



# COUNTRY FOCUS

## SPAIN

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# COUNTRY CONTEXT

## / FACTS

- The first study to provide information about the number of women residing in Spain who come from countries where FGM is practised was carried out in 2002 (Kaplan, Merino, & Franch, 2002) and the latest in 2013 (Kaplan & Lopez, 2013).
- According to the most recent study, an estimated 16,869 girls from FGM-practising countries of origin live in Spain (Kaplan & Lopez, 2013).
- In 2015, the Ministry of Health, Social Services and Equality published a report on FGM in Spain along with a healthcare action protocol (Protocolo común de actuación sanitaria ante la mutilación genital femenina (MGF), 2015).
- Healthcare is the responsibility of Spain's 17 Autonomous Communities, some of which are more advanced than others in terms of tackling FGM.
- According to the most recent Ministry report, the first case of FGM in Spain was detected at the beginning of 1993. However, the first case to result in a custodial sentence was in 2011. The Provincial Court of Teruel sentenced the parents of a girl who had been mutilated on the charge of deprivation of liberty, under Article 149.2 of the Criminal Code.
- Because FGM is a crime in Spain, judges can oblige girls under the age of 18 to receive medical check-ups, remove a child's passport, prohibit a child's exit from the country and require parents to sign a pledge not to mutilate their daughters.
- However, the overall approach of Spain's healthcare system where a girl is at risk of FGM is to use so-called preventive engagement.

## / FIGURES

There is no centralised register of FGM cases in Spain, nor have there been any official prevalence studies. In some Autonomous Communities, confirmed cases are registered through clinical histories and/or police records. For example, in Catalonia, the Department of Internal Affairs registered 216 cases in the last seven years, including 20 in 2015 (Memoria del Departamento de Interior de Catalunya, 2015).

However, only four national studies offer estimates of the number of women and girls in Spain from FGM-practising communities. According to the most recent study (Kaplan & Lopez, 2013), 57,251 women from FGM-practising countries (mainly Senegal, Nigeria, Mali, Gambia, Guinea and Ghana) live in Spain. This includes 16,869 girls in the at-risk age group of 0-14 - a number that, although significant, could plausibly be reached by an adequately resourced prevention programme. However, a sizeable unregistered migrant population means that the number affected by and at-risk of FGM is likely to be higher. FGM risk factors include a girl/woman's nationality, community prevalence of mutilation, age and number of relations mutilated. Each of these elements should be carefully considered by healthcare professionals and social workers, in order to assess the danger of FGM (Velasco, 2000).

01

Country context

## / MAIN AFFECTED COMMUNITIES

Until the 1990s, FGM was widely considered a foreign problem to be addressed by development cooperation programs. Since the discovery of cases of FGM in Spain, however, Spanish institutions, healthcare professionals and the public at large have tried to respond to a new reality of preventing and detecting a complex and intimate practice.

According to the most recent study available, the Autonomous Communities with the most women from FGM-practising countries are Catalonia (18,122), the Community of Madrid (7,558), Andalucía (6,197), the Community of Valencia (5,135), Canarias (3,860), Aragón (3,195), País Vasco (3,171) and Baleares (2,921).

