

**8<sup>TH</sup> EUROPEAN FORUM ON THE RIGHTS OF THE CHILD  
(BRUSSELS, 17 AND 18 DECEMBER 2013)**

<p><b>BACKGROUND PAPER FOR SESSION 4:</b> THE ROLE OF CHILD PROTECTION SYSTEMS IN PROTECTING CHILDREN FROM <b>FEMALE GENITAL MUTILATION (FGM)</b></p>
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**OBJECTIVES OF THE SESSION**

The **EU Agenda for the Rights of the Child**<sup>1</sup>, reaffirmed the strong commitment of the EU to promote, protect and fulfil the rights of the child and specifically includes the protection of children in vulnerable situations and from violence against children.

**Female genital mutilation (FGM)** is a harmful practice, inflicted mostly on young girls between infancy and age 15, and causing short-term and long-term physical and psychological consequences. It is a violation of Article 19 of the **UN Convention on the Rights of the Child (UNCRC)**<sup>2</sup>.

The objectives of this session are to provide a platform for discussion and to facilitate the exchange of good practices among Forum participants on the role of **child protection systems (CPS)** in **preventing and responding to FGM**.

The focus of the session will be on approaches that can ensure the delivery of an adapted response to the specific protection and prevention from FGM of all female children, in the Member States of the EU, with clear links to a wider international context. Interagency coordination and cooperation, involving those with a formal CPS role as well as justice, health, welfare, education, civil society, community, family etc., form the backbone of successful mechanisms.

**STRUCTURE OF THE SESSION**

The three-hour session on **the role of CPS in protecting children from FGM** will be chaired by the Commission and co-chaired by an expert, with a panel of four experts introducing the topic and opening specific subjects for discussion with the session participants.

We expect participation in this session of around 50 experts from all EU Member States. The session will be held in **English**. The intention is to have participation from a varied range of professionals who play a role in preventing or responding to FGM. Session participants should therefore include:

- Representatives of the Ministries of the Member States, or national bodies with a coordination or oversight role within formal CPS
- Representatives of public authorities with key roles in CPS (including social affairs, education, health, justice)
- NGOs that form an integral part of CPS in cooperation with public authorities
- European/international NGOs and international organisations addressing the issue of FGM.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0060:FIN:EN:PDF>

<sup>2</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

- Professionals and academics with practical expertise in the functioning of CPS and their role in fighting FGM

Taking due account of the role of the EU and its competences, some of the envisaged session outcomes are:

- to exchange experience, information and good practice that enable CPS to protect children from FGM (including when they risk being mutilated abroad) and respond to the needs of children subjected to FGM
- to explore how the EU and other actors can support child protection systems and how to better target EU funding in the area of FGM
- to explore how CPS can ensure that the best interests of the child is raised throughout any criminal proceeding related to FGM

## CONTEXT

The European **Commission's Strategy for Equality between women and men**<sup>3</sup> (2010-2015) calls for action aiming "*at eradicating female genital mutilation using all appropriate instruments, including criminal law, within the limits of the EU's powers.*"

The European **Council's EU Strategic Framework and Action Plan on Human Rights and Democracy**<sup>4</sup> adopted in 2012 defines actions to "*Support relevant initiatives against harmful traditional practices, in particular FGM*".

The European **Council Conclusions on the Eradication of Violence against Women in the European Union**<sup>5</sup> (2010) urge Member States to "*identify and remedy any shortcomings in the protection of women who are victims of violence in any form, including female genital mutilation (...); and ensure that there is no justification of violence on the grounds of customs, traditions or religious considerations.*"

The **European Parliament's Joint Resolution on ending FGM**<sup>6</sup> from June 2012, urges the Commission to "*give specific attention to female genital mutilation as part of an overall strategy for combating violence against women, including joint action against female genital mutilation*".

The **Council of Europe's Convention on preventing and combating violence against women and domestic violence**<sup>7</sup> commits parties to "*take the necessary legislative or other measures to ensure*" that FGM is criminalised.

The **UN General Assembly** unanimously passed a **resolution banning the practice of Female Genital Mutilation** on 20 December 2012.

The **UN High Commissioner for Refugees'** submission to the EC Consultation on FGM in the EU<sup>8</sup> reminded of the necessity to focus on FGM in asylum and refugee contexts.

