



Joint Shadow Report – BELGIUM

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Authors

GAMS Belgium: [GAMS](#) stands for Group against Sexual Mutilation and harmful practices against Women and Children (translated from French). GAMS Belgium is a group of African and European women and men that fight for the abolition of FGM. GAMS Belgium works with various groups: women affected by female genital mutilation (FGM) (through social, medical and legal assistance), girls at risk, religious and community leaders, the wider African communities at stake, schools and parents' organisations, the federal agency for the reception of asylum seekers, asylum centers, professionals of the social, legal, law enforcement and health sectors, the Belgian authorities and the public. This is achieved by raising awareness, taking individual cases, political and legal lobbying, as well as projects in Africa. GAMS Belgium is a member of the Inter-African Committee (IAC) and a founding member of the End FGM European Network.

INTACT: [INTACT](#) is the “reference point” for legal issues related to FGM in Belgium. Survivors of FGM or children at risk can benefit from a national protection scheme (in terms of youth laws or civil laws) or an international protection scheme (concerning asylum). Such mutilations are otherwise prohibited in Belgium and can be subject to criminal proceedings (Section of the Criminal Code). In this context, INTACT takes legal action to combat the practice of FGM specially with the purpose of supporting individuals and professionals in legal or judicial proceedings (legal, judicial consultations, follow-up of applications for asylum, support for professionals confronted with child victims or children at risk, organisation of training/symposium on FGM, etc.). INTACT is a Belgian member of End FGM European Network.



End FGM European Network (End FGM EU): [End FGM EU](#) is a European umbrella network of 22 organizations working in 12 European countries and who are expert on FGM. End FGM EU operates as a meeting ground for communities, civil society organisations, decision-makers and other relevant actors at European level to interact, cooperate and join forces to end all forms of FGM in Europe and beyond. We put at the heart of our work grassroots voices to influence European governments and policy-makers to work towards the elimination of FGM. We build our members' capacity, offer spaces to share expertise and develop partnerships. While being dedicated to being the driving force of the European movement to end FGM, we are equally committed to build bridges and cooperation with all relevant actors in the field of FGM both in Europe and globally. In this sense, we actively promote and foster cooperation between the European movement and movements in other regions of the world.

INTRODUCTION

The present joint shadow report is produced by GAMS Belgium and INTACT¹, in coordination with End FGM EU, in order to highlight the current situation and propose concrete recommendations on the issue of prevention, protection, prosecution and integrated policies concerning female genital mutilation in Belgium. Despite this report focuses only on this harmful practice, its aim is not to single it out in isolation, but just to put emphasis on it while still seeing it in the *continuum* of gender-based violence against women and girls and in a holistic and comprehensive manner.

This report represents the Belgian chapter of a wider coordinated effort of End FGM EU to engage all its members who are under GREVIO revision to present an **FGM-focused report** in order to bring to the experts' attention the topic, which is too often neglected by State authorities. This project stems from our Guide on the [Istanbul Convention as a tool to end female genital mutilation](#). It puts in practice the Guide's holistic approach by considering its full application to FGM as a form of violence against women and girls which needs to be addressed through prevention, protection, prosecution and integrated policies. It does not only analyses the application of the specific FGM Article 38 of the Istanbul Convention, but addresses the full range of articles in the Convention and how they are applied to tackle FGM in Belgium.

¹ GAMS and INTACT also contributed to the comprehensive joint shadow report of Belgian NGOs.



1. Legal Framework²

Criminal Law

Article 409 of the Belgian Penal Code (2001) provides for a prison sentence of three to five years for “all persons participating, facilitating or encouraging all forms of female genital mutilation or any attempt to do so, with or without the consent of the person concerned.” As of July 2014, encouraging the practice of FGM is punishable with imprisonment, for a period of between eight days and one year. The statutory limit on the prosecution of FGM-related crimes is five years, rising to ten years where there are aggravating circumstances and 15 years if the victim was a minor, in which case the period of statutory limitation begins only once the victim has reached 18 years of age.

