p>Primary education</p> <p>Secondary education...</p>	<p>Ministry of Education</p>
	<p>Legal and paralegal students</p> <p>0 FGM is not integrated in the curriculum of legal education.</p> <p>1 FGM is integrated in the curriculum of SOME legal education.</p> <p>2 FGM is integrated in the curriculum of ALL legal education.</p>			<p>Ministry of Justice</p> <p>Law Schools</p>
	<p>(Students social work)</p> <p>0 FGM is not integrated in the curriculum of social work education.</p> <p>1 FGM is integrated in the curriculum of SOME social work education.</p> <p>2 FGM is integrated in the curriculum of ALL social work education.</p>			

14	Training for health professionals on the identification, management and counselling of FGM	<p>0 No health professionals receive training.</p> <p>1 Some health professionals received one-off training session.</p> <p>2 Some health professionals receive regular ongoing training.</p> <p>3 All health professionals received one-off training session.</p> <p>4 All health professionals receive regular ongoing training.</p>	<p>% of trained doctors</p> <p>% of trained nurses</p> <p>% of trained midwives</p> <p>% of trained psychologists</p>	<p>Trained vs. total number of professionals in absolute figures (to enable progress over the years)</p> <p>Possible to subcategorize into gynecologists, pediatricians, etc. for more accurate data</p>	<p>Review of records reflecting program participation during the past year or other specific period. The number of trained professionals is counted, and disaggregated by practitioner type and geographical location.</p>
15	Training for Family Services and Child Protection Services on FGM	<p>0 No services receive training.</p> <p>1 Some services receive one-off training session.</p> <p>2 Some services receive regular ongoing training.</p> <p>3 All services receive one-off training session.</p> <p>4 All services receive regular ongoing training.</p>	<p>% of trained personnel/ agencies of Family Services</p> <p>% of trained personnel/agencies of Child Protection Services</p>	<p>Geographical distribution of trained agencies (countrywide or only one or few locations)</p>	<p>Implementing training programs for teachers that focus on FGM, its consequences and why its prevention is critical, can lay the foundation for identifying cases or girls at risk. Consequently this will lead to increased reporting.</p>
16	Training for teachers and other school staff on FGM	<p>0 No teachers/school staff receive training.</p> <p>1 Some teachers/school staff receive one-off training session.</p> <p>2 Some teachers/school staff receive regular ongoing training.</p> <p>3 All teachers/school staff receive one-off training session.</p> <p>4 All teachers/school staff receive regular ongoing training.</p>	<p>% of trained teachers at the primary education level</p> <p>% of trained teachers at the secondary education level</p>	<p>Geographical distribution of trained teachers</p>	<p>Implementing training programs for teachers that focus on FGM, its consequences and why its prevention is critical, can lay the foundation for identifying cases or girls at risk. Consequently this will lead to increased reporting.</p>

Draft country assessment tool

Process indicators

	Indicator	Further analysis	In depth	Measured by (or reference point)
17	<p>Training for legal professionals (Judges, magistrates, lawyers) on FGM</p> <ul style="list-style-type: none"> 0 No legal professionals receive training. 1 Some legal professionals received one-off training session. 2 Some legal professionals receive regular ongoing training. 3 All legal professionals received one-off training session. 4 All legal professionals receive regular ongoing training. 	Total number of legal professionals who are trained to respond to incidents of FGM	Disaggregate by type of profession and geographical area	National Bar Association Ministry of Justice
18	<p>Training for immigration officers on FGM</p> <ul style="list-style-type: none"> 0 No immigration personnel receive training. 1 Some immigration personnel receive one-off training session. 2 Some immigration personnel receive regular ongoing training. 3 All immigration personnel receive one-off training session. 4 All services receive regular ongoing training. 	Total number of immigration officers who are trained to respond to incidents of FGM		
19	<p>Training for law enforcement professionals on FGM</p> <ul style="list-style-type: none"> 0 No law enforcement professionals receive training. 1 Some law enforcement professionals receive one-off training session. 2 Some law enforcement professionals receive regular ongoing training. 3 All law enforcement professionals receive one-off training session. 4 All law enforcement professionals receive regular ongoing training. 	Total number of law enforcement professionals, including police officers, investigators, and others, who are trained to respond to incidents of FGM	<ul style="list-style-type: none"> - Disaggregate by type of professional and geographical area - Specialised investigative unit (female police officers, police desk, multi-disciplinary team of police and social workers) 	Records kept by organizations implementing training programs on FGM response and law enforcement units are reviewed periodically.

