



**THE LAW AND FGM**

**SLOVAKIA**

**DECEMBER 2021**

# National Legal Framework

## Overview of National Legal Framework in Slovakia

### National legislation:

X	Specific law/provision criminalising FGM
X	Provides a definition of FGM
✓	Criminalises the performance of FGM
✓	Criminalises the procurement, arrangement and/or assistance of acts of FGM
✓	Obligation to report incidents of FGM to the authorities
✓	Criminalises the participation of medical professionals in acts of FGM
✓	Extraterritorial application regardless of double criminality

## Introduction

Slovakia is a country in central Europe with an estimated population of 5.46 million.<sup>1</sup> Slovakia is a unitary republic with a parliamentary democracy and has a civil-law legal system.<sup>2</sup>

### FGM Prevalence

There is no information available on the prevalence of female genital mutilation (FGM) in Slovakia, either for girls and women who have undergone FGM or those who are at risk of FGM.

It is known that very few women originating from FGM-practising countries are living in Slovakia. Between 2004 and 2010, 92 women originating from FGM-practising countries became residents of Slovakia. Information on whether they underwent or were at risk of FGM is not available.

FGM is supposed to be covered in the *Annual Report on Violence Against Women in Slovakia*, to estimate the number of women at risk. However, no statements regarding FGM were included in any of the official reports.<sup>3</sup>

## National Legal Framework

### General Law

There is no specific law, nor a specific provision criminalising FGM in Slovakia. However, general criminal law does implicitly apply to FGM.

FGM could fall under **Section 123 of the Criminal Code of the Slovak Republic (2005)** (the *Criminal Code*). The consequences of FGM determine the classification of the offence. **Section 123(1)–(4) of the Criminal Code** describes ‘bodily harm’. For criminal liability in relation to FGM, **Sections 123(2)–(4)** are relevant, as follows.

- According to **Section 123(2)**, ‘bodily injury’ means damage to the health of another that objectively required medical examination, treatment or cure, during which the victim’s normal/usual way of life was impeded for more than a short period of time (more than six days).

- **Section 123(3)** defines ‘severe bodily harm’. The definition of ‘severe bodily harm’ includes bodily mutilation (**Section 123(3)(a)**), disfigurement (**Section 123(3)(f)**) or health impairment of a longer duration (**Section 123(3)(i)**). ‘Health impairment of a longer duration’ is an impairment that objectively necessitated medical treatment or, as the case may be, created incapacity for work lasting at least 42 calendar days, during which it seriously affected the injured person’s normal/usual way of life (**Section 123(4)**).

Criminal offences related to FGM are regulated in **Sections 155, 156, 208, 340 and 341 of the Criminal Code** and, in some specific cases, in **Section 147 of the Criminal Code**. Rarely, there can occur forms of criminal complicity according to **Sections 338 and 339 of the Criminal Code**.

- Under **Section 155**, whoever intentionally causes severe bodily harm (**Section 123(3)(d)**) to another shall be punished by *imprisonment for a term of four to ten years*.
- Under **Section 156**, whoever intentionally causes bodily injury (**Section 123(2)**) to another shall be punished by *imprisonment for a term of six months to two years*.
- Under **Section 147**, whoever, with intent to cause severe bodily harm (**Section 123(3)(d)**), recklessly causes death shall be punished by *imprisonment for a term of seven to ten years*.
- **Section 208(1)** prescribes that causing physical and mental suffering to a close person or a person in the perpetrator’s care or custody is punishable by law.
- **Section 208(1)(a)** criminalises physical or mental suffering (**Section 208(1)**) caused by behaviour that endangers the victim’s physical or mental health or restricts the victim’s safety.
- **Section 208(3)(a)** prescribes that inflicting severe bodily harm (**Section 123(3)(d)**) or death are aggravating circumstances.
- **Section 138** prescribes that acting in a brutal and agonising manner (**Section 138(c)**), using violence threat of imminent violence, or threat of other serious harm (**Section 138(d)**), or taking advantage of another person’s dependency, distress, inexperience or subordination (**Section 138(g)**) fall under the definition of ‘acting in a more serious manner’ and are therefore considered to be aggravating circumstances under **Sections 147(3)(a), 155(2)(a), 156(3)(a) and 208(3)(d)**.
- Under **Section 338**, whoever publicly approves a crime or publicly praises a crime shall be punished by *imprisonment for up to one year*.
- Under **Section 339**, whoever aids or assists the perpetrator of a criminal offence with the intention of enabling him/her to escape prosecution, punishment or protective measures or the execution thereof shall be punished by *imprisonment for up to three years*.

