

## LEGAL FRAMEWORK

### International and European conventions

Portugal has ratified various international conventions condemning FGM, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Charter of Fundamental Rights of the European Union (2010/C 83/02). Portugal has signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210).

### Criminal law

Since 2007, there has been a criminal law provision, namely Article 144 of the Penal Code, which refers to the crime of bodily injury. Although the term FGM is not explicitly mentioned in the text of the law, the preparatory works of the law indicate that: FGM could be addressed as one form of 'depriving or affecting someone's capacity of sexual fruition'. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

### Child protection law

General child protection provisions as foreseen in Law 147/99 – Protection of Children and Young People at Risk Act – could be used in cases of FGM. This law gives a preventive and protective role to the National Commission for the Protection of Children and Young People at Risk (CPCJ) in the combat of 'situations that may affect the safety, health, formation, education and full development of children and youth'.



### Asylum law

Law No. 27/2008 addresses with grounds for asylum. Article 5 that deals with persecution acts contains two sections that can be applied in cases of FGM: §2a referring to acts of physical, mental or sexual violence and §2f referring to gender-based acts or those committed against minors.

### Professional secrecy law

General law with regard to professional secrecy and disclosure may be applied to reporting cases of performed or planned FGM. According to Article 242 of the Code of Criminal Procedures, health professionals, social workers, teachers, police

## About the study

In order to contribute to identifying and filling the gaps in prevalence data collection and support the development of strategies for combating female genital mutilation (FGM), the European Institute for Gender Equality has commissioned the 'Study to map the current situation and trends of female genital mutilation in 27 EU Member States and Croatia'. The study was launched at the request of Viviane Reding, Vice-President of the European Commission. It was conducted by the International Centre for Reproductive Health (ICRH) of the Ghent University and Yellow Window Management Consultants (a division of E.A.D.C.).

The desk research in the 27 EU Member States and Croatia and the in-depth research in nine EU Member States brings about the first collection of information and data, legal and policy framework, actors, tools and methods in the area of FGM in the EU. The different national approaches to tackle FGM in the EU were analysed and compared in order to identify practices with potential in prevention, protection, prosecution, provision of services, partnership and prevalence.

More information and references about the study are available at: [www.eige.europa.eu](http://www.eige.europa.eu)

INDICATOR COUNTRY	FGM prevalence studies	Asylum granted on FGM grounds	Specific criminal law provision on FGM	National action plan covering FGM	FGM-related child protection interventions	Hospital/medical records of FGM
AUSTRIA		✓	✓	✓		
BELGIUM	✓	✓	✓	✓		✓
BULGARIA						
CYPRUS			✓			
CZECH REPUBLIC						
GERMANY	✓	✓		✓	✓	
DENMARK			✓	✓	✓	
ESTONIA						
GREECE				✓		
SPAIN			✓	✓	✓	
FINLAND				✓	✓	
FRANCE	✓	✓		✓	✓	✓
CROATIA			✓	✓		
HUNGARY	✓	✓				
IRELAND	✓	✓	✓	✓		✓
ITALY	✓	✓	✓	✓	✓	
LATVIA		✓				
LITHUANIA		✓				
LUXEMBOURG						
MALTA						
NETHERLANDS	✓	✓		✓	✓	✓
POLAND						
PORTUGAL				✓		✓
ROMANIA		✓				
SLOVAKIA		✓				
SWEDEN		✓	✓	✓	✓	✓
SLOVENIA						
UNITED KINGDOM	✓	✓	✓	✓	✓	✓

### What is female genital mutilation?

- Female genital mutilation (FGM), also known as female genital cutting, is a form of gender-based violence. It comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.
- Female genital mutilation has negative effects on the health of women in the short, medium and long term and may even lead to death. It is carried out for both cultural and social reasons. Religious arguments tend to be used to justify the practice but there is no religious mandate for it.
- According to UNICEF, FGM is practised in more than 20 African countries spreading between Senegal in the west and Somalia in the east.
- Although overall figures are difficult to estimate, thousands of women and girls residing in the European Union may have been genitally mutilated or are at risk of FGM.
- The EU institutions and the Member States are committed to fighting FGM, as it is shown in the Commission's 'Strategy for equality between women and men (2010–2015)'. The Daphne III programme has played a crucial role in putting FGM on the agenda in several EU countries and in providing financial support for the implementation of transnational projects in this field.
- The European Parliament resolution of 14 June 2012 on ending female genital mutilation clearly stipulates that 'any form of female genital mutilation is a harmful traditional practice that cannot be considered part of a religion, but is an act of violence against women and girls which constitutes a violation of their fundamental rights'. The European Parliament calls on the Member States to take a firm action to combat this illegal practice.

officers and civil servants are obliged to report to the law enforcement authorities any crime they encounter during the course of their work. Specific reporting mechanisms are foreseen in Law No. 147/99 – Protection of Children and Young People at Risk Act – with regard to crimes committed against children.

