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**Overview of legislation in the European Union to address female  
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implementation of laws**

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\* *The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

## Overview of legislation in the European Union to address female genital mutilation, challenges and recommendations for the implementation of laws

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### 1. Introduction

Female genital mutilation exists in the EU. Due to migration from practicing communities to Europe, FGM has travelled with them. 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 care services and affected communities living in Europe.

Anecdotal evidence exists of the prevalence in some European countries, as can be retrieved from literature. In France, estimations vary from 4,500 to 7,000 girls at risk, and from 13,000 to 30,000 women with FGM<sup>1 2</sup>. Approximately 21,000 women with FGM live in Germany and an estimated 5,500 girls might be at risk<sup>3</sup>. Data from the Ministry of Interior of 1994, estimates that 28,000 women with FGM live in Italy, while there are at least 4,000 to 5,000 girls with FGM in the country<sup>4</sup>. Jäger et al, estimate that there were approximately 6,700 girls at risk of FGM and women who have undergone the procedure in Switzerland<sup>5</sup>. A recently published statistical study from FORWARD UK suggested that in 2001, 66.000 women with FGM and 20.000 girls at risk (under the age of 15), live in England and Wales<sup>6</sup>. In some European countries such as France and Belgium, studies are currently carried out to estimate the magnitude of the problem in those countries.

This paper presents an overview of criminal laws, child protection laws and professional secrecy provisions in the 27 member states of the European Union, the implementation of these laws in some EU countries and good practices and lessons learned regarding implementation of laws. The paper concludes with some recommendations.

### 2. Legal provisions in the EU applicable to FGM

Legal provisions that apply to FGM can be found in criminal laws and child protection laws.

In the vast majority of EU member states, FGM is prosecutable under general criminal legislation. Provisions and articles in the penal code dealing with bodily injury, serious bodily

<sup>1</sup> Délégation Régionale aux Droits des Femmes (1998) *Dossier de présentation du dépliant: Agir face aux mutilations sexuelles féminines relatif à la prévention*. Préfecture d'Ile-de-France, Paris.

<sup>2</sup> Gillette-Faye I (1996) *Acte Journée Technique*, Paris.

<sup>3</sup> Utz B (2000) German guidelines for health care professionals. In: E Leye, Githaiga A, *Workshop report "Female genital mutilation in Europe: developing frameworks for the health care sector"*. International Centre for Reproductive Health, Ghent.

<sup>4</sup> Grassivaro Gallo P, Livio M, Viviani F (1995) Survey on Italian obstetricians and gynaecologists: FGM in African immigrants. In: Grassivaro Gallo P, Viviani F (eds) *FGM: a public health issue also in Italy*. Unipress, Padua.

<sup>5</sup> Jäger F, Schulze S, Hohlfeld P (2002). Female genital mutilation in Switzerland: a survey among gynaecologists. *Swiss Medical Weekly*. 132: 259-264.

<sup>6</sup> Forward (2007). A statistical study to estimate the prevalence of FGM in England and Wales. A summary report. Forward, London.

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injury, voluntary corporal lesions and sometimes also mutilation are applicable to the practice of FGM and can be used to prosecute FGM in the court of law.

In the past decade, we increasingly witnessed the introduction of specific legal provisions to prosecute and punish FGM in the Europe. Moreover, European countries were urged by the European Parliament<sup>7</sup> and Council of Europe<sup>8</sup> to adopt specific legal provisions to prosecute and punish FGM. Some countries in Europe developed specific legislation on FGM. Currently, several national governments as well as the European Parliament, are debating how current criminal laws can be better implemented.

#### *Specific vs general criminal provisions*

Currently, specific criminal provisions have been adopted in 10 European countries: Austria, Belgium, Cyprus, Denmark, Italy, Norway, Portugal, Spain, Sweden and the UK.