The minority of the victim is an important aggravating circumstance in sentencing, and any person who has participated in, encouraged or facilitated FGM on a minor, including abroad, can be pursued in Belgium if the perpetrator is on Belgian territory (Principal of Extraterritoriality, Articles 10ter and 12 of the Criminal Procedure Code). Other aggravating circumstances include after-effects of the act, profit, and the victim’s dependence on or vulnerability to the perpetrator (i.e. parent, doctor).

Belgium’s College of Public Prosecutors published [circular](#) on criminal policy on honour-related violence, including FGM. This circular offers guidelines to police and public prosecutors in addressing a range of honour-related violence.

Child Protection Law

A victim of FGM is treated in the same way as a victim of child abuse. Depending on the relevant community legal framework³, the first step is usually for frontline professionals to establish a programme aimed at supporting the family to prevent or end an abusive situation. If a minor remains in danger, frontline services may report the case to specialist youth services (SOS Children, the Youth Support Service or the CAN Centre/Youth Care Support Centre), which can in turn inform the Prosecutor’s Office if protective measures are required. The Prosecutor’s Office can file a national- or Schengen-level alert to prevent the child from leaving the territory. If the danger is real and persists, the Prosecutor’s Office can refer the case to a juvenile-court judge, who may order protective supervision measures (including educational guidance and medical assessments), or, in emergency cases, make a placement order for a specified period and/or to prohibit parents leaving the territory with their child.

² For a more detailed information visit: <https://uefgm.org/index.php/legislative-framework-be/>

³ Belgium is a federal state and several competencies fall within the three linguistic communities (Dutch-speaking, French-speaking and German-speaking) or the three territorial regions (Flanders, Wallonia, Brussels-Capital Region).



Asylum Law

Belgium recognises FGM as a form of gender-based persecution, which can be a ground for awarding refugee status (Directive 2011/95/EU of the European Parliament and European Council, 13 December 2011, Article 9, §2, f). However, jurisprudence as to the criteria for granting international protection to those who have undergone FGM or who fear that their girl child may be circumcised is not unanimous. In 2017, Belgium has also incorporated into law European Directives on reception and asylum procedures, under which states are required to pay more attention in identifying vulnerable groups and take into account gender violence within the framework of examination of an application for asylum.

Professional Secrecy Law

Belgian law permits but does not require the lifting of professional confidentiality where a child or a vulnerable person has been subjected to FGM (Article 458bis of Penal Code). In case of a risk of FGM, anyone confronted with this imminent danger of serious harm has an obligation to help (Article 422bis of Penal Code). Failure to do so could result in a prison sentence of between eight days and one year, in addition to a fine. The penalty is increased if the victim is a minor or vulnerable person. The state of necessity may give rise to the lifting of professional secrecy to prevent FGM occurring.

However, the so-called Law ‘Van Hoof’⁴ from the name of the MP promoting it, published in September 2018, makes it compulsory now for doctors to record cases of FGM (or re-infibulation) in the medical dossier, regardless of the age of the patient. The recorded information must include the type of FGM and the country and region of origin of the patient. The law will enter into force in October 2019, since the Ministry of Health (MoH) and the Institute for Equality between women and men (IEFH) have to draft practical guidelines for hospitals to ensure the correct recording of such cases.

2. Policy Framework⁵

National Action Plans

FGM is referred as one of the six priorities of the [2015-19 National Action Plan](#) (NAP) **on combating all forms of gender-based violence**, which is in line with the Istanbul Convention. The NAP states that although important progress has been made in the last years, political efforts should be intensified, such as ensuring increased means for first-line organisations

⁴ Loi du 18 juin 2018 relative à la lutte contre les actes de violence perpétrés au nom de la culture, de la coutume, de la religion, de la tradition ou du prétendu « honneur », y compris les mutilations génitales, modifying Article 458bis of the Penal Code, Article 20 of the Loi Coordonnée of 10 July 2008 on hospitals and other healthcare centres, and Article 2 de l’arrêté royal of 3 May 1999.

