

# Striking the right balance between prosecution and prevention

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## Introduction

- DAPHNE Project; June 2007-2009; follow up 2004 project
- AIM : To enhance implementation of criminal & child protection laws regarding FGM in EU
- ACTIVITIES:
  - Review of laws in Europe through a pretested questionnaire
  - Capacity building workshops on FGM law enforcement for professionals in 5 Member States
  - Drafting country assessment tool to measure governments' performance towards stopping FGM
  - Disseminating recommendations regarding enforcement of FGM legislation



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## National legal provisions applicable to FGM in EU countries

- General criminal law
- Specific criminal law
- Child protection provisions
- Professional secrecy provisions



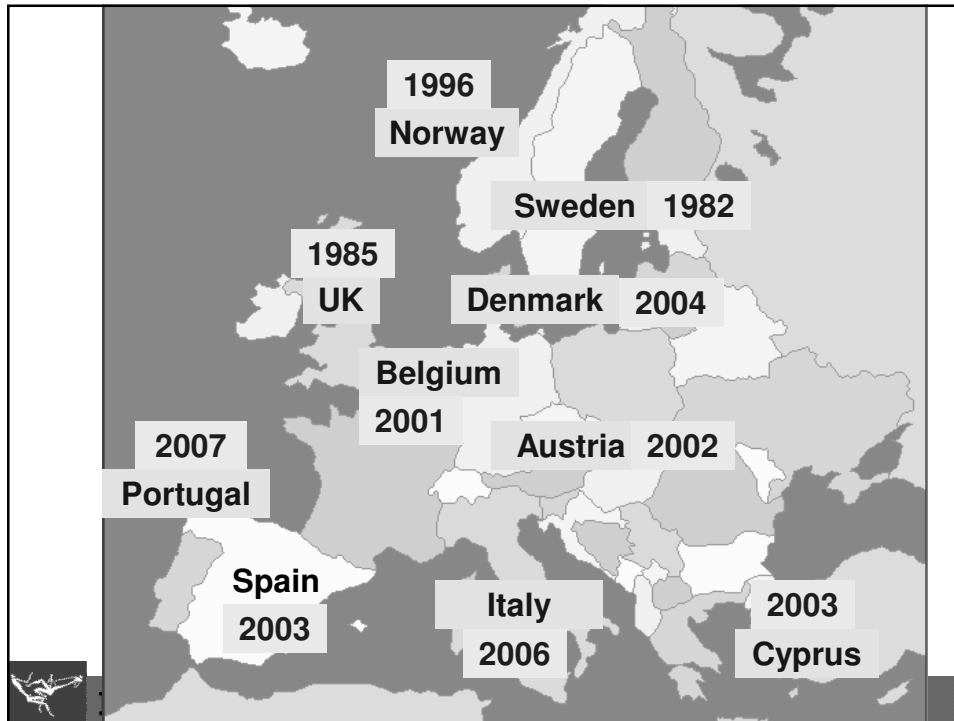
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## Criminal laws

- Specific:
  - Introduced in 10 EU countries (now 11)
  - Sweden first (1982), pending in Switzerland
  - Call for specific law: EP Resolution 2001
  - Call for specific law or prosecution under general criminal law: EP Resolution 2009
- General:
  - In vast majority of EU countries
  - Bodily injury, serious bodily injury, mutilation



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## Principle of Extra-Territoriality

Included in the criminal provisions of most European countries.

Exceptions:



## Child Protection Laws

- Voluntary → hearing with family, counselling, warnings
- Compulsory
  - » removing child from family home,
  - » suspending parental authority,
  - » withholding passport,
  - » non-authorisation to leave country
- Guidelines or protocols
  - protection for girl at risk of FGM
  - Ex: UK, Spain, France, Netherlands, Sweden, etc.



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## Professional Secrecy Provisions

- Targeted at health professionals, social workers & teachers
- **Duty vs Right** to report to authorities or social care services

RIGHT
<ul style="list-style-type: none"><li>• Belgium</li><li>• Ireland</li><li>• Germany</li><li>• Netherlands</li></ul>

DUTY	
• Austria	Italy
• Bulgaria	Norway
• Cyprus	Poland
• Denmark	Portugal
• Estonia	Slovakia
• Finland	Slovenia
• France	Spain
• Greece	Sweden
• Hungary	Switzerland



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## Implementation of laws

- Number of court cases
- Presence of reports of (suspected) cases
- Child protection interventions related to FGM



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## Criminal court case

### Specific Criminal Law

- **Sweden** → 2 criminal court cases in 2006
- **Denmark** → 1 criminal court case in 2009
- **Norway** → 1 ongoing criminal court case

### General Criminal Law

- **France** → 37 criminal court cases since '80s
- **Switzerland** → 2 criminal court cases in 2008
- **Netherlands** → 1 ongoing criminal court case
- **Spain** → 3 criminal court cases under previous law (1993, 2000, 2002)



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## Child protection interventions

- Up to 7 EU countries specific FGM related child protection measures
- 11 EU countries: reports of (suspected) FGM cases
- 5 countries: no FGM related cases, child protection interventions or reports of (suspected) cases
- Absence of reported cases in Central And Eastern Europe



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## Issues in implementation of laws in Europe

- Apparent lack of knowledge about FGM and the legal framework among professionals (prosecutors, child protection officers)
- Complexity of risk assessment:
  - Assess level of risk
  - Instruments to guide this process?



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## Issues (cont.)

- Reports of FGM:
  - ⇒ Remains major area of concern
  - ⇒ Reluctance among professionals & victims
  - ⇒ Influenced by presence of national, regional action plans or protocols and guidelines for professionals
  - ⇒ Instruments to increase number of reports:
    - Duty to report: encouragement for professionals?
    - (Compulsory) gynaecological examinations?



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## Issues (cont.)

- Lack of coordination:
  - Among professionals regarding referral and follow-up of girls at risk
  - Fragmentation of policies in some EU countries (eg Spain, Belgium)



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## Key recommendations for improvement of law enforcement

- On protection of girls at risk:
  - Development of risk assessment protocol for professionals
- On gynaecological examination of girls
  - Seek ethical and legal advice before introducing this measure
  - In case of such examination: in dialogue with family (eg choice of doctors)



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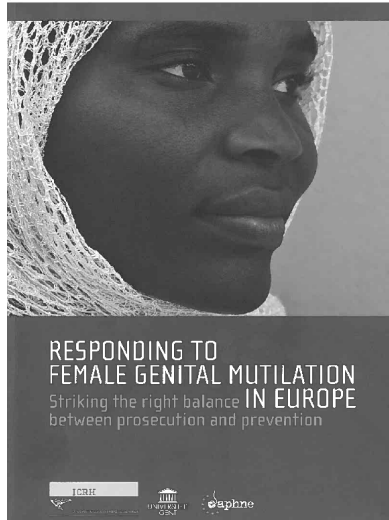
## Key recommendations (cont.)

- On provision of care:
  - Continued training for professionals on FGM and legal framework
  - Continuous efforts to exchange experiences on law implementation mechanisms
  - Development of referral systems for girls at risk
- On coordination:
  - Coordinating body to follow up girls & families at risk, lead on policy, provide guidance on support services, incl FGM & asylum



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Read more?



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With the support of the European  
Commission, Daphne Programme to combat  
Violence against children, young people and  
women



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