



**THE LAW AND FGM**

**FINLAND**

**DECEMBER 2021**

# National Legal Framework

## Overview of National Legal Framework in Finland

### 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
X	Extraterritorial application regardless of double criminality

\* In certain cases.

## Introduction

Finland is a country in northern Europe with an estimated population of 5.5 million.<sup>1</sup> Finland is a unitary republic with a parliamentary democracy. It has a civil-law legal system.

### FGM Prevalence

In 2019, the Ministry of Social Affairs and Health published the **Action plan for the prevention of Female Genital Mutilation** (the *Action Plan*). In this Action Plan, it is estimated that approximately 10,000 women and girls living in Finland have undergone female genital mutilation (FGM). Furthermore, it is estimated that between 645 and 3,075 girls up to the age of 18 are at risk of undergoing FGM.<sup>2</sup>

## National Legal Framework

### General Law

There is no specific law or provision criminalising FGM in Finland. However, in the **Action Plan**, the Finnish Government explicitly states that FGM violates the **Criminal Code of the Republic of Finland (1889, amended 2015)** (the *Criminal Code*),<sup>3</sup> confirming that FGM is criminalised in Finland under general criminal law.

FGM could qualify as 'assault', 'aggravated assault' or 'petty assault', depending on the consequences and nature of the assault, under **Articles 21:5, 21:6 and 21:7 of the Criminal Code**, respectively.

- Article 21:5(1) describes 'assault' as employing physical violence on another or, without such violence, injuring the health of another, causing pain to another or rendering another unconscious or into a comparable condition. This description could apply to all types of FGM.
- **Article 21:6(1)** prescribes that, to be 'aggravated assault', the assault must have, *inter alia*:

- caused grievous bodily harm or serious illness, or placed another in mortal danger; or
- been committed in a particularly brutal or cruel manner.
- The Criminal Code does not contain a provision defining 'grievous bodily harm'. However, considering the severity of injuries caused by FGM, particularly Types II and III, and the severe pain many forms of FGM without anaesthesia causes, this article could also very likely apply to FGM, particularly Types II and III.
- **Article 21:7** prescribes that an assault shall be considered 'petty' if the assault, when assessed as a whole and with due consideration to the minor significance of the violence, the violation of physical integrity, the damage to health or the other circumstances connected to the offence are of minor character. This could only apply to the lightest forms of FGM under the category of Type IV FGM, but would be (rather) inappropriate, considering that those forms are still a violation of physical integrity.

In addition to assault, where intent is presumed to exist, **Articles 21:10 and 21:11** also criminalise causing bodily harm through negligence and gross negligence. This could possibly apply in cases where parents did not provide adequate care to prevent others from performing FGM on their daughters, such as family members who are in favour of FGM.

### Definition of FGM

The law does not contain a definition of 'FGM'. However, the **Action Plan** uses the definition and classifications of the World Health Organization and defines FGM as 'all procedures that involve partial or total removal of the female external genitalia, or other injury to the female genital organs for non-medical reasons'.<sup>4</sup>

### Women and Girls of All Ages

The performance of FGM on women and girls of all ages has been criminalised in Finland. The law does not contain an age restriction for the offences under **Articles 21:5, 21:6, 21:7, 21:10 or 21:11 of the Criminal Code**.

### Procuring, Aiding and Abetting

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

Procuring FGM, when someone has a cutter (or any other person) perform FGM on the victim, most likely qualifies as 'instigation' under **Article 5:5 of the Criminal Code**. **Article 5:5** prescribes that anyone who persuades another person to commit an intentional offence or make a punishable attempt thereto shall be punishable as a perpetrator.

Aiding and abetting FGM qualify someone as an 'accessory' to an offence under **Article 5:6**. **Article 5:6(1)** prescribes that anyone who, before or during the commission of an offence, intentionally furthers the commission or punishable attempt by another through advice, action or otherwise shall be punishable as an accessory on the basis of the same legal provision as the perpetrator. However, the sentence of an accessory is subject to **Article 6:8**, which mitigates the sentence.

### Allowing the Use of Premises

Allowing the use of premises for the purpose of FGM is (most likely) criminalised in Finland through general criminal law. Allowing the use of premises can be qualified as intentionally furthering the commission of an offence or an attempt thereto through action, thus qualifying someone who allows the use of premises as an 'accessory' under **Article 5:6(1) of the Criminal Code**.

### Providing or Possessing Tools

Providing (specific) tools for the purpose of FGM is (most likely) criminalised in Finland through general criminal law. Providing (specific) tools can qualify as intentionally furthering the commission of an offence or an attempt thereto through action, thus qualifying someone who provides (specific) tools as an 'accessory' under **Article 5:6(1) of the Criminal Code**.