20	National guidelines, issued by the appropriate Ministry, are present for all professionals.	<p>Health professionals</p> <p>0 No national guidelines on FGM exist for health professionals.</p> <p>1 National guidelines on FGM for health professionals are present and implemented.</p>	<p>Presence of national guidelines issued by the different professional organisations per occupation:</p> <ul style="list-style-type: none"> – Gyn/obs – Pediatricians – GP – Nurses – Midwives 	<p>Proportion of health units that have implemented and adopted a protocol for the (clinical) management of FGM</p> <p>(documented protocol outlining the procedures for identifying, providing care for and referring FGM victims)</p>	Coordinated Protocol is present that links the different sectors (f.ex. Child protection protocol) CROSS-SECTORAL
		<p>Child Protection officers</p> <p>0 No national guidelines on FGM exist for Child Protection officers.</p> <p>1 National guidelines on FGM for Child Protection Officers are present and implemented.</p>	<p>Add separate indicator on presence of a child protection policy (either general or specific on FGM)</p>		
		<p>Social workers</p> <p>0 No national guidelines on FGM exist for social workers.</p> <p>1 National guidelines on FGM for social workers are present and implemented.</p>			

Draft country assessment tool

Process indicators

	Indicator	Further analysis	In depth	Measured by (or reference point)
20	<p>Teachers/schools</p> <ul style="list-style-type: none"> 0 No national guidelines on FGM exist for teachers and schools. 1 National guidelines on FGM for teachers and schools are present and implemented. <p>Police force</p> <ul style="list-style-type: none"> 0 No national guidelines on FGM exist for police officers. 1 National guidelines on FGM for police officers are present and implemented. <p>Immigration officers</p> <ul style="list-style-type: none"> 0 No national guidelines on FGM exist for immigration officers. 1 National guidelines on FGM for immigration officers are present and implemented. 	<p>Number of schools that have a protocol or procedures to take action on reported or suspected cases of FGM among students.</p> <p>Proportion of law enforcement units that follow a nationally established FGM protocol when handling complaints.</p>	<p>Disaggregate by level of school (primary, secondary, etc.), type of school (religious, public, etc.) and geographical area.</p> <p>Disaggregate by geographical area</p>	<p>Protocol/Guidelines implemented in 'National Teachers' Code of Conduct' of the Ministry of Education</p> <p>A national set of standards needs to be established for the management of FGM complaints within the law enforcement sector. Police stations and other law enforcement units at the local, district and regional levels should have a protocol documented that outlines how FGM complaints are handled.</p>
21	<p>Regular monitoring and evaluation is organised by the Government through research and surveys</p> <ul style="list-style-type: none"> 0 No monitoring and evaluation is done by the Government regarding the efforts to stop FGM. 1 A one-off survey has been carried out. 2 Surveys are conducted on a regular basis. 			