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0491:EN:NOT>

<sup>4</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf)

<sup>5</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/113226.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/113226.pdf)

<sup>6</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-261>

<sup>7</sup> <http://www.conventions.coe.int/Treaty/EN/Treaties/Word/210.doc>

<sup>8</sup> [http://ec.europa.eu/justice/gender-equality/files/gender\\_based\\_violence/20130529\\_unhcr\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/gender_based_violence/20130529_unhcr_en.pdf)

## ISSUES AT STAKE

### 4.1 Develop and strengthen multidisciplinary cooperation

FGM is a multifaceted practice, anchored in deep-rooted social norms. Different groups have different reasons for practising FGM. It is related to the social control of girls' and women's sexuality, as well as to a wide range of beliefs and fears. In the context of migration, FGM may also be a way of keeping a link to the country of origin. This is why the affected communities may experience attempts to fight FGM as a threat to their cultural identity.

FGM is therefore a sensitive issue that should be tackled with care, also because there is a lack of knowledge on the circumstances of the procedure. Mutilations have been documented as having been done to girls within the EU, or while they are on holidays in their country of origin.

Moreover, FGM is criminalised in all EU Member States. A principle of extra-territoriality is often included, making it possible to prosecute FGM also when it is committed abroad, when the victim and/or the person(s) exercising or planning the procedure are nationals of the EU Member State. However, court cases in the EU are rare. Until January 2012, only 29 court cases had been registered in France, six in Spain, two in Italy and in Sweden and one each in the Netherlands and in Denmark<sup>9</sup>. The fact that FGM is an intimate issue for the victims, that it is still often a taboo topic among affected communities, and that the victims are often reluctant to file a complaint against their parents, are some of the reasons explaining why FGM is rarely prosecuted.

A wide range of professions in the fields of health, education, social services, child protection, the judiciary and asylum are in contact with children originating from communities where FGM is widespread. In order to adequately protect children, facilitate victims coming forward and provide adapted help and support when they do, services with sufficient expertise and knowledge are needed. In some countries, multi-disciplinary guidelines and protocols for professionals have been developed towards ensuring this.

### 4.2 Ensure procedural safeguards

Efficient multidisciplinary cooperation is also required to ensure the best interests of the child are a primary consideration in all actions undertaken.<sup>10</sup> In 2013, the UN Committee on the Rights of the Child published [General Comment No 14 \(2013\) on the rights of the child to have his or her best interests taken as a primary consideration \(Article 3.1\)](#)<sup>11</sup>, which provides guidance on best interests determination and elements to consider when assessing and determining best interests. Furthermore, it invites States and all persons who are in a position to assess and determine the child's best interests to pay special attention to procedural safeguards to guarantee the implementation of the child's best interests (See Section B), and these are worth discussing from the perspective of practical and operational improvements.

Finally, in 2013, the UN Committee on the rights of the child published [General Comment No 15 \(2013\)](#)<sup>12</sup> on the right of the child to the enjoyment of the highest attainable standard of health (Article 24), emphasising the importance of non-discriminatory access to primary healthcare.

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<sup>9</sup> Source: European Institute for Gender Equality. Female genital mutilation in the European Union and Croatia (2013) - [http://eige.europa.eu/sites/default/files/EIGE-Report-FGM-in-the-EU-and-Croatia\\_0.pdf](http://eige.europa.eu/sites/default/files/EIGE-Report-FGM-in-the-EU-and-Croatia_0.pdf)

<sup>10</sup> UNCRC Art 3.1. + GC N° 14 <http://www2.ohchr.org/english/bodies/crc/comments.htm>

<sup>11</sup> [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf)

<sup>12</sup> [http://www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-15\\_en.doc](http://www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-15_en.doc)

## **QUESTIONS FOR SESSION PARTICIPANTS**

**How can the EU and its Member States:**

- 1. Increase the knowledge of key professionals on FGM?**
- 2. Promote and support multi-disciplinary cooperation to better protect girls at risk of being mutilated?**
- 3. Ensure that the best interests of the child are at the centre of all protection measures?**
- 4. Cooperate to address the issue across the EU?**

## **THE WAY FORWARD**

The Commission seeks to address the issues outlined in this paper in cooperation with the relevant organisations and institutions. Forum participants are invited to exchange views on practical measures that can be taken to promote interagency cooperation and a multidisciplinary approach to ensure the best possible outcomes for children in terms of prevention of and responses to violence against children.

Participants should also explore how the EU and other actors can support Member States in this field. They are also invited to reflect on how to achieve the maximum benefit from EU funding opportunities and platforms for exchange of experience.