**Sweden**, being the first western country to legislate against the practice<sup>9</sup>, changed the *Act prohibiting genital mutilation in women* (1982:316, 1/7/1982) in 1998 and 1999. In 1998 the law was revised to change terminology, from “female circumcision” to “female genital mutilation”, and more severe penalties for breaking the law were imposed, while the revision in 1999 removed the principle of double incrimination<sup>10</sup>. The *Prohibition of Female Circumcision Act* of 1985 of the **UK** was amended to the ‘Female Genital Mutilation Act 2003’ in March 2004, and also changed the terminology: the term ‘female genital mutilation’ is now used in stead of ‘female circumcision’. More importantly, penalties have been increased and the concept of extraterritoriality was introduced. **Norway** adopted a specific criminal law on 1/1/1996, and altered the law on May 23, 2004 to include the statutory *duty to report* for professionals and employees in various public services and religious communities.

The rest of the countries introduced their specific criminal provisions between 2001 and 2007: **Belgium** in 2001 (Article 409 of Penal Code; 27/03/2001), **Austria** in 2002 (Section 90 of the Penal Code, 1/1/2002), **Cyprus** in 2003 (Article 233 A of Penal Code, 2003); **Denmark** in 2003 (Articles 245-246 of the Penal Code, 1/6/2003); **Portugal** in 2007 (Article 144 of the Penal Code, 4/9/2007); **Spain** in 2003 (Article 149 of the Penal Code, 1/10/2003) and **Italy** in 2005 (Article 583bis of the Penal Code, 23/12/2005).

In **Switzerland**, the National Law Commission is currently working on a draft bill to introduce a specific regulation on FGM, which would amend the Criminal Code. This legal amendment should still be approved before this summer, making Switzerland the 11th country in Europe with specific criminal provisions to combat FGM.

In all other European countries, FGM can be prosecuted and punished under general criminal law provisions in the Penal Code.

#### *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

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<sup>7</sup> EU Resolution of 20/09/2001 and Resolution of 16/01/2008 "*Towards EU strategy on rights of the child*", which explicitly urges Member States to adopt specific provisions on FGM.

<sup>8</sup> Council of Europe - Resolution 1247 (2001).

<sup>9</sup> Essén Birgitta and Johnsdotter Sara, “Female genital mutilation in the West: traditional circumcision versus genital cosmetic surgery”. *Acta Obstetricia et Gynecologica Scandinavica*, 2004(83), 611-613.

<sup>10</sup> Johnsdotter Sara, “FGM in Sweden: Swedish Legislation Regarding “Female Genital Mutilation” and Implementation of the Law”, *Research report in Sociology 2004:1*, (Department of Sociology, Lund University, 2004).

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 of FGM when it is committed outside the borders of one of the European countries.

Conditions for the application of this principle differ: often, either the offender or victim - or both - must be a citizen or at least a resident of the European country, and sometimes FGM must also be considered an offence in the country where the crime was committed (double incrimination).

The large majority of European countries include the principle of extraterritoriality in the criminal provisions, making it possible to prosecute FGM even if it occurs in African, Asian or Middle-Eastern countries. The exceptions are: Greece, Ireland and Luxembourg, the only countries that do not apply this extraterritoriality principle.

Compared to the situation in 2004<sup>11</sup>, there is an improvement as the laws in Finland (general criminal provisions) and Portugal (specific criminal provisions) have been amended and now also include the extraterritoriality-principle.

It is noteworthy to mention that all the specific criminal legal provisions include this principle, and are therefore applicable to FGM performed even outside the country borders.

Recently, in March of this year, it was announced by the Department of Health in Ireland that their Minister for Health is examining the possibility of introducing specific legislation to ban FGM. Activists on African women's rights in Ireland (Akidwa) 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*".

#### *Child protection laws*<sup>12</sup>

Female genital mutilation is considered as a form of child abuse in Europe. In situations where the act is not yet committed but a girl is at risk, laws dealing with the protection of children from abuse can be applied. Child protection laws exist in all Member States.