### Definition of FGM

The law does not contain a definition of ‘FGM’, nor has 28 Too Many been able to find any government source defining it.

### Women and Girls of All Ages

The performance of FGM on women and girls of all ages has been criminalised in Slovakia. However, **Section 139(1)(a) of the Criminal Code** prescribes that inflicting bodily harm on a child (a person younger than 18 years) is an aggravating circumstance, in accordance with **Sections 147(2)(a), 155(2)(b) and 156(2)(a) of the Criminal Code**

Inflicting bodily harm on a pregnant woman (**Section 139(1)(b)**), a close person (**Section 139(1)(c)**), a dependent person (**Section 139(1)(d)**), or a sick person (**Section 139(1)(f)**) are also aggravating circumstances, in accordance with **Sections 147 (2)(a), 155(2)(b) and 156 (2)(a)**.

### Procuring, Aiding and Abetting

Procuring, aiding and abetting FGM are criminalised in Slovakia through general criminal law.

Procuring FGM – when someone hires another person to perform FGM – would most likely fall under **Section 21(1)(a) or Section 21(1)(c) of the Criminal Code**, which criminalise arranging and organising an offence and asking (e.g. hiring) another person to commit an offence, respectively, and would qualify someone as an ‘accomplice’.

Aiding FGM would fall under **Section 21(1)(d)**, which criminalises assisting another person in committing an offence by procuring means, removing obstacles, providing advice, strengthening determination or making a promise to assist the perpetrator post-FGM. This would also qualify someone as an ‘accomplice’.

Abetting FGM – when someone instigates another person to perform FGM or assists him or her in it – would fall under **Sections 21(1)(b) and 21(1)(d)**, respectively, and would also qualify someone as an ‘accomplice’.

**Section 21(2)** prescribes that an accomplice is liable for the same penalty as established for the perpetrator.

Also, according to **Section 20**, if the offence was committed by the joint action of two or more perpetrators (co-perpetrators), each of them shall be held liable as if he or she had committed the offence alone.

### Allowing the Use of Premises

Allowing the use of premises for the purpose of FGM is most likely criminalised in Slovakia through general criminal law. Allowing the use of premises could qualify as providing the means for the offence and would therefore be criminalised under **Section 21(1)(d) of the Criminal Code**.

### Providing or Possessing Tools

Providing (specific) tools for the purpose of FGM is most likely criminalised in Slovakia through general criminal law. Providing (specific) tools could qualify as providing the means to commit the offence and would therefore be criminalised under **Section 21(1)(d) of the Criminal Code**.

Possessing (specific) tools for the purpose of FGM is most likely criminalised in Slovakia under **Section 13(1) of the Criminal Code**. **Section 13(1)** describes preparing to commit a felony (for which the upper limit of penalty exceeds five years’ imprisonment – **Section 11(1)**) as the wilful organisation of a criminal act; the procurement or adaptation of means or instruments for its commission; or associating, instigating, abetting, aiding or in any other way creating conditions for committing an offence. For example, **Section 13(3)(a)** exempts a person from the punishment for preparing to commit a felony if the perpetrator wilfully refrained from further conduct leading to the offence and has eliminated the danger to the interest protected by the Criminal Code.



## Failure to Report FGM

Failing to report FGM has been criminalised in Slovakia. **The Code of Ethics of Health Care Professionals in Act No. 578/2004 on Health Care Providers, Health Professionals and Professional Associations** prescribes an obligation for medical professionals to disclose and report instances of abuse and cruel treatment, especially if there are minors involved.<sup>4</sup>

**Act No. 305/2005 on Social and Legal Protection of Children and Social Curatorship** prescribes an obligation for any person to report a violation of children's rights to the police or the prosecution office.

**Section 340(1) of the Criminal Code** prescribes that any person who learns in a credible manner that someone committed a felony (for which the upper limit of penalty exceeds ten years' imprisonment) and fails to report it to law enforcement authorities can be held criminally liable.