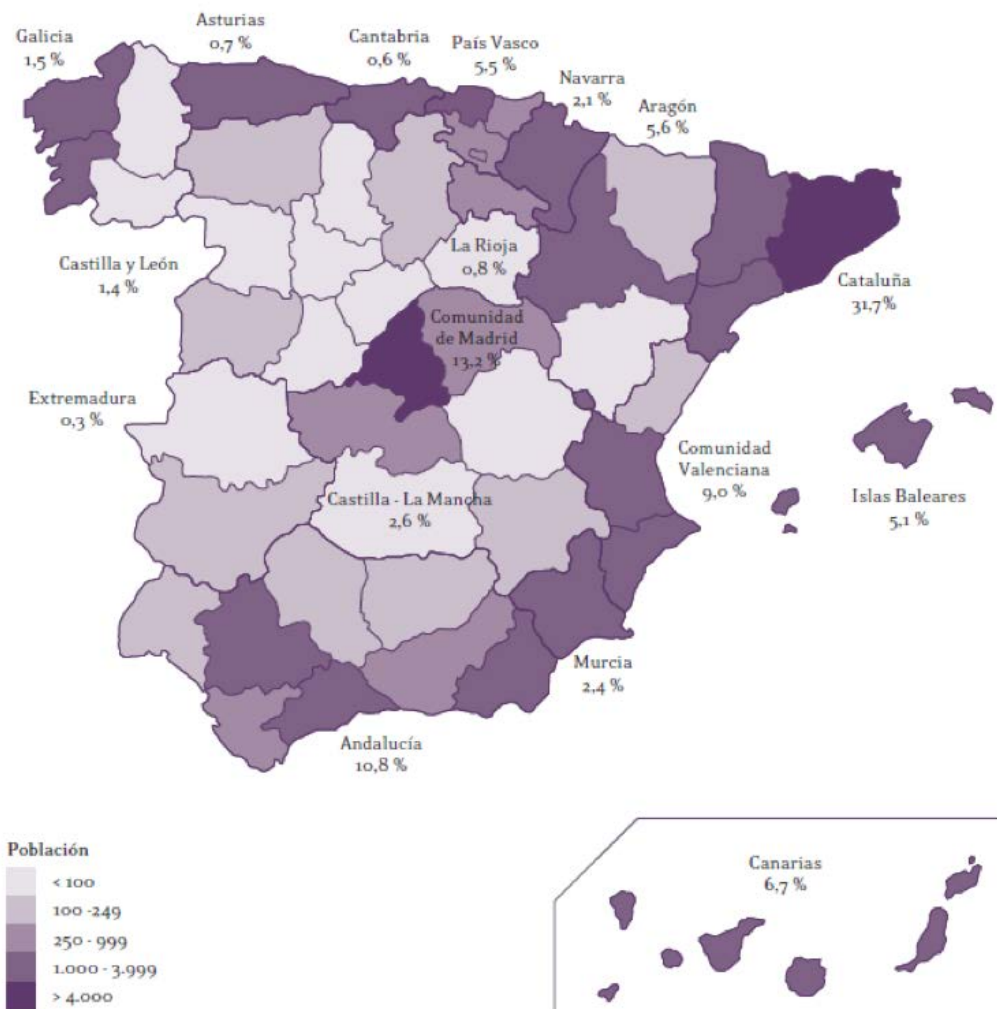


Figure 1. Distribution of female population from FGM-practising countries  
Source: Kaplan, A. and Lopez, A. (2013) Map of Female Genital Mutilation in Spain 2012. Applied anthropology 2. Barcelona: Wassu Foundation-UAB

# LEGISLATIVE FRAMEWORK

*(Current situation of genital mutilation in Spain, 2013)*

## / EUROPEAN AND INTERNATIONAL CONVENTIONS




Spain has ratified the following conventions relevant to the eradication of FGM

- Universal Declaration of Human Rights, 1948
- Convention for the Protection of Human Rights and Fundamental Freedoms (UDHR), 1950
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
- Convention on the Rights of the Child (CRC), 1989
- Charter of Fundamental Rights of the European Union (2010/C 83/02), 2007

Spain has also ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which classifies all forms of violence against women as a crime, including FGM.

## / CRIMINAL CODE

The Spanish Criminal Code includes specific regulation on FGM.