In the case of girls at risk of FGM, either voluntary child protection measures are undertaken, such as hearings with the family, providing information, counselling and warnings to the family; or compulsory child protection measures, such as removing a child from the family or suspending parental authority. Certain compulsory child protection measures are subject to court permission, e.g. suspension of parental authority, removal from the home and withdrawal of travel permission.

Some countries developed specific child protection guidelines or protocols on the protection of a girl at risk of FGM. In the UK for example, 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. In this document, a specific reference is made to the practice of FGM. The new London Child Protection Procedures (introduced in November 2003 and replacing the local Area Child Protection Procedures)

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<sup>11</sup> Leye E, Deblonde J, Temmerman M (2004) *A comparative analysis of the different legal approaches in the 15 EU Member States, and the respective judicial outcomes in Belgium, France, Spain, Sweden and the United Kingdom*. The Consultory, Lokeren; ICRH Publications N° 8.

<sup>12</sup> Leye E, Deblonde J, García-Añón J, Johnsdotter S, Kwateng-Kluytse A, Weil-Curiel L, Temmerman M. An analysis of the implementation of laws with regard to female genital mutilation in Europe. *Crime Law Social Change* (2007) 47:1-31.

provide the statutory sector<sup>13</sup> with a specific framework within which to work effectively to protect children from FGM.

In Paris, France, the '*Conduite à tenir face à l'excision des petites filles*<sup>14</sup>' has been issued by the '*Protection Maternelle Infantile (PMI)*<sup>15</sup>', and is a guideline to protect girls at risk. In the autonomous Spanish regions of Gerona and Catalonia, protocols for the prevention of FGM have also been developed: '*Protocol de prevenció de la mutilació genital femenina a la demarcació de Girona*<sup>16</sup>' developed in June 2002 and modified in October 2003; and the '*Protocol d'actuacions per a prevenir la mutilació genital femenina*<sup>17</sup>', developed by the area of Catalonia in 2002. The Swedish Board of Health and Welfare issued guidelines regarding the prevention of FGM that have been elaborated at national level '*Kvinnlig könnstympring: Ett utbildningsmaterial för skola, socialtjänst och hälso- och sjukvård*', 2002<sup>18</sup>.

In the Netherlands, a protocol for discussing FGM (*Gespreksprotocol*) was developed in 2005 aimed at prevention and support. Within the regular contacts of the Youth Health Service, the topic of FGM is brought up when risk-category families, and specifically girls at risk, are involved. The protocol is a guideline for health workers in the Youth Health Service to raise the subject and hold a structured conversation with the parents of the girl, and later on with the girl as well.

The ultimate goal is to try to motivate these families to change their behaviour by regularly engaging in conversation and discussing the issue during medical check-ups by school physicians and also by informing the teachers to watch for signals of FGM.

#### *Professional secrecy provisions*

All Member States have also foreseen professional secrecy provisions, most frequently targeted at health professionals, social workers and teachers. However, there are great differences between countries whether these professionals have a "**duty to report**" or merely are offered the "**right to report**".

Only the right to report for professionals is applied in Belgium<sup>19</sup>, Ireland, Germany and The Netherlands<sup>20</sup>.

The duty to report for at least 1 category of professionals is applicable in the following countries:

Austria (doctors), Bulgaria (teachers), Cyprus (doctors and social workers), Denmark (all three), Estonia (all three), Finland (all three), France (all three), Greece (teachers), Hungary (doctors), Italy (doctors and social workers), Norway (practitioners and public personnel/bodies), Poland (all three), Portugal (all three), Slovakia (all three), Slovenia (all

<sup>13</sup> The 'statutory sector' comprises the departments and services provided by the government, including the Department of Social Services, the Department of Health, Local Government Authorities, the Police and Education services (Kwateng-Kluytse, 2004:3).