⁵ For a more detailed information visit: <https://uefgm.org/index.php/policy-framework-be/>



working on FGM, adequate support systems for affected women, better access to justice and more legal procedures, a recognition of FGM in the asylum claims, as well as training of professionals working on the issue. Such NAP is monitored, coordinated and evaluated by the Institute for the Equality of Women and Men (IEFH), with the support of outside experts and an interdepartmental group drawn from Belgium's federal, regional and community authorities. However, funding is not adequately allocated to support actions within the NAP, particularly concerning the federal level and the Flemish community. It would be important to **dedicate a specific budget to the implementation of the NAP** and specifically on FGM. The NAP and the needs-based attribution of budgets have to be decided transparently **in coordination with civil society** and public authorities.

Belgium's three French-speaking governments have also adopted an **intra-French-speaking Action Plan** to combat violence against women and domestic violence (2015-19), which includes FGM. It would be important to have the **same coordination among the Dutch-speaking governments in the Flemish region**, in order to ensure multiagency communication and an integrated approach to all forms of violence, including FGM, also in that region.

In addition, Belgium's regional governments have passed a number of resolutions, including that of 2013 by the Flemish government and the 2015 resolution by the federation of Wallonia-Brussels, highlighting the importance of prevention through the training of professionals and of community-level cooperation with specialist associations. To date, the integration of FGM within the basic professionals' curriculum has not yet been achieved.

Multidisciplinary guidelines and protocols

The MoH has produced, in coordination with GAMS Belgium, a [guideline](#) on FGM for medical professionals in French and Dutch, which have been distributed to maternity and paediatric hospital departments since 2011 (Health, Food Chain safety and Environment). The MOH also supported the production (carried out by GAMS Belgium) of a laminated [reference card](#) detailing types of FGM and deinfibulation techniques. The card, which has been endorsed by Belgium's gynaecological societies, has been distributed to maternity services for use by midwives and gynaecologists during consultations.

Several collaborative protocols on child abuse are applicable to FGM, even if they make no specific reference to the practice. It would be important to **develop some child protection guidelines specifically addressing FGM**.



MAIN ISSUES AND RECOMMENDATIONS

1. Prevention

Article 13

Survivors of FGM or women and girls at risk of undergoing the practice do not often have the correct information around their rights and how to claim them. It would be important that the Belgian government invest in such **awareness raising campaigns** talking about the issue of FGM and addressed to the affected population, as well as through the **systematic dissemination of multilingual information materials** in reception centres, hospitals, shelters for victims of violence, integration programmes, etc.

Article 14

No compulsory educational modules are foreseen in the Belgian school and university system around all forms of violence against women and girls, including FGM, gender stereotypes etc., and when such materials exist, they are created and delivered by civil society actors. It would be important that the Belgian Ministry of Education, together with categories of professionals, would plan the creation of **compulsory education around gender issues and gender-based violence**.

Article 15

Belgium's current medical university curriculum does not cover FGM. The funding allocated at federal level for training against violence against women of medical, social and judicial professionals is not sufficient, making them just awareness raising days rather than in-depth trainings. Moreover, too few experts are available for the number of professionals who would need this kind of training. When professionals do follow courses, it is often thanks to personal interest or because they have faced situations of risk.

Grassroots organisations have developed several tools to help professionals identify and protect at-risk children, including a [risk scale](#) used to assess a particular situation and take appropriate action. This scale is available in French and Dutch, in paper or electronic format. This risk scale has been widely used in professional training. The Belgian governments should support the **systematic use of these tools by professionals**.

Professionals should also be systematically and continuously trained on FGM, both through specific compulsory modules within their university curriculum, as well as with targeted courses throughout their professional career. We recommend the Belgian government put in place a **comprehensive mechanism of in-depth training for relevant professionals** merging



theory and practice, and the possibility of developing a “train the trainers” scheme for professionals to concretely follow up and take ownership of the subject. Moreover, it would be useful to officially **map the professionals in all sectors** who received such trainings so that they can become **focal points** for their colleagues and for the affected population.