22	National awareness is increased through public campaigns.	<p>0 No countrywide campaign has addressed FGM.</p> <p>1 A one-off national campaign has addressed the issue of FGM in the last two years.</p> <p>2 A recurring annual national campaign addresses FGM.</p>	<p>Proportion of individuals who report they heard or saw a mass media message on issues related to FGM (who have been exposed to FGM prevention messages), for example:</p> <ul style="list-style-type: none"> Program or message on the radio Television spot or program Poster or billboard Message in a newspaper or other written media <p>Proportion of individuals who know the legal sanctions for FGM</p> <p>Proportion of people who believe that FGM should be stopped</p>	Structural implementation of public awareness through public education and school programs	
23	Permanent and up-to-date national government website on FGM.	<p>0 No national website on FGM has been created by the Government.</p> <p>1 The Government has set up a website on FGM with information, references and contact numbers for the public, women/girls at risk and victims.</p>			
24	<p>Victim protection efforts</p> <p>Victims and those at risk of FGM have access to legal counsel.</p> <p>The Government should provide legal representation.</p>	<p>0 Legal services are largely inaccessible for vulnerable population groups (f.ex. due to high legal charges).</p> <p>1 Some legal services are provided for victims.</p> <p>2 Legal services are available for any person, including illegal residents, at no cost.</p>	<p>Legal counsel:</p> <ul style="list-style-type: none"> government vs non-governmental type of services provided free vs. with service fee geographical distribution 	<p>Specialised legal representation is available for victims at no charge</p> <p>(proportion of women who know of a local organisation that provides legal aid to victims or persons at risk)</p>	<p>% of persons seeking legal assistance that have been granted legal counsel.</p>

Draft country assessment tool

Process indicators

	Indicator	Further analysis	In depth	Measured by (or reference point)
25	<p>A helpline provides services / immediate relief and advice to victims, people at risk and concerned parties.</p> <p>0 There is no helpline for victims or those at risk. 1 There is a (national) specialized helpline for victims and those at risk of FGM.</p>	<ul style="list-style-type: none"> - 24 hours / 7 days - (Number of helplines within a specified geographic area) - free vs. service fee (which might appear on telephone bill and endanger girls/women) 	<ul style="list-style-type: none"> - Multilingual (native speakers from certain communities) - Usage of helpline (measure activity and unmet demand) 	
26	<p>Shelters or safe houses are available for victims and women/girls at risk</p> <p>0 There are no shelters for girls and young woman escaping FGM. 1 There are shelters for girls and young women escaping FGM.</p>	<ul style="list-style-type: none"> - Available for all women - Number of individual/family places - Accessibility/ geographical distribution of shelters - Presence of counselors, provision of services 	<ul style="list-style-type: none"> - Shelters have the capacity to take on new cases (not too full). - Network of 'One-stop' centres providing multi-disciplinary assistance: legal counsel and medical services. (proportion of women and children using these services/ proportion of women who demonstrate knowledge of available social welfare-based services) 	

27	Dialogue with the communities likely practicing FGM	<p>0 The Government makes no effort to reach out to communities practicing FGM.</p> <p>1 The Government cooperates with communities practicing FGM, religious institutions and their leaders; including traditional authorities in order to eliminate FGM</p>	Number of capacity-building workshops or discussion forums with communities practicing FGM, disaggregated by geographical area	<p>Proportion of members of these communities who believe that FGM should be stopped.</p> <p>Proportion of women who do not intend to have any of their daughters undergo FGM</p>	
----	---	---	--	---	--

Debate whether the following categories are merely outcome indicators (realisation of rights) or indicator of structural efforts (and their implementation) by government.

Number of FGM complaints reported to the police					
Proportion of FGM cases that were investigated by the police		This indicator measures the proportion of FGM cases that were followed up with a police investigation, during a specified time period.			
Proportion of FGM cases that were prosecuted by law		This indicator measures the effectiveness of the legal system by tracking the proportion of reported FGM cases that were prosecuted.		Remark: these indicators have been included in the 'further analysis' section of indicator 6, which refers to an existing criminal law	
Proportion of prosecuted FGM cases that resulted in a conviction		This indicator measures the effectiveness of the legal system by tracking the proportion of reported FGM cases that were both prosecuted and resulted in an actual conviction. This indicator provides a measure of the legal climate surrounding FGM.		Remark: these indicators have been included in the 'further analysis' section of indicator 6, which refers to an existing criminal law	

Conclusions

Upon the conclusion of the first research project in 2004, there had only been criminal court cases in two countries, France and Spain. All cases were tried under general criminal law.