An exemption from criminal liability in connection with **Section 340** is established if the person who fails to report an offence is bound by confessional secrecy or pastoral secrecy (**Section 340(3)(a)**) or the person is under the duty of confidentiality recognised by law (**Section 340(3)(b)**).

Also, whoever commits an act referred to in **Section 340(1)** shall not be punished if he or she could not have made the notification without placing himself or herself or a close person in danger of death, bodily injury, other serious harm or prosecution (**Section 340(2)**).

Whoever learns in a credible manner that another is preparing or committing a felony (for which the upper limit of penalty exceeds ten years' imprisonment) and fails to prevent this crime from occurring can be liable under **Section 341(1)**.

## Medicalised FGM

There is no specific provision on medicalised FGM in the Criminal Code, nor one on malpractice by a licensed medical professional or medical quackery.

Medicalised FGM could be criminalised in Slovakia under **Sections 155 and 156 of the Criminal Code** and, in specific cases, under **Section 147 of the Criminal Code**.

## Extraterritoriality

The **Criminal Code** extends application of Slovak criminal law to the commission of FGM abroad. This applies in some cases even if the act is not considered a crime in the state where the act occurred (**Section 4**).

**Section 4** prescribes that Slovak criminal law applies to criminal acts when committed outside of Slovakia by a Slovak national or a permanent resident of Slovakia.

**Section 5** prescribes that Slovak criminal law applies to felonies (for which the minimum term of imprisonment is at least ten years) when committed outside of Slovakia against a Slovak national and the crime is criminally punishable in the place of the act or the place of the act is not subject to any criminal jurisdiction.

Under **Section 6**, the criminality of an act committed outside of Slovakia by a foreigner who is not a permanent resident of Slovakia shall also be assessed according to the Slovak Criminal Code if **(a)** the act is also criminally punishable under the law in force in the territory where it was committed; **(b)** the offender has been detained or arrested in the territory of Slovakia; and **(c)** the offender has not been extradited to a foreign state for prosecution.

## Penalties

Penalties for committing FGM and crimes related to FGM in Slovakia depend on which provisions of the **Criminal Code** are used in a specific case.

- **Section 147(1)** prescribes a sentence of *up to ten years' imprisonment*.
- **Section 155(1)** prescribes a sentence of *up to ten years' imprisonment* for causing severe bodily harm.
- **Section 156(1)** prescribes a sentence of *up to two years' imprisonment* for causing bodily injury.
- **Section 208(1)** prescribes a sentence of *up to eight years' imprisonment* for causing physical or mental suffering to a close person or a person in the perpetrator's care or custody.
- **Section 340(1)** prescribes a sentence of *up to three years' imprisonment* for any person failing to report a crime.
- **Section 341(1)** prescribes a sentence of *up to three years' imprisonment* for any person failing to report their knowledge of a crime being planned or committed.

In FGM cases it is likely that aggravating circumstances under **Sections 147, 155, 156 and 208** will apply.

- **Section 147(2)** prescribes a sentence of *up to twelve years' imprisonment* when the offence is committed against a protected person, which includes a minor.
- **Section 147(3)** prescribes a sentence of *up to fifteen years' imprisonment* when the offence is committed in a more serious manner.
- **Section 155(2)** prescribes a sentence of *up to twelve years' imprisonment* when the offence is committed in a more serious manner (**Section 155(2)(a)**) or against a protected person, which includes a minor (**Section 155(2)(b)**).
- **Section 156(2)(a)** prescribes a sentence of *up to three years' imprisonment* when the offence is committed against a protected person, which includes a minor.
- **Section 156(3)(a)** prescribes a sentence of *up to five years' imprisonment* when the offence is committed in a more serious manner.
- **Section 208(3)** prescribes a sentence of *up to fifteen years' imprisonment* when the offence is committed in a more serious manner (**Section 208(3)(d)**) or when it results in severe bodily harm or death (**Section 208(3)(a)**).

Thus, the maximum penalty for FGM in Slovakia is *fifteen years' imprisonment*.

**Section 21(2)** prescribes that aiders and abettors are liable for the penalties established for the perpetrator.

**Section 20** prescribes that, in the case of co-perpetrators, each of them shall be liable as if he/she had committed the offence himself/herself.