Possessing (specific) tools for the purpose of FGM may be a criminal offence in Finland, but only if the specific instance of FGM qualifies as aggravated assault under **Article 21: 6. Article 21:6a(1)(1)** criminalises persons who have, *inter alia*, an instrument that is particularly suitable to be used as an instrument in the offence. This description would apply to persons who possess (specific) tools for the purpose of FGM, considering the likelihood of FGM falling under **Article 21:6** in relation to the cruelty and painfulness of the procedure. However, **Article 21:6a(2)** prescribes that preparing acts is not punishable if the danger of the commission of the offence has, for other than random reasons, been slight or if the person voluntarily has abandoned the preparation of the offence, prevented its continuation or otherwise negated the significance of his or her activity in the preparation of the offence.

### Failure to Report FGM

Whether or not failing to report FGM is a criminal offence depends on how the specific instance of FGM is qualified.

In cases where FGM qualifies as assault or petty assault, failure to report is not criminal.

In cases where FGM qualifies as aggravated assault, failure to report is criminal.

**Article 15:10 of the Criminal Code** criminalises failing to report serious offences and prescribes that anyone who knows of, *inter alia*, aggravated assault and fails to report it to the authorities, or to the endangered person or the authorities when there is still time to prevent the offence, is punishable if the offence or punishable attempt thereof is committed.

Though failure to report is not criminalised for assault and petty assault against a minor, there is a duty to notify under general civil law for certain professionals. **Article 25(1) of the Child Welfare Act** prescribes that all persons employed in social, healthcare, child day care, educational, police, fire-and-rescue and religious services have a duty to notify the municipal body responsible for social services, without delay and regardless of confidentiality provisions, if, in the course of their work, they discover that it is necessary to investigate the need of a child for child welfare on account of the child's need for care or circumstances endangering the child's development.

### Medicalised FGM

Medicalised FGM is criminalised in Finland through general criminal law. Although there are provisions in the **Criminal Code** on medical malpractice by a licensed professional and medical quackery – **Articles 44:2 and 44:3** respectively – these do not seem appropriate in the context of FGM.

**Article 44:2** also specifically states that it is inapplicable in a case where a provision prescribing a higher sentence also applies.

It is most likely that medicalised FGM would also be prosecuted in Finland under **Articles 21: 5 and 21:6 of the Criminal Code**.

## Extraterritoriality

The **Criminal Code** extends extraterritorial application of Finnish criminal law to the commission of FGM abroad in certain cases, under the requirement of double criminality.

**Article 1:5** prescribes that Finnish law applies to an offence committed outside of Finland that has been directed at a Finnish national or a foreigner permanently resident in Finland if, under Finnish law, the act may be punishable by imprisonment for more than six months. However, **Article 1:11(1)** stipulates that **Article 1:5** is subject to the requirement of double criminality, which means that act must also be a criminal offence in the country where it took place. Thus, if the victim of FGM abroad has Finnish nationality or is a permanent resident of Finland, Finnish law only applies under the requirement of double criminality.

**Article 1:6(1)** prescribes that Finnish law applies to an offence committed outside of Finland by a Finnish national. **Article 1:6(2)** prescribes that a person who was a Finnish national at the time of the offence or is a Finnish national when the court proceedings start is deemed to be a Finnish national. **Article 1:6(3)(1)** adds that a person who was permanently resident in Finland at the time of the offence or is permanently resident in Finland at the beginning of the court proceedings is deemed an equivalent to a Finnish national for the purposes of this provision. **Article 1:11** also stipulates that **Article 1:6** is subject to the requirement of double criminality; however, under **Article 1:11(2)(8)**, *inter alia*, acts amounting to FGM under **Articles 21:5 and 21:6** form an exception to the requirement of double criminality in the perpetrator's case. Thus, if the perpetrator of FGM (qualified under **Articles 21:5 and 21:6**) abroad is a Finnish national or permanent resident of Finland, is so at the start of the court proceedings, or was so at the time of the offence the requirement of double criminality does not apply.

## Penalties

There are penalties for committing FGM and crimes related to FGM in Finland, dependent on which provision of the **Criminal Code** FGM can be prosecuted under in a specific instance.

- **Article 21:5(1)** prescribes a sentence of *up to two years' imprisonment or a fine* for assault.
- **Article 21:6(1)** prescribes a sentence of *one- to ten-years' imprisonment* for aggravated assault.
- **Article 21:7** prescribes a sentence of *a fine* for petty assault.
- **Article 21:10** prescribes a sentence of *up to six months' imprisonment or a fine* for inflicting bodily harm through negligence.
- **Article 21:11** prescribes a sentence of *up to two months' imprisonment or a fine* for inflicting grievous bodily harm through gross negligence.

Under **Article 5:5**, those who procure FGM are punishable as if they were the perpetrator and committed the offence themselves. Those who aid in and abet FGM may be punished with *at most three-quarters of the maximum sentence of imprisonment or a fine and at least the minimum sentence (if any) prescribed for the offence under Article 5:6 in conjunction with Articles 6:8(1)(3) and 6:8(2)*.

For those who possess (specific) tools or otherwise prepares FGM (if qualified under **Article 21:6** as aggravated assault), **Article 21:6a(1)** prescribes a sentence of *up to four years' imprisonment*.



