



# The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

” A tool to end  
female genital  
mutilation



Istanbul Convention

**SAFE** FROM FEAR  
**SAFE FROM**  
**VIOLENCE**



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# Foreword

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**F**emale genital mutilation (FGM) is a gross violation of the human rights of women and girls and a serious concern for the Council of Europe and Amnesty International alike.

FGM is a threat to girls and women around the globe, including in Europe – a fact that has remained unacknowledged for too long. Governments and citizens must take a stand against FGM. Legislation must be put in place and adequately implemented by the police and the courts. An effective support structure, particularly providing appropriate health services, must be available to respond to the needs of victims and those at risk.

Although some European countries have made efforts to legislate against FGM and to better identify and provide support to girls and women who have already been subjected to the practice or who are at risk, these attempts are too few and have too little impact. Most governments do not provide a comprehensive national response to FGM, addressing prevention, protection, prosecution and adequate provision of services.

This guide, produced jointly by Amnesty International and the Council of Europe, will help put FGM on the political agenda, design policies and measures to better address FGM and to pave the way for change.

It is based on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (also known as the Istanbul Convention), which was adopted in 2011. The treaty offers states both inside and outside the Council of Europe the framework for a comprehensive approach to preventing and combating such violence.

It is the first treaty to recognise that FGM exists in Europe and that it needs to be systematically addressed. It requires states parties to step up preventive measures by addressing affected communities as well as the general public and relevant professionals. It entails obligations to offer protection and support when women and girls at risk need it most – and makes sure that their needs and their safety always come first.

The treaty calls for the provision of specialist support services and legal protection orders for women and girls at risk. In a bid to guarantee cases of prosecution that respect the best interest of the child, the convention requires states parties to make FGM a criminal offence, and to ensure that criminal investigations are effective and child-sensitive. A key feature of the convention is that the above measures must form part of a comprehensive policy that will be implemented across government and in co-operation with non-governmental organisations (NGOs) and support organisations.

The comprehensive nature of the convention makes it a practical tool to address FGM. It incorporates existing international human rights law, standards and promising practices to address violence against women. It offers policy makers a wide variety of measures that can be introduced, and offers NGOs and civil society a sound basis for advocacy. To women and girls already affected by FGM, it sends the message that their stories are being heard. To those at risk, it is a beacon of hope.

The convention must become part of the law and practice of all states in Europe. We call on all Council of Europe member states and the European Union to sign, ratify and implement the convention – and we call on NGOs and civil society to use it to lobby for change.

We hope that this publication will make the convention more widely known among those dealing with affected women and girls at risk, and all those working to end FGM, and that it will lead to real improvements in protecting the physical integrity of all women and girls.

Change requires courage and co-operation. Amnesty International and the Council of Europe have joined up to offer you a tool for change. We hope you will find it useful.

*Mr Salil Shetty*  
*Secretary General of Amnesty International*

*Mr Thorbjørn Jagland*  
*Secretary General of the Council of Europe*

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# Introduction

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## Female genital mutilation

**T**he World Health Organization (WHO) estimates that around 100-140 million women and girls have been subjected to female genital mutilation, with an estimated 3 million at risk of being subjected to the practice each year. The practice of FGM is widespread in large parts of Africa, some countries in the Middle East and in some communities in Asia and Latin America. It is also prevalent in Europe among certain communities originating from countries where FGM is prevalent. The exact number of women and girls living with FGM in Europe is still unknown, although the European Parliament estimates that it is around 500 000 in the European Union (EU) with another 180 000 women and girls at risk of being subjected to the practice every year.<sup>1</sup> For European countries outside the EU, neither data nor estimates exist.

FGM can take diverse forms and have different effects on women and girls. In every case it entails the cutting, stitching or removal of part or all of the female external genital organs for non-therapeutic reasons. As a mutilation of healthy body parts, the practice has a detrimental impact on the health and well-being of women and girls.

There are several forms of FGM and these differ from community to community. The 2008 World Health Organization (WHO) classification<sup>2</sup> divides FGM into four types:

- ▶ Type I – partial or total removal of the clitoris and/or the prepuce (clitoridectomy);
- ▶ Type II – partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (excision);

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1. European Parliament Resolution of 24 March 2009 on combating female genital mutilation in the EU (2008/2071(INI)), available at [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0161+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0161+0+DOC+XML+V0//EN).

2. See WHO, "Classification of female genital mutilation", available at [www.who.int/reproductivehealth/topics/FGM/overview/en/](http://www.who.int/reproductivehealth/topics/FGM/overview/en/).

- ▶ Type III – narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris (infibulation);
- ▶ Type IV – all other harmful procedures to the female genitalia for non-medical purposes, for example pricking, piercing, incising, scraping and cauterisation.

Inspired by this WHO classification, Article 38 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) introduces the obligation to criminalise such conduct:

#### Article 38 – Female genital mutilation

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- a** excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;
- b** coercing or procuring a woman to undergo any of the acts listed in point a;
- c** inciting, coercing or procuring a girl to undergo any of the acts listed in point a.