2. Protection

Articles 20 & 22

In Belgium, specialised services providing support to FGM survivors are present, particularly in the cities of Brussels (CeMAViE - Centre Médical d’Aide aux Victimes de l’Excision -) and Gent (Multidisciplinair Centrum Genitale Mutilatie, Vrouwenkliniek UZ Gent), using a multidisciplinary approach to care for survivors. However, they are not adequately **advertised**, and the Belgian government should make sure that all women and girls from affected communities living in Belgium are informed about their existence, since often they travel to France without knowing that they can get the same kind of services in Belgium. Furthermore, more **child-friendly specialized services** would be needed for girls affected by FGM.

Moreover, survivors of FGM should be able to **access both general and specialised services (including legal aid) for free**, since they suffer consequences of a form of gender-based violence.

Article 27 & 28

Although we welcome the new law “Van Hoof” which makes it compulsory for doctors to record cases of patients having undergone FGM, it would be important to broaden the scope of the law. First of all, it would be useful to investigate in what context and cases this requirement could and should be expanded to **other healthcare professionals**. Secondly, it would be important to extend the obligation of medical recording also to all **other forms of ill-treatment and abuse against children**.

Moreover, it would be crucial to put in place a **single preventive medical registry for children between 0 and 18**, to avoid loss of information between different consultations (such as those of Kind&Gezin in Flanders, ONE in Wallonia, school doctors, etc), and to ensure better protection and services for girls affected.

Article 60 & 61

FGM is considered as a form of gender-based persecution and a ground for asylum in Belgium. Belgium is one of the few European countries gathering data on the numbers of women and



girls who received asylum specifically on grounds of FGM, which is a promising practice we would encourage other states to implement.

From such data, however, appears clear that **asylum recognition in Belgium concerns mostly women and girls who are at risk of being cut**, while those who have already undergone the practice are not considered to be facing persecution anymore. Their asylum application is therefore mostly rejected. Unfortunately, this approach does not take into consideration the *continuum* of violence to which these women and girls are subjected regardless whether they have been cut or not (forced marriage, domestic violence, sexual violence, etc.), as well as the risk of multiple episodes of FGM throughout their lives. Moreover, to really protect those at risk of being cut, **family reunification procedures should be faster, especially for other daughters at risk still living in the country of origin**, since the decision often arrives too late to save them from FGM.

Moreover, the fact that FGM is a cultural practice and a taboo issue is a great obstacle to the disclosure of women's experiences, therefore undermining the credibility of their stories to achieve asylum recognition. This element, beyond the fact that very often during the interviews there are male officers or interpreters, and that women's asylum request is often linked to their husbands' ones, can jeopardise the international protection to which women and girls affected by FGM have right.

Finally, Belgian CGRA/CGVS asylum authorities and the judiciary often wrongly overstress in their negative decisions not to grant international protection to girls the alleged ability of their mothers who oppose the practice to defend them from being cut and resist social pressure. We recommend the Belgium asylum authorities and judges to **recognise the specificity of FGM as a social norm in practicing communities** and the consequent pressure that is put on families to perform it as key elements in the international protection status assessment. Mothers, including when educated and economically independent, are not necessarily and systematically able to protect their girls against their communities simply because of their opposition to the practice, as shown in the 2018 landmark decision by the UN Committee on the Rights of the Child (CRC) against Denmark⁶.

To tackle all the aforementioned issues, the Belgian government should develop and provide **gender-sensitive training to case-workers, other asylum officers and judges, as well as interpreters**, on demand as well as on a compulsory yearly basis, notably on credibility and vulnerability, **for gender specific and FGM-related cases**. Moreover, the Belgian government should also ensure that asylum officers consult **gender-sensitive Country of Origin Information (COI)** highlighting the gender-specific forms of persecution faced by women and girls in third countries.