## Protection

### Protecting Uncut Girls and Women

Uncut girls can be protected through child protective laws in general civil law. If the circumstances in which a child is being brought up are endangering the child's health and development, **Article 34 of the Child Welfare Act** prescribes that the municipal body responsible for social services must provide support in 'open care' in accordance with that chapter without delay. 'Open care' entails that the parents and the child, if above the age of 12, must consent to the suggested support measures and that the child remains at home. Under **Article 36(1)(9)**, support in open care may include any such service or support measure that is helpful to the child and family.

**Article 40(1)(1) of the Child Welfare Act** prescribes that children must be taken into care provided for them by the municipal body responsible for social services if their health or development is seriously endangered by lack of care or other circumstances in which they are being brought up. **Article 40(2)(1)** prescribes that a child can only be taken into care if alternative measures would not be suitable or possible for providing care in the interests of the child or if those measures have proved to be insufficient.

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

### Government Obligations

In 2019, the **Action Plan** was published by the Finnish Ministry of Social Affairs and Health. The Action Plan includes, *inter alia*, the following points:

#### **On prevention:**

- The counties/hospital districts will ensure sufficient resources for preventive healthcare, facilitating continuous client relationships, home visits and regular health examinations at maternity and child-health clinics and in-school healthcare. The municipality's health services will ensure that primary healthcare services complete the actions listed above.
- Decision-makers in municipalities will allocate sufficient resources to municipal social services, making it possible to bring FGM up at least once with clients originating from countries where FGM is practised and to proceed to the child-welfare actions indicated in the guidelines if necessary.
- Municipalities with large numbers of residents originating from countries where FGM is practised will ensure that each unit has at least one professional responsible for preventing FGM with sufficient training for managing this role.
- Decision-makers will ensure that NGOs and projects are given sufficient support, allowing them to continue their preventive work.

#### **On education:**

- Universities of applied sciences, universities and other vocational education-and-training providers will ensure that the FGM theme is incorporated in the curricula in the fields of social welfare and healthcare, education and police work. The online training produced by the National Institute for Health and Welfare will be used in the instruction, and a dedicated teaching package developed for this purpose will be used for training physicians.
- Universities of applied sciences, universities and other vocational education-and-training providers will develop additional and in-service training on the FGM theme and undertake to offer it to the students.

- Parties responsible for teaching will be encouraged to integrate the theme in the health education curricula for basic education and general upper-secondary schools, and larger packages on the theme will be offered for health-education textbooks.
- Supervisors and leading officeholders will enable professionals' participation in continued, additional and/or in-service training related to FGM.
- The National Institute for Health and Welfare will participate actively in FGM-information activities at national training events and in professional journals.
- The online training on FGM produced by the National Institute for Health and Welfare will be used as a foundation for vocational education and training and in-service training.
- The Ministry of Social Affairs and Health will secure sufficient resources for the National Institute for Health and Welfare, making it possible to carry out the actions listed above.

***On the competences of relevant professionals in healthcare, social work, etc.:***

- The different ministries working together and leading officeholders, elected officials and political decision-makers will secure sufficient resources for organising training and enabling professionals to participate in it.
- Leading officeholders, elected officials and political decision-makers will ensure that Finnish municipalities and cities have up-to-date guidelines on preventing FGM, which have also been included in regional crisis-response and operating models.
- Professionals encountering in their work girls and women who are at risk of or have undergone FGM will know how to, as indicated by their roles, talk about and prevent FGM, act when coming across a girl at risk of FGM and refer a client who has undergone FGM to treatment and de-infibulation, if necessary.
- Supervisors in social welfare and healthcare, early childhood education and care, schools, the reception system and the police will ensure that all professionals in these workplaces have access to up-to-date guidelines on what to do when coming across a girl at risk of FGM and where to find help and support for this situation.
- Supervisors will enable professionals to attend training related to the theme and reserve time for familiarisation with it. All professionals encountering the FGM theme in their work should complete the online training produced by the National Institute for Health and Welfare as a minimum level of training on FGM. Supervisors will ensure that professionals have the possibility of consulting other professionals across sectoral boundaries and opportunities for regional networking.
- NGOs' competency as instruction providers will also be utilised to maintain professionals' competence.

***On cooperation and coordination:***

- Leading officeholders, elected officials and political decision-makers will ensure that municipalities and regions with large numbers of residents originating from countries where FGM is practised have operating models and cooperation networks for preventing FGM at the municipal and regional levels.
- Once a year, the Ministry of Social Affairs and Health, together with the National Institute for Health and Welfare, will convene an FGM working meeting, to which key contact persons of different actors will be invited to exchange information and engage in cooperation (of the Ministries, the Ministry of Social Affairs and Health, the Ministry of the Interior, the Ministry of Economic Affairs and Employment, the Ministry of Education and Culture, the Ministry of Justice and the Ministry for Foreign Affairs, as

well as the Finnish Immigration Service, the National Institute for Health and Welfare, the Finnish National Agency for Education, social welfare and healthcare services, education and youth services, reception centres, the police, universities of applied sciences and universities, NGOs, and immigrant and religious communities).