-  1. Organic Act 11/2003 on Concrete Measures in Matters of Public Safety, Domestic Violence and Social Integration of Foreigners, modified article 149.2 states: «Whoever causes to another person a genital mutilation in any form shall be punished with a sentence of imprisonment from six to twelve years. Should the victim be a minor or incapacitated, the punishment of special barring from exercise of parental rights, guardianship, care, safekeeping or fostering shall be applicable for a term from four to ten years, should the Judge deem it appropriate in the interest of the minor or incapacitated person.»
-  2. Organic Act 6/1985 of the Judiciary Branch, Article 23.4 (modified by Organic Act 1/2014), establishes the principle of extraterritoriality, such that FGM is punishable regardless of where it is carried out, if carried out by a resident of Spain of Spanish or foreign nationality, or on an individual of Spanish nationality or residence. The statute of limitations for prosecution is 15 years.
-  3. Article 158 of the Civil Code, modified by Organic Act 9/2000, allows judges to adopt preventive measures in the case of an imminent risk of genital mutilation.

# 02

Legislative  
Framework

## / LEGISLATION PROTECTING CHILDREN

- 🔍 1. Organic Act 1/1996 on the Legal Protection of Minors (partial modification of the Civil Code and the Civil Procedure Act) establishes the 'superior interest of minors' in situations of risk to or lack of protection of children, requiring relevant public bodies responsible for the protection of minors (Autonomous Communities) to intercede.
- 🔍 2. Autonomous Community regulations for the protection of minors varies, with some regions' making explicit reference to FGM. In other communities, FGM is covered by law on gender equality and gender-based violence.

## / RIGHT OF ASYLUM

Organic Act 12/2009 regulating the Right of Asylum and Subsidiary Protection - the most recent legislation on grounds for asylum - does not specifically refer to FGM. Moreover, in cases where this Act has been applied, controversy has arisen when the reasons for granting asylum are argued.

Supreme Court Ruling 4013/2011 15 June is especially important, stating that according to Case Law of the Supreme Tribunal, the rulings of 15 February 2007 (RC 9036/2003) and 11 May 2009 (RC 3155/2006), "in those assumptions in which the existence of 'insufficient evidence' is confirmed, according to the circumstances of each case, when it comes to the persecution of a woman for belonging to the female gender, which has implied the imposition of practices contrary to human dignity, such as forced marriage or the mutilation of a genital organ, and that the legal regimen of the country of origin does not offer efficient legal protection, asylum shall be granted according to articles 3 and 8 of the Act 5/1984 26th March, which regulate the right of asylum and the refugee status".

## / PROFESSIONAL CONFIDENTIALITY

FGM is a crime and professionals aware of an actual or impending incident are therefore subject to mandatory notification. Article 450 of the Criminal Code states, "Whoever, being able to do so, does not resort to the authority or its agents in order for them to prevent a felony that affects the life, integrity or health, freedom or sexual freedom of persons when informed that it is about to be, or is being committed" will be subject to penalties.

Furthermore, the Civil Procedure Act includes two articles applicable to the case FGM.

- 🔍 a. Article 262: "Whoever, due to their position or profession had notification of any public crime, shall be obliged to immediately report it to the Public Prosecutor, the competent tribunal, the examining judge or, alternatively, the municipal police officer nearer to the place, if it was an in flagrante delicto."
- 🔍 b. Article 355: "If the criminal fact motivated the formation of any cause resulting in injuries, doctors who assisted the victim shall be obliged to report their state."

Lastly, Organic Act 1/1996 on Legal Protection of Minors also establishes that “whoever, and especially those who, due to their profession or function, detect a situation of risk or possible lack of protection of a minor, must report to public authorities as well as provide assistance to the minor.”

The notification must be exclusively to competent authorities and professionals; the maintenance of professional secrecy is otherwise mandatory. The conflict between legal obligations and ethical principles must be resolved according to general legislation and codes of conduct. The professional is required at all times to be respectful and supportive, protecting the life and health of girls and women (principle of beneficence), minimising negative consequences (do-no-harm principle) and to observe all ethical principles governing professional practice.