### Health consequences of FGM

Immediate consequences of FGM include excessive bleeding and septic shock, difficulty in passing urine, infections and sometimes death. In addition to the severe pain during and in the weeks following the cutting, women who have undergone FGM experience various long-term effects – physical, sexual and psychological. These include chronic pain, chronic pelvic infections, and the development of cysts, abscesses and genital ulcers. There can be excessive scar tissue formation, infection of the reproductive system, decreased sexual enjoyment and painful intercourse. Although the scientific research addressing the psychological consequences of FGM is limited, documented psychological consequences include fear of sexual intercourse, post-traumatic stress disorder, anxiety, depression and memory loss.

■ FGM is a human rights violation. It constitutes a form of violence against women.

FGM, in any form, is recognised internationally as a gross violation of the human rights of women and girls. The practice denies women and girls their right to: physical and mental integrity; freedom from violence; the highest attainable standard of health; freedom from discrimination on the basis of sex; freedom from torture, cruel, inhuman and degrading treatment; and the right to life when the procedure results in death.

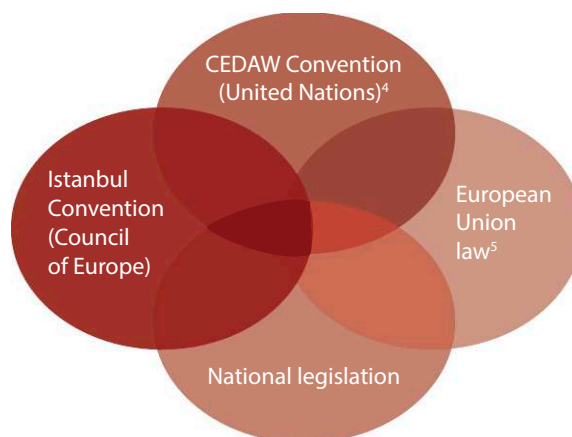
” It is not in dispute that subjecting a child or adult to FGM would amount to ill-treatment contrary to Article 3 of the [European] Convention [on Human Rights].

European Court of Human Rights<sup>3</sup>

3. European Court of Human Rights, Decision as to the Admissibility of Application No. 43408/08 by Enitan Pamela Izevbekhai and Others against Ireland, paragraph 73.



## Key standards on violence against women and FGM



### FGM in Europe: what is at stake?

Research<sup>6</sup> has shown that there are still many challenges in Europe that need to be addressed in order to develop adequate national and European policies on FGM. These include:

- ▶ the lack of data and research to properly determine the prevalence of FGM and to assess related needs for state policies and services in Europe;
- ▶ the need to take preventive measures and to evaluate their impact in order to ensure they are organised in a sustainable way;
- ▶ the need to enhance the capacity of professionals likely to be in contact with women and girls living with or at risk of FGM to enhance their protection (e.g. professionals from the health, social, education, asylum and justice sector);
- ▶ the need for a common approach to the implementation of existing policies on international protection and, where necessary, the development of new European policies that are in line with international standards and guidelines to better protect those seeking asylum on the grounds of FGM, and affected women and girls within the asylum system;
- ▶ the need to remove obstacles to the prosecution of FGM cases while taking into account the best interest of the child;
- ▶ the lack of a systematic approach to the provision of services relating to FGM and the need for culturally sensitive services;
- ▶ the need for better involvement of affected communities and the development of partnerships between relevant stakeholders, including civil society organisations (CSOs), governments and relevant professionals.

The most recent data released by the Council of Europe (2014)<sup>7</sup> on how countries are ensuring the protection of women against violence across Europe shows that the legislative, policy and services response to FGM is still far behind other forms of violence against women. Ten member states of the Council of Europe have not

4. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention) and its interpretation by the Committee on the Elimination of Discrimination against Women (CEDAW Committee), such as its General Recommendation No. 14 (1990) on female circumcision and its General Recommendation No. 19 (1992) on violence against women; see also: UN General Assembly Resolution on intensifying global efforts for the elimination of female genital mutilations, adopted on 20 December 2012, A/RES/67/146.
5. EU law creates a legal framework for EU member states only. Nonetheless, several EU directives are of direct relevance, such as the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (also known as the EU Reception Conditions Directive), the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (also known as the EU Procedures Directive), Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order; and Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (also known as the EU Qualifications Directive).
6. EIGE (2013a), "Female genital mutilation in the European Union and Croatia"; Leye E. and Temmerman M. (2008), "Female genital mutilation. A study of health services and legislation in some countries of the European Union", p. 175; UNHCR (2013b), "Too much pain: female genital mutilation & asylum in the European Union – A statistical overview", see also UNCHR (2014), update published in March 2014.
7. Since 2005, the Council of Europe has monitored to what extent member states have implemented Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence. Four rounds of monitoring have been completed to date and the results of the fourth round, in which 46 of the 47 member states of the Council of Europe have taken part, together with a comparative analysis of trends over time, since 2005, are available as: Council of Europe (2014), "Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states", Strasbourg. The report can be consulted here: [www.coe.int/t/dghl/standardsetting/convention-violence/Docs/Analytical%20Study%20ENG.pdf](http://www.coe.int/t/dghl/standardsetting/convention-violence/Docs/Analytical%20Study%20ENG.pdf).