## Protection

### Protecting Uncut Girls and Women

Uncut girls can be protected through child protection laws in general civil law. **Section 27 of the Act No. 305/2005 on Social and Legal Protection of Children and Social Curatorship** prescribes child protection in instances where the life, health or physical and mental development of a child is in danger. In these instances, the Office of Social and Legal Protection of Children and Social Curatorship, with the permission of the court, is allowed to suspend parental authority or remove the child from the family.<sup>5</sup>

There are no specific or general laws protecting uncut women, aside from general criminal law.

The Government of the Slovak Republic issued the **2014–2019 National Action Plan** aimed at preventing and eliminating violence against women. The Slovak Government also highlighted that FGM could be a challenge within migrant communities. However, no specific measures are set out to tackle FGM.<sup>6</sup>

## Implementation of The Law

### Court Cases

There are no Slovak court cases in relation to FGM known to 28 Too Many.

# Conclusions and Recommendations

## Conclusions

FGM is **not explicitly criminalised** in Slovakia through a specific law, provision or governmental declaration. However, Slovakia has ratified conventions condemning FGM (not the Istanbul Convention, however) and general criminal law does implicitly apply to FGM.

Consequently, the law does not contain a definition of 'FGM' and it is not clear whether all **types of FGM** would fall under general assault laws.

**Procuring, aiding and abetting** FGM would be criminalised through general laws on participation in offences.

The **failure to report** FGM is criminalised in Slovakia in instances where FGM would amount to a felony under Slovak law.

The Criminal Code extends **extraterritorial application** of Slovak criminal law to the performance of FGM abroad if the *perpetrator* has Slovak nationality or is a permanent resident of Slovakia, regardless of double criminality, or if the *victim* has Slovak nationality.

## Recommendations

We urge Slovakia to ratify the Istanbul convention.

It would be useful for Slovakia to order an inquiry into the prevalence of FGM and the number of girls and women possibly at risk of it.

We recommend that Slovakia issue a governmental declaration confirming the application of criminal law to FGM, including a definition of 'FGM' that corresponds to the WHO's and specifying that FGM is a criminal offence if performed on a woman or girl of any age, regardless of (perceived) consent (especially in the case of a minor).

We also recommend that Slovakia instate an obligation for (at least) relevant professionals and institutions to report cases where there are reasonable grounds to believe that FGM may be committed imminently.

Finally, we recommend that Slovakia extend extraterritorial application of Slovak criminal law to the performance of FGM abroad, regardless of double criminality, in cases where the victim is a resident of Slovakia.



# Appendix I: International and Regional Treaties

SLOVAKIA	Signed	Ratified/ Acceded	Reservations on reporting?
<b>International</b>			
International Covenant on Civil & Political Rights (1966) ( <i>ICCPR</i> ) <sup>7</sup>	X	✓ 1993	No
International Covenant on Economic, Social & Cultural Rights (1966) ( <i>ICESCR</i> ) <sup>8</sup>	X	✓ 1993	No
Convention on the Elimination of All forms of Discrimination Against Women (1979) ( <i>CEDAW</i> ) <sup>9</sup>	X	✓ 1993	No
Convention on the Rights of the Child (1989) ( <i>CRC</i> ) <sup>10</sup>	X	✓ 1993	No
<b>Regional</b>			
Istanbul Convention <sup>11</sup>	✓ 2011	X	N/A
European Convention on Human Rights <sup>12</sup>	✓ 1991	✓ 1992	No

**'Signed'**: a treaty is signed by countries following negotiation and agreement of its contents.

**'Ratified'**: once signed, most treaties and conventions must be ratified (i.e. approved through the standard national legislative procedure) to be legally effective in that country.

**'Acceded'**: when a country ratifies a treaty that has already been negotiated by other states.

# Appendix II: National Laws

## Criminal Code

### Section 4

Podľa tohto zákona sa posudzuje aj trestnosť činu, ktorý mimo územia Slovenskej republiky spáchal občan Slovenskej republiky alebo cudzinec, ktorý má na území Slovenskej republiky trvalý pobyt.

