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Comments Paper – Belgium

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Comments Paper - Belgium

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1. Introduction: Belgian context

Prevalence FGM and child/early/forced marriage

On December 31, 2012, the number of women and girls living in Belgium and originating from a country where FGM is practiced was 35,998 (i.e. first-generation migrants), and another 12,094 women and girls living in Belgium were born to a mother who originated from a country where FGM is practiced (i.e. second generation). As a result, of 48,092 women and girls considered, an estimated number of 13,112 had most probably undergone FGM¹.

The Ghent University – International Centre for Reproductive Health is currently heading an EC Daphne project that aims at developing a methodology to indirectly and directly estimate prevalence of women with FGM in EU Member States. The method should be able to produce national representative prevalence estimations, and if the method is used across EU Member States, it should be able to compare estimations and produce a total for Europe.

The magnitude of forced marriage in Belgium is unknown, as there are no national representative figures available at the moment. In the past, some attempts were made to grasp the magnitude of the problem of forced marriage in Belgium, but these are limited to specific geographic areas, and/or specific ethnic communities. Given that these studies have methodological shortcomings (different population groups, using different methods, etc.), no conclusions can be made regarding the total number of victims, or potential victims of forced marriage in Belgium². This is further exacerbated by the fact that the distinction between forced and arranged marriages is often very difficult to make which makes registering cases problematic. Cases of forced marriage are often registered as interpersonal violence, not as forced marriage. The phenomenon is underreported by professionals and by the victims, revealed the research. (Potential) victims do not wish to report for fear of repercussions or loyalty issues, while professionals lack knowledge to identify forced marriage, or they have insufficient knowledge to refer cases³.

Main policies on FGM and forced marriage

Belgium developed its first National Action Plan (NAP) on Violence against Women in 2001. The first NAP was valid from 2001 to 2003, and focused on violence within

¹ Dubourg D, Richard F. 2014. Studie over de prevalentie van en het risico op vrouwelijke genitale verminking in België. FOD Volksgezondheid, Brussel.

² Leye E, Sabbe A. Forced marriage in Belgium. An analysis of the current situation. EC-MATRIFOR project, 2015.

³ Leye E, Sabbe A. Huwelijksdwang in België. Een analyse van de huidige situatie. Samenvatting. 2016.

the family and human trafficking with the aim of sexual exploitation. For the first time, all actions regarding violence against women were coordinated and determined through consultation with stakeholders. The second NAP was adopted in 2004, focusing on one priority, i.e. (ex) partner violence. The second NAP ran from 2004-2009 and had 7 strategic aims, including sensibilisation, training and education, protection and shelter of victims, repressive and other measures, registration and evaluation. This NAP also included the creation of a working group that had to explore the extension of the NAP with other forms of violence, i.e. female genital mutilation, forced marriages, and honour-related violence. The following NAP (2010-2014) indeed broadened the scope to other forms of violence (next to partner violence that remains a priority) to female genital mutilation, forced marriages and honour-related violence. (http://igvm-iefh.belgium.be/nl/publicaties/nationaal_actieplan_ter_bestrijding_van_partnergeweld_en_andere_vormen_van_intrafamiliaal_geweld_2010-2014.jsp).

The two first NAP's were framed as national action plans on violence against women, and were developed in response to European and international soft law on, among others, gender mainstreaming and violence against women. The latest NAP 2015-2019 is targeted towards all forms of gender related violence and is in line with the strategic and operational goals of the Istanbul Convention, which Belgium ratified March 14 2016, to facilitate reporting and follow up. The NAP 2015-2019 focuses on partner violence, FGM, forced marriage, some forms of forced prostitution and sexual violence. This NAP was equally designed in collaboration with several working groups that joined experts and organisations from the 'field', as well as the administrations and cabinets of several governments of Belgium. It contains 235 measures, and has six objectives (four of which based on Istanbul Convention).

The NAPS are coordinated by the Institute for Equality of Women and Men, through an interdepartmental group coordinated by the Institute, and made up of representatives from the administrations and federal, community and regional ministries involved in the fight against gender-based violence.

The consequent Action Plans have been instrumental in putting and keeping FGM on the agenda, and in professionalising the main NGOs working on FGM. However, no budget was attached to the NAPs, which can jeopardise the concrete implementation of the different strategies in the NAPs. Also, the different measures in the NAP require cooperation between the several governments and administrations of Belgium, in order to be effective. Concrete collaboration between the several activities in both regions in Belgium is currently lacking, resulting in considerable differences in a joint and coherent implementation of some measures in the two regions, Flanders and Wallonia/Brussels.