<sup>14</sup> Guideline regarding excision of girls.

<sup>15</sup> Mother and Child Health Care service, a public service provided in each of the French departments.

<sup>16</sup> Protocol for the Prevention of Female Genital Mutilation in the area of Gerona.

<sup>17</sup> Protocol of Proceedings to prevent female genital mutilation.

<sup>18</sup> Female genital mutilation: An educational material for schools, social authorities and the health sector.

<sup>19</sup> With the exception of 422bis SW: duty to assist persons in need - conditions apply

<sup>20</sup> 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.

three), Spain (all three), Sweden (all three), Switzerland (state employed social workers and teachers).

In a range of countries, even **citizen's** have the duty to report FGM to the social services or prosecution authorities: Cyprus, France, Greece, Hungary, Norway, Slovakia, Slovenia, Spain, Sweden and the UK.

### 3. Implementation of laws addressing FGM in Europe

As mentioned earlier, 10 European countries have **specific** criminal provisions to tackle FGM.

However, out of these 10 countries, criminal court cases under the specific law are limited:

- **Sweden:** In 2006, there were two cases brought to court and tried under the specific criminal law on FGM. 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:** Recently, in January 2009, a mother was sentenced to a two-year prison sentence for FGM.
- **In Norway** a criminal case on FGM (absolute first) is ongoing in court.

In **Spain** there have also been three cases of criminal prosecution, but all three court cases were still treated under the general criminal law provisions (1993, 2000 and 2002), before the specific law was introduced in 2003.

Several countries with **general** criminal laws reveal a different scenario:

- **France:** The country with the most criminal court cases and the best track record in prosecuting and punishing cases of female genital mutilation is France. 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. France has no specific criminal provisions on FGM. All these cases were brought to court and tried under the general criminal law (art. 222-9/10 of the Penal Code concerning mutilation).
- **Switzerland** has seen two criminal court cases, both of which were tried under the general criminal law in 2008. In the first case a woman was sentenced to 6 months in prison 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.
- **In the Netherlands** there is currently a criminal court case on the grounds of FGM, which is an absolute first in the country.

Preliminary data of research on FGM legislation in EU member states, reveal the following information:

- **Austria:** specific law - suspected cases reported by an NGO - doctors' duty to report
- **Denmark:** specific law - 1 criminal court case - duty to report
- **Finland:** general law - several notifications to child welfare - duty to report
- **France:** general law - 37 criminal prosecutions - reported & suspected cases (including child protection reports) - duty to report (compulsory and standard genital examination for all young girls up until the age of 6 by PMI<sup>21</sup>-physicians) - regional guideline in Paris - recently (15 April 2009) the government launched a new

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<sup>21</sup> Protection Maternelle Infantile: Mother and Child Healthcare. These services are public and play a preventive role through education, help and counselling.

- campaign against FGM (including informational brochure for the prevention of FGM)
- **Germany:** general law - child protection interventions and suspected cases - right to report - campaign (started in 2008) to educate German doctors on FGM
  - **Norway:** specific law - 1 criminal case - many reports - national Action Plan for combating FGM (including guidelines with a description of roles, tasks and responsibilities of health providers, child welfare services and the police)
  - **Portugal:** specific law - suspected cases - duty to report - Inter-institutional working group between NGO's and public bodies to implement a range of measures in the area of prevention, sensibilization, formation and cooperation – national Action Plan
  - **Spain:** specific law - 3 criminal cases under previous general law - reported cases - duty to report - regional action plans and protocols in Catalonia and Aragon
  - **Sweden:** specific law - 2 criminal cases - reported cases (including 1 case of temporary detention) - duty to report - National Action Plan (expired in 2007)
  - **Switzerland:** general law - 2 criminal cases - reported and suspected cases (including child protection cases) - duty to report - Explicit prevention programme in canton of Geneva and preventive genital screenings in canton of Zurich.
  - **The Netherlands:** general law - 1 recent criminal case - suspected and reported cases - guidelines (prevention protocol) for professionals (health education and social welfare sector).
  - **United Kingdom:** specific law - reported and suspected cases - duty to report - National FGM Action Plan and Multi-agency prevention & awareness campaign

Countries with a specific criminal law, but without prosecutions or reported (suspected?) cases, are Belgium (no reports - right to report - no action plan); Cyprus (no reports - duty to report - no action plan), Italy (no reports - duty to report - no action plan).