# POLICY FRAMEWORK

## / NATIONAL ACTION PLANS, PROGRAMMES AND POLICIES

The United Nations High Commissioner recommends the implementation of integrated plans and multisectoral strategies on FGM, involving public bodies, the media, civil society, community leaders and health and education professionals.

Unlike other EU countries, Spain does not have a specific plan to combat FGM. However, a National Strategy for the Eradication of Violence against Women (2013-16), which was published in 2015 and promotes a Healthcare Common Protocol, specifically refers to FGM (measure 185). In a number of Autonomous Communities, departments of health, social services, gender, education and/or immigration are increasingly including FGM prevention and awareness in integral programmes and plans.

## / MULTIDISCIPLINARY PROTOCOLS AND GUIDES

The recent (2015) adoption of the Common Protocol for Healthcare Response has particular importance in the context of FGM, guiding healthcare professionals to detect, treat and prevent FGM. (See <http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/introProtocoloComun2015.htm>)

Multidisciplinary and multi-institutional protocols include Autonomous Communities' professional and institutional protocols for the prevention, detection and treatment of FGM.

Catalonia [http://www.violenciagenero.msssi.gob.es/otrasFormas/mutilacion/protocolos/protocolo/pdf/cataluna\\_2007.pdf](http://www.violenciagenero.msssi.gob.es/otrasFormas/mutilacion/protocolos/protocolo/pdf/cataluna_2007.pdf)

Aragón <http://www.violenciagenero.msssi.gob.es/otrasFormas/mutilacion/protocolos/protocolo/pdf/ARAGon2016.pdf>

Navarra [http://www.violenciagenero.msssi.gob.es/otrasFormas/mutilacion/protocolos/protocolo/pdf/navarra\\_2013.pdf](http://www.violenciagenero.msssi.gob.es/otrasFormas/mutilacion/protocolos/protocolo/pdf/navarra_2013.pdf)

Other Communities have opted for protocols of healthcare action, as is the case in Andalusia and Pais Vasco. [http://www.juntadeandalucia.es/salud/export/sites/csalud/galerias/documentos/c\\_1\\_c\\_6\\_planes\\_estrategias/protocolo\\_mgf\\_2015/mutilacion\\_genital\\_femenina\\_2015.pdf](http://www.juntadeandalucia.es/salud/export/sites/csalud/galerias/documentos/c_1_c_6_planes_estrategias/protocolo_mgf_2015/mutilacion_genital_femenina_2015.pdf)

<http://www.avpap.org/documentos/varios/MGF.pdf>

Several cities have their own Action Protocol against FGM, for example, Bilbao: <http://www.avpap.org/documentos/varios/MGF.pdf>

# 03

Policy Framework

## / GUIDES

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## MILESTONES / PROMISING PRACTICES

Recent work has highlighted six key challenges in the effort to combat FGM in Spain (*Guía para profesionales. La MGF en España. Prevención e Intervención*, 2013):

- > Generate official registers of cases of FGM, improving the detection of cases and protection of data.
- > Formulate integrated policies and multidisciplinary and intersectoral action plans, with the collaboration of relevant institutions, NGOs and individuals.
- > Develop more interdisciplinary and inter-institutional protocols.
- > Train professionals on the consequences of FGM and how to approach intervention.
- > Improve the access of immigrant women to education. A survey by UNICEF in Egypt found that the incidence of harmful practices such as FGM decreases as rates of female literacy rise (*Female Genital Mutilation/Cutting in Egypt*, 2010).
- > Implement co-development programmes for the prevention of FGM.

Five promising practices with regard to FGM in Spain have been identified.

- > Badalona City Hall project combatting FGM, Action-Investigation, involving the collaboration of local networks.
- > Interdisciplinary protocols developed by Communities of Catalonia, Aragon and Navarra.
- > Doctors of the World awareness-raising projects, research and programmes for developing sub-Saharan women as trainers.
- > Data-mapping project by Interdisciplinary Group for Prevention and Study of Harmful Traditional Practices (GIPE-PTP) at Universidad Autónoma of Barcelona.
- > UNAF (National Union of Family Associations) projects on prevention and intervention, and work with families to end FGM.