The implementation of the Action Plan is the responsibility of the relevant ministries. The National Institute for Health Care and Welfare is tasked with monitoring the implementation of the Action Plan regularly. An evaluation of the Action Plan is not yet available. The National Institute for Health and Welfare and the Ministry of Social Affairs and Health will produce an interim evaluation in 2023 to examine the progress made.<sup>5</sup>

## Implementation of The Law

### Court Cases

There has been **one court case** in Finland related to FGM, in November 2019. However, the defendant was not found guilty due to a lack of evidence.<sup>6</sup>



# Conclusions and Recommendations

## Conclusions

The criminality of FGM and application of the **Criminal Code** to FGM has been confirmed by the Finnish Government in an **Action Plan on FGM**. FGM is most likely to fall under general assault laws. The law does not contain a definition of 'FGM'; however, the Action Plan uses the definition and classifications given by the WHO, covering all types of FGM. **Medicalised FGM** is not specifically addressed, but is likely to be covered by the general criminality of FGM.

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

The **failure to report** FGM has been criminalised in cases where the instance of FGM would qualify as aggravated assault. In other cases, there is an obligation under general civil law for relevant professionals to report cases where FGM has been performed or may be performed imminently.

The Criminal Code extends **extraterritorial application** to the performance of FGM abroad, regardless of double criminality, if the *perpetrator* has Finnish nationality or is a resident of Finland. If only the *victim* has Finnish nationality or is a resident of Finland, double criminality is required.

## Recommendations

We recommend that Finland remove the requirement of double criminality in cases where FGM has been performed abroad and only the victim has Finnish nationality or is a resident of Finland.

We also recommend that Finland instate a system similar to the British Female Genital Mutilation Protection Orders to guarantee the efficient protection of girls and women at risk of FGM and other harmful traditional practices.

# Appendix I: International and Regional Treaties

FINLAND	Signed	Ratified/ Acceded	Reservations on reporting?
<b>International</b>			
International Covenant on Civil & Political Rights (1966) ( <i>ICCPR</i> ) <sup>7</sup>	✓ 1967	✓ 1975	No
International Covenant on Economic, Social & Cultural Rights (1966) ( <i>ICESCR</i> ) <sup>8</sup>	✓ 1967	✓ 1975	No
Convention on the Elimination of All forms of Discrimination Against Women (1979) ( <i>CEDAW</i> ) <sup>9</sup>	✓ 1980	✓ 1986	No
Convention on the Rights of the Child (1989) ( <i>CRC</i> ) <sup>10</sup>	✓ 1990	✓ 1991	No
<b>Regional</b>			
Istanbul Convention <sup>11</sup>	✓ 2011	✓ 2015	Yes*
European Convention on Human Rights <sup>12</sup>	✓ 1989	✓ 1990	No

\* Pursuant to Article 78, paragraph 2, of the Convention, the Government of the Republic of Finland declares that Finland reserves the right not to apply Article 55, paragraph 1, to petty assault when the offence is committed against a person other than the person referred to in Chapter 21, Section 16, subsection 1, of the Criminal Code of Finland.

**‘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

### Art. 1:5

Suomen ulkopuolella tehtyyn rikokseen, joka on kohdistunut Suomen kansalaiseen, suomalaiseen yhteisöön, säätiöön tai muuhun oikeushenkilöön taikka Suomessa pysyvästi asuvaan ulkomaalaiseen, sovelletaan Suomen lakia, jos teosta Suomen lain mukaan saattaa seurata yli kuuden kuukauden vankeusrangaistus.

### Art. 1:6

- (1) Suomen kansalaisen Suomen ulkopuolella tekemään rikokseen sovelletaan Suomen lakia. Jos rikos on tehty millekään valtiolle kuulumattomalla alueella, rangaistavuuden edellytyksenä on, että teosta Suomen lain mukaan saattaa seurata yli kuuden kuukauden vankeusrangaistus.
- (2) Suomen kansalaisena pidetään henkilöä, joka rikoksen tekohetkellä oli tai oikeudenkäynnin alkaessa on Suomen kansalainen.
- (3) Suomen kansalaiseen rinnastetaan
  - 1) henkilö, joka rikoksen tekohetkellä asui tai oikeudenkäynnin alkaessa asuu pysyvästi Suomessa, sekä
  - 2) henkilö, joka tavataan Suomesta ja oikeudenkäynnin alkaessa on Islannin, Norjan, Ruotsin tai Tanskan kansalainen taikka tällöin pysyvästi asuu jossakin näistä maista.