While our research in 2004 showed a limited number of court cases, the current analysis demonstrates an increase of court cases in a number of European countries. There is an absence of reported cases in Eastern European member states, which might be explained by the small presence of immigrant populations from countries where the prevalence of FGM is high (eg Somalia, Egypt, Mali, etc), as well as the lack of knowledge of the practice among health professionals, social services and education personnel.

The above preliminary data suggest that the amount of reports of FGM does not necessarily depend on the type of criminal law in any given country - whether specific or general. Government efforts - through national or regional action plans and protocols - that raise awareness among the general population (including immigrant communities) and among a whole range of professionals are just as important.

The latest - and very recent - European Parliament Resolution of March 24th 2009 on combating female genital mutilation in the EU also underscores this. Whereas previous resolutions (2001 and 2008) urged European countries to adopt *specific* legal provisions to prosecute and punish FGM, the new Resolution of this year "*calls on Member States to either adopt specific legislation on FGM OR under their EXISTING legislation to prosecute each person who conducts genital mutilation*".

#### 4. Issues in implementation of laws in Europe<sup>22</sup>

In 2004, we finalised an in-depth analysis of the implementation of laws in 5 countries. The following is a summary of the main conclusions of this analysis.

A number of factors obstruct an effective implementation of both criminal laws and child protection laws, when it comes to FGM. These factors are related to the *knowledge* and *attitudes* of those confronted with FGM – both professionals and practicing communities – that have an influence on the process of law enforcement, including the reporting of cases, finding evidence and protecting girls at risk.

##### *Knowledge and attitudes*

Health professionals, authorities and police officers who need to be alert to the problem of FGM, lack knowledge about the practice in general and about the legal provisions and procedures to follow in particular. Due to this lack of knowledge cases are not being detected, reported or followed up. It has also been described in other sectors, such as the health sector, that a deficient knowledge about FGM and personal emotions and feelings of professionals might hamper the provision of adequate care for women with FGM. Lack of knowledge about laws and the legal system of the host country is apparent among practicing communities too. Whether or not the law has an influence on behaviour of practicing communities regarding FGM, needs further research and would definitely contribute to a better understanding of the decision making process of communities concerning FGM.

In the process of implementing the law, a number of actors play a role at various levels: health professionals who report cases, police officers and prosecutors who investigate cases, and judges and lawyers in the court room. In some cases, the attitudes of these actors might obstruct an effective implementation of the law, e.g. the fear of being labelled as a racist or the respect for other cultures that might lead to not reporting cases to the authorities. France has countered the “respect for other cultures”-argument in the numerous cases that have been brought to court. French law views that every person living in France is subject to the law, making no difference between origin and nationality. Consequently all children enjoy the same rights, including the right on protection from abuse, and FGM should not be considered differently than any other form of child abuse. Should the court take into consideration this cultural argument, some children within French jurisdiction would be discriminated against as only children of African descent are victims of the practice<sup>23</sup>.

These findings indicate how individual attitudes might influence the implementation process of a criminal law and underscore the need for targeted training and information sessions for those actors involved.