### Section 5

Podľa tohto zákona sa posudzuje aj trestnosť obzvlášť závažného zločinu, ak bol čin spáchaný mimo územia Slovenskej republiky proti občanovi Slovenskej republiky a v mieste činu je čin trestný alebo ak miesto činu nepodlieha žiadnej trestnej právomoci.

### Section 6

Podľa tohto zákona sa posudzuje trestnosť činu spáchaného mimo územia Slovenskej republiky cudzincom, ktorý nemá na území Slovenskej republiky trvalý pobyt, aj vtedy, ak

- a) čin je trestný aj podľa zákona účinného na území, kde bol spáchaný,
- b) páchatel bol zadržaný alebo zatknutý na území Slovenskej republiky a
- c) nebol vydaný na trestné stíhanie cudziemu štátu.

Páchatelovi uvedenému v odseku 1 však nemožno uložiť trest prísnejší, než ustanovuje zákon štátu, na ktorého území bol trestný čin spáchaný.

### Section 13

- (1) Príprava na zločin je konanie, ktoré spočíva v úmyselnom organizovaní zločinu, zadovážovaní alebo prispôbovaní prostriedkov alebo nástrojov na jeho spáchanie, v spolčení, zhluknutí, návode, objednávaní alebo pomoci na taký zločin alebo v inom úmyselnom vytváraní podmienok na jeho spáchanie, ak nedošlo k pokusu ani dokonaniu zločinu.
- (2) Príprava na zločin je trestná podľa trestnej sadzby ustanovenej za zločin, ku ktorému smerovala.
- (3) Trestnosť prípravy na zločin zaniká, ak páchatel dobrovoľne
  - a) upustil od ďalšieho konania smerujúceho k spáchaniu zločinu a odstránil nebezpečenstvo, ktoré vzniklo záujmu chránenému týmto zákonom z podnikutej prípravy, alebo
  - b) urobil o príprave na zločin oznámenie orgánu činnému v trestnom konaní alebo Policajnému zboru v čase, keď nebezpečenstvo, ktoré vzniklo záujmu chránenému týmto zákonom z podnikutej prípravy, sa mohlo ešte odstrániť; vojak môže toto oznámenie urobiť aj svojmu nadriadenému alebo služobnému orgánu a osoba vo výkone trestu odňatia slobody alebo vo výkone väzby aj príslušníkovi Zboru väzenskej a justičnej stráže.
- (4) Ustanovením odseku 3 nie je dotknutá trestnosť páchatela za iný trestný čin, ktorý už týmto konaním spáchal.

### Section 20

Ak bol trestný čin spáchaný spoločným konaním dvoch alebo viacerých páchatelov (spolupáchatelia), zodpovedá každý z nich, ako keby trestný čin spáchal sám.

## Section 21

- (1) Účastník na dokonanom trestnom čine alebo na jeho pokuse je ten, kto úmyselne
  - a) zosnoval alebo riadil spáchanie trestného činu (organizátor),
  - b) naviedol iného na spáchanie trestného činu (návodca),
  - c) požiadal iného, aby spáchal trestný čin (objednávateľ), alebo
  - d) poskytol inému pomoc na spáchanie trestného činu, najmä zadovážením prostriedkov, odstránením prekážok, radou, utvrdzovaním v predsavzatí, sľubom pomôcť po trestnom čine (pomocník).
- (2) Na trestnú zodpovednosť účastníka sa použijú ustanovenia o trestnej zodpovednosti páchatel'a, ak tento zákon neustanovuje inak.

## Section 123

- (1) Ujmou na zdraví sa na účely tohto zákona rozumie akékoľvek poškodenie zdravia iného.
- (2) Ublížením na zdraví sa na účely tohto zákona rozumie také poškodenie zdravia iného, ktoré si objektívne vyžiadalo lekárske vyšetrenie, ošetrovanie alebo liečenie, počas ktorého bol nie iba na krátky čas sťažený obvyklý spôsob života poškodeného.
- (3) Ťažkou ujmou na zdraví sa na účely tohto zákona rozumie len vážna porucha zdravia alebo vážne ochorenie, ktorou je
  - a) zmrzačenie,
  - b) strata alebo podstatné zníženie pracovnej spôsobilosti,
  - c) ochromenie údu,
  - d) strata alebo podstatné oslabenie funkcie zmyslového ústrojenstva,
  - e) poškodenie dôležitého orgánu,
  - f) zohyzdenie,
  - g) vyvolanie potratu alebo usmrtenie plodu,
  - h) mučivé útrapy, alebo
  - i) porucha zdravia trvajúca dlhší čas.
- (4) Poruchou zdravia trvajúcou dlhší čas sa na účely tohto zákona rozumie porucha, ktorá si objektívne vyžiadala liečenie, prípadne aj pracovnú neschopnosť, v trvaní najmenej štyridsaťdva kalendárnych dní, počas ktorých závažne ovplyvňovala obvyklý spôsob života poškodeného.