### Art. 1:11

- (1) Milloin rikos on tehty vieraan valtion alueella, Suomen lain soveltaminen voidaan perustaa 5, 6 ja 8 §:ään vain, jos rikos myös tekopaikan lain mukaan on rangaistava ja siitä olisi voitu tuomita rangaistus myös tämän vieraan valtion tuomioistuimessa. Rikoksesta ei silloin Suomessa saa tuomita ankarampaa seuraamusta kuin siitä tekopaikan laissa säädetään.
- (2) Vaikka teosta ei säädetä rangaistusta tekopaikan laissa, siihen sovelletaan Suomen lakia, jos sen on tehnyt Suomen kansalainen tai 6 §:n 3 momentin 1 kohdassa tarkoitettu henkilö ja teosta säädetään rangaistus:
  - 1) 11 luvun 5 tai 6 §:ssä, jos teko on sellainen sotarikos tai törkeä sotarikos taikka osallisuusteko niihin, jota tarkoitetaan kulttuuriomaisuuden suojelemisesta aseellisen selkkauksen sattuessa tehdyn yleissopimuksen (SopS 93/1994) toisen pöytäkirjan 15 artiklassa;
  - 2) 15 luvun 12 a §:n nojalla mainitun luvun 1–9 §:ssä;
  - 3) 16 luvun 1–3 §:ssä ja vaikka rikoksen kohteena on 40 luvun 11 §:n 2, 3 tai 5 kohdassa tarkoitettu henkilö taikka ulkomainen virkamies, joka toimii Kansainvälisen rikostuomioistuimen palveluksessa;
  - 4) 16 luvun 13, 14, 14 a tai 14 b §:ssä ja vaikka lainkohtia sovelletaan mainitun luvun 20 §:n nojalla;
  - 5) 17 luvun 18, 18 a tai 19 §:ssä;
  - 6) 20 luvun 1, 2, 4, 5, 6, 7, 7 b tai 8 a–8 c §:ssä; (12.4.2019/486)
  - 7) 20 luvun 9 tai 9 a §:ssä, jos teko kohdistuu kahdeksaatoista vuotta nuorempaan henkilöön;
  - 8) 21 luvun 5 tai 6 §:ssä, 22 luvun 1 tai 2 §:ssä taikka 25 luvun 8 §:ssä, jos teko on naiseen kohdistuvan väkivallan ja perheväkivallan ehkäisemisestä ja torjumisesta tehdyn Euroopan neuvoston yleissopimuksen (SopS 53/2015) 37 artiklassa tarkoitettu avioliittoon pakottaminen, 38 artiklassa tarkoitettu naisen sukuelinten silpominen tai 39 artiklassa tarkoitettu pakotettu raskauden keskeyttäminen tai pakkosterilointi;
  - 9) 29 luvun 1, 2, 5–7 tai 7 a §:ssä, 32 luvun 6 tai 7 §:ssä taikka 36 luvun 1 tai 2 §:ssä, jos teko on unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 3 artiklan 2 kohdassa tarkoitettu unionin taloudellisiin

etuihin vaikuttava petos tai 4 artiklan 1–3 kohdassa tarkoitettu muu unionin taloudellisiin etuihin liittyvä rikos;

- 10) 30 luvun 7, 7 a, 8 tai 8 a §:ssä ja vaikka lainkohtia sovelletaan mainitun luvun 14 §:n nojalla;
- 11) 40 luvun 1–4 tai 4 a §:ssä, jos rikoksen tekijä on kansanedustaja, ulkomainen virkamies tai ulkomaisen parlamentin jäsen; taikka
- 12) 40 luvun 7, 8, 8 a tai 8 b §:ssä, jos teko on unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 4 artiklan 3 kohdassa tarkoitettu varojen väärinkäyttö ja jos rikoksen tekijä on kansanedustaja, ulkomainen virkamies tai ulkomaisen parlamentin jäsen.

### **Art. 5:5**

Joka tahallaan taivuttaa toisen tahalliseen rikokseen tai sen rangaistavaan yritykseen, tuomitaan yllytyksestä rikokseen kuten tekijä.

### **Art. 5:6**

- (1) Joka ennen rikosta tai sen aikana neuvoin, toimin tai muilla tavoin tahallaan auttaa toista tahallisen rikoksen tai sen rangaistavan yrityksen tekemisessä, tuomitaan avunannosta rikokseen saman lainkohdan mukaan kuin tekijä. Rangaistusta määrättäessä sovelletaan kuitenkin, mitä 6 luvun 8 §:n 1 momentin 3 kohdassa sekä 2 ja 4 momentissa säädetään.
- (2) Yllytyksestä rangaistavaan avunantoon rangaistaan avunantona.

### **Art. 6:8**

- (1) Rangaistus määrätään noudattaen lievennettyä rangaistusasteikkoa, jos:
  - 1) tekijä on tehnyt rikoksen alle 18-vuotiaana;
  - 2) rikos on jäänyt yritykseen;
  - 3) tekijä tuomitaan avunantajana rikokseen soveltaen, mitä 5 luvun 6 §:ssä säädetään, tai hänen osallisuutensa rikokseen on muutoin muiden osallisuutta selvästi vähäisempi;
  - 4) rikos on tehty olosuhteissa, jotka läheisesti muistuttavat vastuuvapausperusteiden soveltamiseen johtavia olosuhteita; tai
  - 5) siihen on edellä 6 tai 7 §:ssä mainituilla tai muilla poikkeuksellisilla perusteilla tuomiossa mainittavia erityisiä syitä.
- (2) Määrättäessä rangaistusta 1 momentin nojalla tekijälle saa tuomita enintään kolme neljännessä rikoksesta säädetyn vankeus- tai sakkorangaistuksen enimmäismäärästä ja vähintään rikoksesta säädetyn rangaistuslajin vähimmäismäärän. Jos rikoksesta voisi seurata elinkautinen vankeus, enimmäisrangaistus sen sijasta on kaksitoista vuotta vankeutta ja vähimmäisrangaistus kaksi vuotta vankeutta.
- (3) Mitä 2 momentissa säädetään, sovelletaan myös määrättäessä rangaistusta rikoksen alentuneesti syyntakeisena tehneelle. Alentunut syyntakeisuus ei kuitenkaan vaikuta käytettävissä olevaan enimmäisrangaistukseen.
- (4) Jos rikoksesta on säädetty ankarimmaksi rangaistukseksi vankeutta määrääjäksi, tuomioistuimien voi tässä pykälässä tarkoitetuissa tapauksissa määrätä rangaistukseksi vankeuden sijasta sakkoa, jos siihen on erityisen painavia syitä.