##### *Reporting case*

The identification of cases is also a major impediment to successful implementation of laws. Problems are related to the fact that FGM is an act committed within the family, where perpetrator (parents) and victim belong to the same family. In most cases the girl is dependent on her parents, which jeopardises the possibility of cases being reported. Communities also need to be knowledgeable about the law on FGM, and about the fact that, by having their

<sup>22</sup> Leye E, Deblonde J, García-Añón J, Johnsdotter S, Kwateng-Kluytse A, Weil-Curiel L, Temmerman M. An analysis of the implementation of laws with regard to female genital mutilation in Europe. *Crime Law Social Change* (2007) 47:1-31.

<sup>23</sup> Weil-Curiel L. 2004. French legislation regarding FGM and the implementation of the law in France. Paris: CAMS.



daughters cut, they have committed a crime, which is contrary to their intention of keeping the girl's best interest at heart. Furthermore, FGM is performed in communities that are sometimes hard to reach by health and social services, making the detection of cases even more difficult.

In many European countries, as well as at EU policy level, it is suggested to perform genital examinations of girls as a method to increase the number of cases reported or to find evidence of performance of FGM. In France guidelines regarding these check-ups are available and sensitisation of health professionals has been done, but such examinations are not compulsory or performed systematically within maternal/child health services or during medical check-ups in schools, if performed at all.

Introducing compulsory gynaecological screening for girls as a means of enforcing the law on FGM is highly controversial in many EU countries and will create critical problems to put in practice, as was demonstrated in the Netherlands. After an investigation of a special commission<sup>24</sup>, the Dutch Minister of Public Health, Welfare and Sports, concluded that the Dutch government does not have the legal power to oblige citizens to cooperate with gynaecological examinations of under aged girls of a specific population group<sup>25</sup>. The main arguments are that it is against the individual's right to freedom and only perpetrators – not the victims - can be obliged to undergo such examinations, and only when the public health is in danger, which is clearly not the case in this instance. Furthermore, the Commission states that imposing such a measure on a specific population group is against the principle of non-discrimination<sup>26</sup>. One can also ask why compulsory gynaecological examinations have not been suggested to detect cases of child sexual abuse among the whole population, which suggests that double standards are in operation. Compulsory screening of primarily African girls, is not feasible, is discriminatory and is too repressive in nature, to be suggested as a way of increasing the number of cases reported. The focus should rather be on increased training of professionals who are likely to come in contact with FGM practising communities.

#### *Finding evidence*

Another main impediment to the implementation of laws is the difficulties in finding evidence. These difficulties are similar to those related to reporting cases: a lack of knowledge about FGM and the attitudes of actors involved, and the fact that the acts of FGM are performed within the family and as such are surrounded by secrecy. Parents, grandparents, and suspected excisors remain silent and in general there is no written material to prove the circumstances of the facts. If FGM is committed abroad, the process of evidence-gathering is even more complicated, since this cross-border investigation requires international co-ordinated actions at judiciary level, not only among EU countries, but also between Europe and Africa. A further impediment to finding sufficient evidence is the difficulty of assessing if FGM has been carried out, particularly the case of Type I and IV FGM (small incisions, pricking). Another obstructing factor to prosecution is the difficulty of assessing when FGM was performed, as shown by research in Sweden, where the principle of double incrimination was only removed in 1999, making it difficult to prove that acts of FGM done before 1999 were illegal if performed in a country where it is not a criminal offence. Furthermore, providing evidence that FGM was performed in any particular country is problematic, especially where there are no medical records of the procedure, and when FGM is performed

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<sup>24</sup> Commission Fight Against Female Genital Mutilation ('*Commissie Bestrijding Vrouwelijke Genitale Verminking*')

<sup>25</sup> Commission Fight Against Female Genital Mutilation, 2005. *Bestrijding Vrouwelijke Genitale Verminking. Beleidsadvies. Advies uitgebracht door de Commissie Bestrijding Vrouwelijke Genitale Verminking aan de Minister van Volksgezondheid, Welzijn en Sport, Zoetermeer.*

<sup>26</sup> Commission Fight Against Female Genital Mutilation, 2005, op cit.

in remote areas of a country where it is not policed as a criminal offence. Finally, communities do not easily reveal names of excisors, which does not facilitate finding the perpetrator of the action. The case of the excisor who was arrested in France, and whose address book resulted in numerous court cases against parents who had had their daughters excised, is much more an exception than the rule.