⁶ See <https://www.ohchr.org/Documents/HRBodies/CRC/CRC-C-77-DR-3-2016.pdf>.



Concerning reception conditions, sometimes women in centres do not feel safe since toilet facilities are open, and often centres are isolated, which makes it difficult to move without using the services of private drivers -always men- with whom women alone don't feel safe. Furthermore, regarding professional integration courses, often women in the asylum procedure are pushed towards more "female jobs" in the care and cleaning sectors, which are perpetuating gender stereotypes. The Belgian government should make sure that the **asylum reception system is more gender-sensitive and ensures women's empowerment and adequate integration.**

3. Prosecution

Article 44

As mentioned in the legal framework, the extraterritoriality principle in Belgium is only applied partially concerning FGM, since it does not apply when the victim is more than 18 years old or when the perpetrator is not found on Belgian territory⁷. Therefore, we recommend that Belgian authorities **extend the extraterritorial competency of FGM prosecution** to comply with Article 44 of the Istanbul Convention.

Article 45

Despite the legislative tools available, only 19 FGM-related cases were filed in Belgium between 2008 and 2014, none of which led to a conviction. There is therefore no jurisprudence available on the subject. However, it is important to note that the law ensured the protection of several girls at risk of being cut, through protectionary measures to prevent them from exiting the country. It would be important to keep track of such cases since they provide evidence around the preventive effectiveness of the law.

Article 50

Due to a national coding system, currently police forces do not prioritise cases of violence against women and girls, including FGM, when they face some. We recommend that Belgian **law-enforcement agencies ensure prioritisation of all cases concerning violence against women and girls, including FGM**, in terms of speedy assessment leading to prompt prevention and protection of the person at risk. Moreover, potential victims, whether minors or adults, should be heard by agents who are trained on gender-based violence and who use respectful methods, such as the technique for audition of minors and vulnerable persons (TAM).

⁷ For more information see https://www.intact-association.org/images/analyses/Etude-penale-INTACT_11_17_FR.pdf



4. Integrated Policies

Article 7

In general, it would be crucial to have **more homogeneity, coordination and coherence throughout the national territory in policies and services** provided around FGM, including through the development, in close cooperation with civil society, of a **global and coordinated primary prevention policy spanning all political levels** and remits, including quantitative objectives on the reduction of FGM incidence and prevalence, specific and sufficient funding and impact evaluation.

Moreover, to comply with the requirements of the Istanbul Convention, we recommend that Belgium elaborates a **comprehensive legal framework on all forms of gender-based violence including FGM** that encompasses all forms of violence against women, in public spaces as well as in the private sphere, and that includes not only the prosecution aspect, but also mechanisms for protection, support and reparation for victims, as well as measures to prevent that the violence occurs.

Article 8

As mentioned earlier, funding allocated to support the effective implementation of the actions to tackle FGM within the NAP 2015-2019 is not sufficient, particularly by Flanders and the Federal Government. Moreover, the funding available is mostly allocated through annual projects, which does not ensure the sustainability and makes precarious the work of organisations tackling FGM at grassroots level through behavioural change activities, or those engaging with professionals to train them on the long term. The Belgian government should **ensure core funding** is allocated to ending FGM in Belgium and providing care for survivors, **which should not be project-based but more long-term** to be able to achieve a sustainable impact and to ensure sustainability of the important work of civil society.

Article 9

Contrarily to the previous NAP 2010-2014, civil society working on FGM was unfortunately not much involved in the designing of the current NAP, while this would have been crucial to ensure tailored actions to achieve the FGM priority. Moreover, the Network of Concerted Strategies to end FGM⁸, led by GAMS Belgium and INTACT, who plays a leading role in coordinating actions at regional and federal level, is not able to carry out its work in Flanders, due, on the one hand, to lack of funding and, on the other hand, to the absence of local structures of consultation and coordination between all stakeholders working to end all forms

⁸ For more information see here: <http://www.strategiesconcertees-mgf.be/en/>



of violence against women and girls. We recommend the **Belgian federal government, as well as the Flemish government, ensure closer and more meaningful coordination with civil society and grassroots organisations**, including with the Network of Concerted Strategies to end FGM, to design, implement and evaluate strategies to end violence against women.