### **Art. 15:10**

- (1) Joka tietää joukkotuhonnan, joukkotuhonnan valmistelun, rikoksen ihmisyyttä vastaan, törkeän rikoksen ihmisyyttä vastaan, hyökkäysrikoksen, hyökkäysrikoksen valmistelun, sotarikoksen, törkeän sotarikoksen, kidutuksen, kemiallisen aseiden kiellon rikkomisen, biologisen aseiden kiellon rikkomisen, jalkaväkimiinakiellon rikkomisen, Suomen itsemääräämisoikeuden vaarantamisen, maanpetoksen, törkeän maanpetoksen, vakoilun, törkeän vakoilun, valtiopetoksen, törkeän valtiopetoksen, raiskauksen, törkeän raiskauksen, lapsen törkeän seksuaalisen hyväksikäytön, törkeän lapsenraiskauksen, murhan, tapon, surman, törkeän pahoinpitelyn, ryöstön, törkeän ryöstön, ihmiskaupan, törkeän ihmiskaupan, panttivangin ottamisen, törkeän tuhotyön, törkeän terveyden vaarantamisen, ydinräjähdერიկoksen, kaappauksen, 34 a luvun 1 §:n 1 momentin 3 kohdassa tarkoitettun

terroristisessa tarkoituksessa tehdyn rikoksen, törkeän ympäristön turmelemisen tai törkeän huumausainerikoksen olevan hankkeilla eikä ajoissa, kun rikos vielä olisi estettävissä, anna siitä tietoa viranomaiselle tai sille, jota vaara uhkaa, on tuomittava, jos rikos tai sen rangaistava yritys tapahtuu, törkeän rikoksen ilmoittamatta jättämisestä sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi. (12.4.2019/486)

- (2) Törkeän rikoksen ilmoittamatta jättämisestä ei kuitenkaan tuomita rangaistukseen sitä, jonka olisi rikoksen estämiseksi täytynyt antaa ilmi nykyinen tai entinen aviopuolisonsa taikka nykyinen avopuolisonsa, sisaruksensa, sukulaisensa suoraan ylenevässä tai alenevassa polvessa taikka se, johon hänellä on vastaavanlainen parisuhteeseen tai sukulaisuuteen rinnastuva läheinen suhde.

### **Art. 21:5**

- (1) Joka tekee toiselle ruumiillista väkivaltaa taikka tällaista väkivaltaa tekemättä vahingoittaa toisen terveyttä, aiheuttaa toiselle kipua tai saattaa toisen tiedottomaan tai muuhun vastaavaan tilaan, on tuomittava pahoinpitelystä sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
- (2) Yritys on rangaistava.

### **Art. 21:6**

- (1) Jos pahoinpitelyssä
  - 1) aiheutetaan toiselle vaikea ruumiinvamma, vakava sairaus tai hengenvaarallinen tila,
  - 2) rikos tehdään erityisen raa'alla tai julmalla tavalla tai
  - 3) käytetään ampuma- tai teräasetta taikka muuta niihin rinnastettavaa hengenvaarallista välinettäja rikos on myös kokonaisuutena arvostellen törkeä, rikoksentehtäjä on tuomittava törkeästä pahoinpitelystä vankeuteen vähintään yhdeksi ja enintään kymmeneksi vuodeksi.
- (2) Yritys on rangaistava.

### **Art. 21:6a**

- (1) Joka 1–3 tai 6 §:ssä tarkoitetun rikoksen tekemistä varten
  - 1) pitää hallussaan ampuma- tai teräasetta tai muuta niihin rinnastettavaa hengenvaarallista välinettä taikka välinettä, joka soveltuu erityisesti käytettäväksi välineenä rikoksessa,
  - 2) sopii toisen kanssa tai laatii yksityiskohtaisen suunnitelman jonkin mainitun rikoksen tekemisestä tai
  - 3) palkkaa, käskee tai muuten yllyttää toista mainitun rikoksen tekemiseen taikka lupautuu tai tarjoutuu tekemään senon tuomittava törkeän henkeen tai terveyteen kohdistuvan rikoksen valmistelusta vankeuteen enintään neljäksi vuodeksi.
- (2) Jos vaara rikoksen toteuttamisesta on ollut muista kuin satunnaisista syistä vähäinen taikka jos henkilö on vapaaehtoisesti luopunut rikoksen valmistelusta, estänyt sen jatkumisen tai muuten poistanut oman toimintansa merkityksen rikoksen valmistelussa, 1 momenttia ei kuitenkaan sovelleta.