A number of NGO awareness-raising campaigns are also of note, including

- > “Thinking in tomorrow” (“Pensando en el mañana”). Doctors of the World, Navarra. <https://www.youtube.com/watch?v=ipuZJ6epBa4>
- > “Bref”. Doctors of the World, Catalonia [https://www.youtube.com/watch?v=7ZgqO\\_fyfml](https://www.youtube.com/watch?v=7ZgqO_fyfml)

# ADVICE AND SUPPORT



## Agencies and NGOs

**UNICEF-Spain:** <http://www.unicef.es>

**ACNUR-Spain:** <http://www.eacnur.org>

**SAVE THE CHILDREN:** <https://www.savethechildren.es>

**DOCTORS OF THE WORLD:** <http://www.medicosdelmundo.org>

**UNAF:** <http://unaf.org/>

**MEDICUS MUNDI:** <http://www.medicusmundi.net>

**WASSU-UAB FOUNDATION:** <http://www.mgf.uab.cat>



## Public authorities

**Ministry of Health, Social Services and Equality.** Government Office for Gender Violence, <http://www.msssi.gob.es/ssi/violenciaGenero>

### **National Health System Commission against Gender Violence**

[http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/e02\\_t03\\_Comision.htm](http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/e02_t03_Comision.htm)

**Observatory on Women's Health** [http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/e02\\_t03.htm](http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/e02_t03.htm)

**Observatory on Childhood** <http://www.observatoriodelainfancia.msssi.gob.es/>

### **Spanish Agency for International Development Cooperation**

<http://www.aecid.es/>



## Autonomous Communities

### **Health Departments and their Provincial Delegations**

<http://www.msssi.gob.es/organizacion/ccaa/directorio>



## Women's Institutes

<http://www.inmujer.gob.es/servRecursos/centrosAtencion/home.htm>



## Bodies for the protection of minors in Autonomous Communities

(In situations of girls at risk) <http://www.msssi.gob.es/ssi/familiasInfancia/docs/serviciosProteccionInfanciaCCAA.pdf>

In situations of imminent risk/emergency, specialist police units for minors and the Public Prosecutor for Minors are available. Local government agencies for women, health, social services, childhood, education and/or immigration are also available.

## / CONTACT INFORMATION AND GUIDANCE ON ILL-TREATMENT OF GIRLS AND WOMEN



### **Ministry of Health, Social Services and Equality**

Telephone helpline: 016, <http://www.violenciagenero.msssi.gob.es/informacionUtil/recursos/telefono016>



**ANAR FOUNDATION:** <http://www.anar.org/necesitas-ayuda-tf-adulto-2/>

## / ADDITIONAL RESOURCES

### **Preventive engagement**

The Ministry of Health's 2015 document on FGM highlights preventive engagement as a strategy to support migrant families who decide not to practise FGM when they return to their country of origin. The document demonstrates parents' commitment not to have their daughters circumcised, clearly presenting the negative health effects of FGM and the fact that the practice is prohibited in Spain, entailing possible penalties of imprisonment and loss of custody of a daughter. (See, for example, the Catalan Health Institute strategy of preventive engagement on FGM [http://www.mgf.uab.es/eng/resources\\_for\\_professionals/preventive.agreement\\_catalan.isntitute.pdf?iframe=true&width=100%&height=100%](http://www.mgf.uab.es/eng/resources_for_professionals/preventive.agreement_catalan.isntitute.pdf?iframe=true&width=100%&height=100%))

### **Reconstructive medical assistance**

Dexeus Woman's Health Foundation offers free genital reconstruction post-ablation (see <http://www.fundaciondexeus.org/quienes-somos/fundacion-dexeus/accion-social>)

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