Article 11

Three studies have been commissioned by the MoH and the IEFH concerning FGM in Belgium. It would be important to conduct further **research on the impact of reconstructive surgery**, which was something that the Superior Health Council of Belgium had recommended in 2009 when opening the multidisciplinary health centres for the accompaniment of survivors of FGM, but that has never been followed up. Moreover, it would be interesting to research the impact of migration on the perpetuation of FGM in Belgium (EIGE 2018 recommendation), as well as to conduct studies on the “hard-to-reach communities”, i.e communities who do not currently benefit from services of specialized FGM organisations, who are affected by FGM (such as Iraq, Indonesia, Egypt, etc.).

CONCLUSIONS

In conclusion, GAMS Belgium and INTACT, together with End FGM EU, would like to call upon the Belgian authorities to keep working towards putting an end to FGM, by taking the following measures:

- Dedicate a specific budget for the implementation of the NAP, which must be decided in coordination between civil society, including grassroots organisations, and authorities;
- Strengthen homogeneity of policies and services throughout all Belgian political levels by developing a global and coordinated primary FGM prevention policy in close coordination with civil society, including grassroots, organisations;
- Ensure that the kind of coordination around FGM in place within the French-speaking community and governments is guaranteed among the Dutch-speaking governments in the Flemish region, including through the allocation of dedicated funding;
- Develop a comprehensive legal framework on all forms of gender-based violence including FGM in line with the Istanbul Convention;
- Develop child protection guidelines specifically addressing FGM;
- Raise awareness among affected communities and ensure systematic dissemination of multilingual information materials;
- Establish compulsory education around gender issues and gender-based violence, including FGM, within the school curriculum;



- Ensure that professionals are better prepared to protect survivors and girls at risk and prevent FGM through:
 - a comprehensive, systematic and continuous mechanism of in-depth training for professionals in all relevant sectors;
 - the systematic use of expert tools produced by civil society;
 - a system of dedicated referral units or professional focal points throughout the Belgian territory.
- Raise more awareness within affected communities around the existence of two specialized multidisciplinary services for FGM survivors in Belgium;
- Establish more child-friendly specialised services;
- Guarantee free access to both general and specialised services (including legal aid) to survivors of FGM;
- Investigate in what context and cases the obligation of medical recording could and should be expanded to other healthcare professionals and extend it also to all other forms of ill-treatment and abuse against children;
- Put in place a single preventive medical registry for children between 0 and 18;
- Ensure that asylum procedures are more gender- and child-sensitive, specifically in terms of:
 - recognition of the specificity of FGM as a social norm and the consequent pressure put on families to perform it;
 - ensuring gender-sensitive training to case-workers, other asylum officers and judges, as well as interpreters;
 - gathering, updating, analysing and using quality COI in a gender-, culture- and child-sensitive way;
 - faster family reunification procedures, especially for other daughters at risk still living in the country of origin;
 - more gender-sensitive asylum reception system ensuring women's empowerment and adequate integration.
- Ensure that law-enforcement agencies prioritise all cases around violence against women and girls, including FGM;
- Ensure that any police hearing with potential victims of FGM is done using a respectful method, such as the TAM;
- Ensure core funding is allocated to organisations working to end FGM and provide care for survivors, as to guarantee more long-term sustainability;
- Ensure that both the Belgian federal government and the Flemish authorities establish a closer and more meaningful coordination with civil society and grassroots organisations;
- Carry out research on the impact of reconstructive surgery on FGM survivors;



- Carry out research on the situation and need of FGM survivors in harder-to-reach communities.

We thank the GREVIO for the opportunity given to civil society to provide our expertise and concrete recommendations to improve Belgian authorities' actions to end FGM.