#### *Protection of girls at risk of FGM*

Compulsory child protection measures to protect a girl at risk of FGM, such as withholding the passports of girls or withdrawing the girl from parental authority, are only implemented when counselling, hearings and partnership working with the family did not succeed. In the UK for example, a Prohibitive Steps Order<sup>27</sup> is only considered after advice and counselling have been unsuccessful and removal from home is considered only as a last resort. Clearly, a measure such as seizing the passport of a girl can be seen as an intrusion into the privacy of a family, and concerns about how the enforcement of laws will be monitored are legitimate. On the other hand, the lack of protective mechanisms for girls who are travelling to Africa, has resulted in an unknown number of girls that do not return from holidays, and who are thought to be cut while on visit in the native country. Protocols and guidelines to protect girls from FGM are valuable instruments to enhance the protection of girls from FGM, but are not available at country and European wide level, which might increase the risk of cases going unreported. There is an urgent need to further investigate how measures to protect girls from FGM can be implemented successfully, and how protective mechanisms in European countries as well as existing African traditional protection systems should be further developed.

### **5. Conclusion and recommendations**

FGM has received considerable attention by legislators and other actors and in many European countries they have responded by enacting specific legislation regarding FGM. However, the number of cases brought to court has been limited because of issues around conditions attached to extraterritoriality, the secrecy of the communities, the reluctance of girls to formally implicate parents and the reluctance of professionals to follow through on all complaints and concerns. There is also discussion about finding ways to increase the numbers of cases (or identify the numbers of victims) through compulsory gynaecological screenings and thereby identifying girls who have been subjected to FGM despite being born in Europe.

The research suggests that many of these laws have been developed without having a clear strategic plan on the implementation mechanisms and the consequences.

**Effective implementation** of laws with regard to FGM is closely linked to knowledge and attitudes of professionals about particular population groups that practice FGM, the practice itself, its different types, as well as to their knowledge of the laws and child protection procedures to follow in case a girl is at risk. Taking into consideration the following suggestions could enhance the implementation of FGM laws.

1. In the event that specific legislation is developed, or that there are amendments made to existing legislation, the government must ensure that community NGOs working towards the prevention of FGM are brought on board to ensure that they are able to inform their community members. These NGOs have been highly proactive in seeking to protect girls and to prevent FGM from taking place in the first instance, and a legal framework has been very

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<sup>27</sup> Such an order can prevent girls of being taken out of the country.

helpful. Consequently, these NGOs need to be adequately provided with resources to advocate for the implementation of the law.

2. The limits of applicability of extraterritoriality, and more specifically the exigency of double incrimination in the context of FGM, should be carefully analysed.

3. Targeted training and information campaigns about FGM issues, legislation and child protection procedures are necessary for all stakeholders, in order to effectively ensure that legislation is implemented to protect children from FGM.

All professionals likely to come into contact with FGM practising communities must receive general information about FGM-related issues, e.g. by including the issue in their mainstream curricula.

4. Key persons among doctors, paediatricians and child protection authorities should be identified as experts, and should receive specialised training.

5. Practicing communities should be informed about the judicial system in the host country and about the laws regarding FGM in particular.

**The international dimension** of the problem of FGM also needs attention.

6. At EU level, co-operation is necessary between judiciaries to facilitate the provision of evidence and at national level between various authorities in a country (child protection, police, health sector, schools, migration officials etc).

7. Co-ordination between fieldworkers (state agencies, NGOs, etc.) in Europe and Africa is necessary to protect girls who travel between Africa and Europe.

8. Countrywide and European wide agreed protection protocols need to be developed to ensure that no cases go unreported.