### **Art. 21:7**

Jos pahoinpitely, huomioon ottaen väkivallan, ruumiillisen koskemattomuuden loukkauksen tai terveyden vahingoittamisen vähäisyys taikka muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentehtäjä on tuomittava lievästä pahoinpitelystä sakkoon.

### **Art. 21:10**

Joka huolimattomuudellaan aiheuttaa toiselle ruumiinvamman tai sairauden, joka ei ole vähäinen, on tuomittava vammantuottamuksesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.

## **Art. 21:11**

Jos vammantuottamuksessa ruumiinvamma tai sairaus aiheutetaan törkeällä huolimattomuudella ja rikos on myös kokonaisuutena arvostellen törkeä, rikoksentehtäjä on tuomittava törkeästä vammantuottamuksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.

## **Art. 44:2**

(1) Joka tahallaan tai törkeästi huolimattomuudesta

- 1) terveydensuojelulain tai sen nojalla annetun säännöksen vastaisesti jättää säädetyn ilmoituksen tekemättä taikka rikkoo viranomaisen antamaa kieltoa tai yleistä tai yksittäistapausta koskevaa määräystä tai
- 2) rikkoo tartuntatautilain (1227/2016) 16 §:ssä tarkoitetussa pakollista terveystarkastusta, 60 §:ssä tarkoitetussa karanteenia tai 63 §:ssä tarkoitetussa eristämistä koskevassa yleisessä tai yksittäistapausta koskevassa päätöksessä tai 54 §:n nojalla säädettyssä pakollista rokotusta koskevassa asetuksessa yleisvaarallisen tartuntataudin leviämisen estämiseksi asetetun velvollisuuden, (21.12.2016/1237)

on tuomittava, jollei teosta muualla laissa säädetä ankarampaa rangaistusta, terveydensuojelurikkomuksesta sakkoon tai vankeuteen enintään kolmeksi kuukaudeksi.

## **Art. 44:3**

- (1) Joka ilman laillista oikeutta toimii terveydenhuollon ammattihenkilöistä annetussa laissa (559/1994) tarkoitettuna ammattihenkilönä, on tuomittava luvattomasta terveydenhuollon ammattitoimen harjoittamisesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.
- (2) Luvattomasta terveydenhuollon ammattitoimen harjoittamisesta tuomitaan myös se, joka ilman lääkelain (395/1987) mukaista lupaa harjoittaa lääketukkukauppaa tai apteekkiliikettä taikka ilman yksityisestä terveydenhuollosta annetussa laissa (152/1990) vaadittua lupaa ylläpitää terveydenhuollon palveluja tuottavaa yksikköä.



# Child Welfare Act

## Art. 25

- (1) Jonkin seuraavista tahoista palveluksessa tai luottamustoimessa oleva, vastaavissa tehtävissä toimeksiantosuhteessa tai itsenäisenä ammatinharjoittajana toimiva sekä kaikki terveydenhuollon ammattihenkilöt ovat velvollisia salassapitosäännösten estämättä viipymättä ilmoittamaan kunnan sosiaalihuollosta vastaavalle toimielimelle, jos he ovat tehtävässään saaneet tietää lapsesta, jonka hoidon ja huolenpidon tarve, kehitystä vaarantavat olosuhteet tai oma käyttäytyminen edellyttää mahdollista lastensuojelun tarpeen selvittämistä:
- 1) sosiaali- ja terveydenhuolto tai lasten päivähoido;
  - 2) opetustoimi;
  - 3) nuorisotoimi;
  - 4) poliisitoimi;
  - 5) Rikosseuraamuslaitos;
  - 6) palo- ja pelastustoimi;
  - 7) sosiaalipalvelujen, lasten päivähoidon tai terveydenhuollon palvelujen tuottaja;
  - 8) opetuksen tai koulutuksen järjestäjä;
  - 9) seurakunta tai muu uskonnollinen yhdyskunta;
  - 10) kansainvälistä suojelua hakevan vastaanotosta sekä ihmiskaupan uhrin tunnistamisesta ja auttamisesta annetun lain (746/2011) 3 §:ssä tarkoitettu vastaanottokeskus tai järjestelykeskus;
  - 11) hätäkeskustoimintaa harjoittava yksikkö;
  - 12) koululaisten aamu- tai iltapäivätoimintaa harjoittava yksikkö;
  - 13) Tulli;
  - 14) rajavartiolaitos;
  - 15) ulosottoviranomainen;
  - 16) Kansaneläkelaitos.
- (2) Myös muu kuin 1 momentissa tarkoitettu henkilö voi tehdä tällaisen ilmoituksen häntä mahdollisesti koskevien salassapitosäännösten estämättä.
- (3) Edellä 1 momentissa tarkoitetuilla henkilöillä on velvollisuus tehdä salassapitosäännösten estämättä ilmoitus poliisille, kun heillä on tehtävässään tietoon tulleiden seikkojen perusteella syytä epäillä, että lapsen on kohdistettu:
- 1) rikoslain (39/1889) 20 luvussa seksuaalirikoksena rangaistavaksi säädetty teko; tai
  - 2) sellainen rikoslain 21 luvussa henkeen ja terveyteen kohdistuvana rikoksena rangaistavaksi säädetty teko, josta säädetty enimmäisrangaistus on vähintään kaksi vuotta vankeutta.
- (4) Sen estämättä, mitä 1 ja 3 momentissa säädetään, on voimassa, mitä rippiin tai muuhun sielunhoitoon liittyvästä salassapitovelvollisuudesta erikseen säädetään tai määrätään.