## Section 138

Závažnejším spôsobom konania sa rozumie páchanie trestného činu

- a) so zbraňou okrem trestných činov úkladnej vraždy podľa § 144, vraždy podľa § 145, zabitia podľa § 147 a § 148, usmrtenia podľa § 149, ublíženia na zdraví podľa § 155, § 156 a § 157,
- b) po dlhší čas,
- c) surovým alebo trýznivým spôsobom,
- d) násilím, hrozbou bezprostredného násillia alebo hrozbou inej ťažkej ujmy,
- e) vlámaním,
- f) l'sťou,
- g) využitím tiesne, neskúsenosti, odkázanosti alebo podriadenosti,

- h) porušením dôležitej povinnosti vyplývajúcej z páchatel'ovho zamestnania, postavenia alebo funkcie alebo uloženej mu podľa zákona,
- i) organizovanou skupinou, alebo
- j) na viacerých osobách.

### Section 139

- (1) Chránenou osobou sa rozumie
  - a) dieťa,
  - b) tehotná žena,
  - c) blízka osoba,
  - d) odkázaná osoba,
  - e) osoba vyššieho veku,
  - f) chorá osoba,
  - g) osoba požívajúca ochranu podľa medzinárodného práva,
  - h) verejný činiteľ alebo osoba, ktorá plní svoje povinnosti uložené na základe zákona, alebo
  - i) svedok, znalec, tlmočník alebo prekladateľ.
- (2) Ustanovenie odseku 1 sa nepoužije, ak trestný čin nebol spáchaný v súvislosti s postavením, stavom alebo vekom chránenej osoby.

### Section 147

- (1) Kto v úmysle spôsobiť ťažkú ujmu na zdraví inému z nedbanlivosti spôsobí smrť, potrestá sa odňatím slobody na sedem rokov až desať rokov.
- (2) Odňatím slobody na deväť rokov až dvanásť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) na chránenej osobe, alebo
  - b) z osobitného motívu.
- (3) Odňatím slobody na dvanásť rokov až pätnásť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) závažnejším spôsobom konania,
  - b) ako člen nebezpečného zoskupenia, alebo
  - c) za krízovej situácie.

### Section 155

- (1) Kto inému úmyselne spôsobí ťažkú ujmu na zdraví, potrestá sa odňatím slobody na štyri roky až desať rokov.
- (2) Odňatím slobody na päť rokov až dvanásť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) závažnejším spôsobom konania,
  - b) na chránenej osobe, alebo
  - c) z osobitného motívu.
- (3) Odňatím slobody na desať rokov až pätnásť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) ako člen nebezpečného zoskupenia, alebo
  - b) za krízovej situácie.

## Section 156

- (1) Kto inému úmyselne ublíži na zdraví, potrestá sa odňatím slobody na šesť mesiacov až dva roky.
- (2) Odňatím slobody na jeden rok až tri roky sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) na chránenej osobe, alebo
  - b) z osobitného motívu.
- (3) Odňatím slobody na dva roky až päť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) závažnejším spôsobom konania, alebo
  - b) za krízovej situácie.