The current analysis showed that the number of criminal court cases has risen. Among the countries with specific criminal laws, there were cases in Denmark, Norway and Sweden. The rise of criminal court proceedings could also be observed in countries with general criminal provisions, most notably Switzerland and the Netherlands. Accordingly, the research did not produce any evidence that adopting a specific criminal law on FGM sets the scene for more prosecutions than a general criminal law, which confirms our earlier conclusion that specific criminal laws do not lead to more criminal court cases.

The capacity building workshops revealed that in some countries (e.g. Belgium) there is still an apparent lack of general knowledge about FGM and the legal framework among those professionals that are key in the implementation process, such as prosecutors or child protection officers.

A particular area of concern that was identified was the complexity of risk assessment. When professionals acknowledge the importance of reporting cases, the major obstacle is to assess the level of risk that makes a judicial intervention inevitable. Few, if any, instruments are available that can assist in assessing the level of risk and provide guidance for professionals in taking the right action. The scenario in Sweden shows that the lack of accurate knowledge, guidelines and protocols, allows for discrimination and arbitrariness in deciding which families to report.

Reporting remains a major area of concern. There is reluctance among many professionals to report cases, but also victims do not report parents due to the relationship of dependency and loyalty. Although it is acknowledged that reporting is very important, the mechanisms on how to increase the number of reports are not clear. The duty of professionals to report is an important element, but then again, without clear guidelines and protocols explaining the level of risk and the different steps in the reporting process, it leaves space for arbitrary decisions based on emotions and personal attitudes of professionals, rather than on facts.

One of the instruments to increase the number of reports is the gynaecological screening of girls. This issue is highly controversial, both among professionals and practicing communities (Somali community in Sweden). The workshop in Sweden demonstrated that there's no support of this among the Somali community, as such examinations are considered to imply a loss of parental authority and depict Somali parents as irresponsible and careless for their children. Professionals equally consider such examinations as difficult to perform for a number of reasons, such as time constraints, resistance of the parents, discriminatory nature of the screening and jeopardising the patient-physician relation of trust.

Finally, the lack of coordination does not help an effective implementation of the law. This lack of coordination emerges not only when it comes to cooperation among professionals for referral or follow-up of girl at risk, but it also surfaces in countries where the fragmentation in government's policies jeopardise an effective implementation (eg in Spain or Belgium).

The UK workshop had a particular focus on FGM as ground for asylum, and showed that the lack of clear laws and guiding policies in this area, as well as the poor service and legal support provision, can lead to failure in obtaining asylum on the basis of FGM.

Recommendations

On protection of girls at risk

- Development of a risk assessment protocol for professionals that will assist in assessing the level of risk and in identifying the point at which reporting to judicial authorities becomes inevitable.

On gynaecological screening of girls

- Ethical and legal advice should be given on compulsory genital screening of girls at risk.
- If such screening is necessary, a family and/or girl should be able to choose her own doctor.

On provision of care

- Development of a referral system (for girls at risk and women living with FGM) and accompanying protocol for professionals.
- Continuous efforts should be done to train professionals on FGM and legislation.
- Continuous efforts should be done to exchange experiences among various EU countries on law implementation.

On coordination

- Establishing a coordinating body that can follow up girls (and families) at risk and that can lead on policy as well as guidance on support services.
- Protocols that exist in some areas of a country, should be nationally distributed.



Project partners in action: Steering Committee Meetings, Workshop Spain, Final Conference



Project partners in action: Steering Committee Meetings, Workshop Spain, Final Conference

ICRH



INTERNATIONAL CENTRE FOR REPRODUCTIVE HEALTH



This study is funded by the European Commission Daphne Programme to combat Violence against Children, Young People