### POLICY FRAMEWORK

Policy development on FGM in Portugal began in 2003, with the 'Second National Plan Against Domestic Violence 2003–2006', which referred to FGM. Portugal is one of the eight countries which have developed a national action plan exclusively dealing with FGM. The first 'Portuguese Programme of Action for the Elimination of FGM' (developed under the EC Daphne project 'Developing National Action Plans to Prevent and Eliminate Female Genital Mutilation') was integrated in the 'Second National Plan for Equality, Citizenship and Gender 2007–2010'. This 'First Programme of Action for the Elimination of FGM' was coordinated by the Commission for Citizenship and Gender Equality along with an Inter-sectorial Working Group that included governmental bodies and NGOs. The 'Second Programme of Action for the Elimination of FGM 2011–2013' was developed and integrated in the

'Fourth National Action Plan for Equality, Gender, Citizenship and Non-discrimination 2011–2013'. Both Programmes of Action were issued by the Council of Ministers. The Commission for Citizenship and Gender Equality, in cooperation with the Inter-sectorial Working Group, is in charge of their implementation. The Second Programme of Action for the Elimination of FGM is under the political responsibility of the Secretary of State of Parliamentary Affairs and Equality.

## PREVALENCE OF FGM IN THE COUNTRY

No prevalence studies on FGM have been undertaken yet in Portugal (as of February 2012). According to a report of December 2010 of the Portuguese Immigration and Borders Service (SEF), 445,262 foreigners live in Portugal. The most significant group, among those originating from countries where FGM is performed, comes from Guinea-Bissau (19,817). A survey, among 52 health professionals in three regions around the Portuguese capital city (Lisbon, Amadora and Almada), mentioned that 13.5% of the professionals stated that FGM is performed in the territory and nearly 27% had seen patients with FGM. One of the measures proposed in the Second Programme of Action for the Elimination of Female Genital Mutilation is the development of indicators for monitoring the number of girls and women with FGM and launching a prevalence study on FGM in Portugal.

### Figures

- In 2010, 9,263 migrant women originating from countries where FGM is practised were living in Portugal.
- There are records of three asylum requests based on FGM.

### Facts

- Portugal developed its 'First Programme of Action for the Elimination of FGM' in 2009, integrated in the 'Third National Plan for Equality – Citizenship and Gender (2007 –2010)'. The 'Second Programme of Action for the Elimination of FGM' runs from 2011 to 2013, and both have been issued by the Council of Ministers. Portugal is the only country in the EU that has developed a second action plan dealing exclusively with FGM.
- Health professionals have been confronted with the problem of FGM in Portugal. The most relevant population that is affected by FGM comes from Guinea-Bissau. Traditionally, migrants come from former Portuguese colonies, including countries where FGM is being performed. Portugal also receives people originating from other FGM-practising communities.
- A significant number of actors, including a variety of public bodies from different sectors and civil society organisations, are dealing with FGM in Portugal. Most of them are part of the Inter-sectorial Working Group of the first and second Programme of Action for the Elimination of Female Genital Mutilation. On 6 February 2012, the Directorate-General for Health (Reproductive Health Division) published the 'Clinical Guidelines for Health Professionals about FGM'. It includes clinical recommendations for women with FGM, but also preventive measures to protect newborns, children and youngsters at risk of FGM. In cooperation with the Hospital Units to Support Children and Youth at Risk, those at risk of FGM should be referred to the National Commission for the Protection of Children and Young People at Risk (CPCJ). Health professionals who encounter women who have been submitted to FGM should register this finding (including nationality and FGM grade) in a clinical record.

## What is gender-based violence?

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

## About the European Institute for Gender Equality (EIGE)

The European Institute for Gender Equality is the EU knowledge centre on gender equality.

EIGE supports policymakers and all relevant institutions in their efforts to make equality between women and men a reality for all Europeans and beyond, by providing them with specific expertise and comparable and reliable information on gender equality in Europe.

More information: [www.eige.europa.eu](http://www.eige.europa.eu)

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