## Section 208

- (1) Kto týra blízku osobu alebo osobu, ktorá je v jeho starostlivosti alebo výchove, spôsobujúc jej fyzické utrpenie alebo psychické utrpenie
  - a) bitím, kopaním, údermi, spôsobením rán a popálenín rôzneho druhu, ponižovaním, pohrdavým zaobchádzaním, neustálym sledovaním, vyhrážaním, vyvolávaním strachu alebo stresu, násilnou izoláciou, citovým vydieraním alebo iným správaním, ktoré ohrozuje jej fyzické alebo psychické zdravie alebo obmedzuje jej bezpečnosť,
  - b) bezdôvodným odopieraním stravy, oddychu alebo spánku alebo odopieraním nevyhnutnej osobnej starostlivosti, ošatenia, hygieny, zdravotnej starostlivosti, bývania, výchovy alebo vzdelávania,
  - c) nútením k žobrote alebo k opakovanému vykonávaniu činnosti vyžadujúcej jej neúmernú fyzickú záťaž alebo psychickú záťaž vzhľadom na jej vek alebo zdravotný stav alebo spôsobilej poškodiť jej zdravie,
  - d) vystavovaním vplyvu látok spôsobilých poškodiť jej zdravie, alebo
  - e) neodôvodneným obmedzovaním v prístupe k majetku, ktorý má právo užívať, potrestá sa odňatím slobody na tri roky až osem rokov.
- (2) Odňatím slobody na sedem rokov až pätnásť rokov sa páchatel' potrestá, ak spácha čin uvedený v odseku 1
  - a) a spôsobí ním ťažkú ujmu na zdraví alebo smrť,
  - b) z osobitného motívu,
  - c) hoci bol v predchádzajúcich dvadsiatich štyroch mesiacoch za taký čin odsúdený alebo z výkonu trestu odňatia slobody uloženého za taký čin prepustený, alebo
  - d) závažnejším spôsobom konania.
- (3) Odňatím slobody na pätnásť rokov až dvadsaťpäť rokov alebo trestom odňatia slobody na doživotie sa páchatel' potrestá, ak spácha čin uvedený v odseku 1 a spôsobí ním ťažkú ujmu na zdraví viacerým osobám alebo smrť viacerých osôb.

## Section 338

- (1) Kto verejne schvaľuje trestný čin alebo verejne vychvaľuje pre trestný čin jeho páchatel'a, potrestá sa odňatím slobody až na jeden rok.
- (2) Rovnako ako v odseku 1 sa potrestá, kto v úmysle prejavíť s trestným činom súhlas
  - a) páchatel'a alebo osobu jemu blízku odmení alebo odškodní za trest, alebo
  - b) zbiera prostriedky na takú odmenu alebo odškodnenie.

## Section 339

- (1) Kto páchatelovi trestného činu pomáha v úmysle umožniť mu, aby unikol trestnému stíhaniu, trestu alebo ochrannému opatreniu alebo ich výkonu, potrestá sa odňatím slobody až na tri roky; ak však takto pomáha páchatelovi trestného činu, na ktorý tento zákon ustanovuje miernejší trest, potrestá sa týmto miernejším trestom.
- (2) Kto spácha čin uvedený v odseku 1 v prospech osoby jemu blízkej, nie je trestný okrem prípadu, že by tak urobil v úmysle
  - a) pomôcť osobe, ktorá spáchala trestný čin vlastizrady podľa § 311, úklady proti Slovenskej republike podľa § 312, teroru podľa § 313 a § 314, záškodníctva podľa § 315 a § 316, sabotáže podľa § 317, vyzvedačstva podľa § 318 alebo genocídia podľa § 418, alebo
  - b) zadovážiť sebe alebo inému majetkový prospech.
- (3) Kto spácha čin uvedený v odseku 1 nie je trestný, ak bol k pomoci donútený a túto nemohol odmietnuť bez toho, aby seba alebo blízku osobu uviedol do nebezpečenstva smrti, ublíženia na zdraví alebo inej závažnej ujmy.

## Section 340

- (1) Kto sa hodnoverným spôsobom dozvie, že iný spáchal zločin, na ktorý tento zákon ustanovuje trest odňatia slobody s hornou hranicou najmenej desať rokov, alebo niektorý z trestných činov korupcie uvedených v treťom diele ôsmej hlavy osobitnej časti, a taký zločin alebo trestný čin neoznámí bez odkladu orgánu činnému v trestnom konaní alebo Policajnému zboru, alebo namiesto toho, ak ide o vojaka, svojmu nadriadenému alebo služobnému orgánu, a ak ide o osobu vo výkone trestu odňatia slobody alebo vo výkone väzby príslušníkovi Zboru väzenskej a justičnej stráže, potrestá sa odňatím slobody až na tri roky.
- (2) Kto spácha čin uvedený v odseku 1, nie je trestný, ak nemohol oznámenie urobiť bez toho, že by seba alebo blízku osobu uviedol do nebezpečenstva smrti, ublíženia na zdraví, inej závažnej ujmy alebo trestného stíhania.
- (3) Kto spácha čin uvedený v odseku 1, nie je trestný, ak by oznámením trestného činu porušil
  - a) svedné tajomstvo alebo tajomstvo informácie, ktorá mu bola zverená ústne alebo písomne pod podmienkou mlčanlivosti ako osobe poverenej pastoračnou činnosťou, alebo
  - b) zákonom uznanú povinnosť mlčanlivosti.