## Art. 40

- (1) Lapsi on otettava sosiaalihuollosta vastaavan toimielimen huostaan ja järjestettävä hänelle sijaishuolto, jos:
- 1) puutteet lapsen huolenpidossa tai muut kasvuolosuhteet uhkaavat vakavasti vaarantaa lapsen terveyttä tai kehitystä; tai

- 2) lapsi vaarantaa vakavasti terveyttään tai kehitystään käyttämällä päihteitä, tekemällä muun kuin vähäisenä pidettävän rikollisen teon tai muulla niihin rinnastettavalla käyttäytymisellään.
- (2) Huostaanottoon ja sijaishuollon järjestämiseen voidaan kuitenkin ryhtyä vain, jos:
- 1) 7 luvussa tarkoitetut toimet eivät olisi lapsen edun mukaisen huolenpidon toteuttamiseksi sopivia tai mahdollisia taikka jos ne ovat osoittautuneet riittämättömiksi; ja
  - 2) sijaishuollon arvioidaan olevan 4 §:n mukaisesti lapsen edun mukaista.

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- 1 Statistics Finland (2021) *Birth rate showed a slight growth in 2020*. Available at [https://www.stat.fi/til/vamuu/2020/12/vamuu\\_2020\\_12\\_2021-01-21\\_tie\\_001\\_en.html](https://www.stat.fi/til/vamuu/2020/12/vamuu_2020_12_2021-01-21_tie_001_en.html) (accessed 5 July 2021).
  - 2 Publications of the Ministry of Social Affairs and Health (2019) *Action plan for the prevention of female genital mutilation (FGM)*. Available at [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161524/STM\\_J\\_07\\_19\\_Action\\_plan\\_for\\_the\\_prevention\\_of\\_female\\_genital\\_mutilation\\_FGM.pdf?sequence=1&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161524/STM_J_07_19_Action_plan_for_the_prevention_of_female_genital_mutilation_FGM.pdf?sequence=1&isAllowed=y) (accessed 5 July 2021).
  - 3 *Ibid.*
  - 4 *Ibid.*
  - 5 *Ibid.*
  - 6 Abdirizak Hassan Mohamed and Johanna Latvala (2020) *Female genital mutilation (FGM) Awareness and perceptions of Somali men in the Helsinki region, Finland*. Finnish League for Human Rights Ihmisoikeusliitto. Available at <https://ihmisoikeusliitto.fi/wp-content/uploads/2020/09/FGM-Awareness-and-perceptions-of-Somali-men-in-the-Helsinki-region.pdf> (accessed 5 July 2021).
  - 7 *International Covenant on Civil and Political Rights* (1966) United Nations Treaty Collection: Status of Treaties. Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en) (accessed 5 July 2021).
  - 8 *International Covenant on Economic, Social and Cultural Rights* (1966) United Nations Treaty Collection: Status of Treaties. Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4) (accessed 5 July 2021).
  - 9 *Convention on the Elimination of All Forms of Discrimination Against Women* (1979) United Nations Treaty Collection: Status of Treaties. Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-8&chapter=4&clang=\\_en#9](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en#9) (accessed 17 May 2021).
  - 10 *Convention on the Rights of the Child* (1989) United Nations Treaty Collection: Status of Treaties. Available at [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en) (accessed 5 July 2021).
  - 11 - Council of Europe (2021) *Chart of signatures and ratifications of Treaty 210, Convention on preventing and combating violence against women and domestic violence*. Available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/?module=signatures-by-treaty&treatynum=210> (accessed 5 July 2021).
  - Council of Europe (2021) *Reservations and Declarations for Treaty 210, Convention on preventing and combating violence against women and domestic violence*. Available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/?module=declarations-by-treaty&numSte=210&codeNature=0> (accessed 5 July 2021).
  - 12 - Council of Europe (2021) *Chart of Signatures and Ratifications of Treaty 005, Convention for the Protection of Human Rights and Fundamental Freedoms*. Available at [coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?module=signatures-by-treaty&treatynum=005](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?module=signatures-by-treaty&treatynum=005) (accessed 5 July 2021).
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melynk58 (undated) *Portrait of beautiful African American business woman with little kid looking at copyspace* . . . 123RF image ID 148852054.

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 Finland. 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 and Middelburg Human Rights Law Consultancy 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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