## Section 341

- (1) Kto sa hodnoverným spôsobom dozvie, že iný pripravuje alebo pácha zločin, na ktorý tento zákon ustanovuje trest odňatia slobody s hornou hranicou trestnej sadzby najmenej desať rokov, alebo niektorý z trestných činov korupcie uvedených v treťom diele ôsmej hlavy osobitnej časti a spáchanie alebo dokončenie takého zločinu alebo trestného činu neprekazí osobne alebo prostredníctvom inej spôsobilej osoby, alebo príslušného orgánu, potrestá sa odňatím slobody až na tri roky.
- (2) Kto spácha čin uvedený v odseku 1, nie je trestný, ak nemohol zločin prekaziť bez značných ťažkostí alebo bez toho, že by seba alebo blízku osobu uviedol do nebezpečenstva smrti, ťažkej ujmy na zdraví, inej závažnej ujmy alebo trestného stíhania. Uvedenie blízkej osoby do nebezpečenstva trestného stíhania však nezbavuje páchatel'a trestnosti, ak sa týka neprekazenia zločinu, za ktorý tento zákon umožňuje uložiť trest odňatia slobody na doživotie.
- (3) Prekaziť zločin možno aj jeho včasným oznámením orgánu činnému v trestnom konaní alebo Policajnému zboru; vojak môže namiesto toho urobiť oznámenie nadriadenému alebo služobnému orgánu a osoba vo výkone trestu odňatia slobody alebo vo výkone väzby príslušníkovi Zboru väzenskej a justičnej stráže.
- (4) Povinnosť podľa odseku 1 sa nevzťahuje na osobu, ak by jej splnením porušila svedné tajomstvo.



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Vadymdrobot (undated) *Sourire confiant afro-américaine jeune femme debout, les bras croisés sur fond blanc*. 123RF ID 54538073.

*Please note that the use of a photograph of any girl or woman in this report does not imply that she has, nor has not, undergone FGM.*

This report analyses and discusses the application of national (criminal) laws to the commission of FGM and any possible related crimes. It also explores other legal factors deemed relevant, such as legal obligations to report the commission or likely upcoming commission of FGM, available legal protective measures for girls and women at risk of FGM, and any obligations of national governments in relation to FGM.

The initial research conducted for this report consisted of a questionnaire developed by 28 Too Many and Ashurst LLP. The information contained in the responses to that questionnaire was then reviewed by Middelburg Human Rights Law Consultancy, updated and used as the basis of further research from relevant sources. This report is mainly based on primary legal sources such as legislation, case law and authoritative literature, but does use secondary sources such as government documents, journal articles and newspaper articles.

This report has been prepared as a work of legal research only and does not represent legal advice in respect of any of the laws of Slovakia. It does not purport to be complete or to apply to any particular factual or legal circumstance. It does not constitute, and must not be relied or acted upon as, legal advice or create an attorney-client relationship with any person or entity. Neither 28 Too Many, Ashurst LLP, Middelburg Human Rights Law Consultancy, Dentons Europe LLP and associated entities nor any other contributor to this report accepts responsibility for losses that may arise from reliance upon the information contained herein, or any inaccuracies, including changes in the law since the research was completed in August 2021. No contributor to this report holds himself or herself out as being qualified to provide legal advice in respect of any jurisdiction as a result of his or her participation in this project or contribution to this report. Legal advice should be obtained from legal counsel qualified in the relevant jurisdiction/s when dealing with specific circumstances. It should be noted, furthermore, that in many countries there is a lack of legal precedent for the penalties laid out in the law, meaning that, in practice, lesser penalties may be applied.

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