Already in 1997, the Council of Equal Opportunities published the first policy document on FGM, in which a specific criminal law on FGM and child protection measures for girls at risk were requested. Around 2004, Belgian senators started to introduce proposals for resolutions. The proposals for resolutions have resulted in several adopted resolutions: Resolution 3-523/2 from 2004, 4-533/6 from 2009, 5-896/4 from 2011, Resolution of the Flemish Parliament of 2013 and the Resolution of the Federation Wallonia-Brussels of 2015. The first resolution requested for prosecution of those performing FGM, to FGM in asylum policy, for more education and information campaigns, and to pay attention for FGM in development cooperation programmes. The second resolution recommends including FGM in the national action plan on violence against women, to develop a protocol for the

protection of girls from FGM, to sensitise professionals, to support organisations working on FGM, to reimburse medical costs, and to conduct research on the prevalence of FGM in Belgium. The third resolution requests the Federal Government to implement the measures relating to FGM, which are foreseen in the national action plan to fight partner violence and other forms of domestic violence, so as to ensure a coherent prevention policy and to integrate the topic of FGM in bilateral cooperation agreements with relevant countries. The regional Resolutions of 2013 and 2015 discuss training of professionals and work with communities, amongst others⁴.

Belgium has a legal framework put in place to tackle both FGM and child/forced marriage. However, this legal framework is setting normative standards and prevention rather than punishment is preferred in order to putting an end to FGM. It has therefore opted for a holistic approach to FGM, with particular attention to prevention and comprehensive care for victims. In this context, risk identification and awareness-raising among professional groups and the public at large are very important. Several subsidised civil society organisations, such as the not-for-profit organisations.

GAMS and INTACT, are engaged in action on the ground to eliminate FGM through prevention measures, awareness-raising, training and outreach to target communities. Each year the federal government also provides a budget of 500,000 EUR to subsidise 2 multidisciplinary services in hospitals for women victims of FGM, notably the University Hospital in Ghent and the Sint Pieters Ziekenhuis in Brussels⁵. The Centres provide multidisciplinary care for women with FGM, including management of the consequences of FGM, pregnancy and childbirth, psycho-sexual counseling, defibulation, reconstruction of clitoris, etc. The number of patients seen in Brussels is considerably higher than in Ghent. This is due to the fact that GAMS is active in Brussels and Wallonia, and patients are referred to the Brussels reference centre. It should also be noted that with regard to the reconstruction of the clitoris, more evidence is needed, especially views of women on the surgery (pre and postoperative).

Several instruments have been developed related to FGM, including the “FGM prevention kit” that consists of various practical tools and instruments for professionals and others to tackle the issue of FGM. This Prevention Kit contains among others, a manual for professionals, prevalence study of Belgium, a guideline for conversations with girls/families on FGM, a brochure explaining professional secrecy provisions in the law, an example of the medical certificate, etc. On the ground, a number of civil society organisations are supported financially for prevention, training and raising awareness.

NGOs and centres of expertise regarding FGM, in collaboration with policy makers, have developed the following guide: *‘Guide de bonnes pratiques améliorant la*

⁴ Leye E, Van Vossolle A. Female Genital Mutilation. Country Report Belgium, 2013.

⁵ Instituut Gelijkheid Vrouwen en Mannen. Toepassing van de Verklaring en het Actieprogramma van Peking (1995) en de teksten van de drieëntwintigste buitengewone zitting van de Algemene Vergadering (2000) in de context van de twintigste verjaardag van de vierde Wereldvrouwenconferentie in 2015 en de goedkeuring van de Verklaring en het Actieprogramma van Peking) http://igvm-iefh.belgium.be/nl/activiteiten/internationaal/verenigde_naties/peking20; Zevende periodiek verslag over de toepassing van het Verdrag inzake de uitbanning van alle vormen van discriminatie van vrouwen – CEDAW http://igvm-iefh.belgium.be/nl/activiteiten/internationaal/verenigde_naties/ced

prévention et la protection des filles et des femmes victimes ou à risque d'excision [Good practice guide to enhance prevention and protection of girls and women with or at risk of FGM]. The Guide is for several sectors and contains recommendations and suggestions for care providers in dealing with FGM. The innovative aspect is that the guide targets also specific stakeholders, including e.g. the travel clinics within the health sector⁶.

Forced marriage was taken up in the last two NAP's, as already mentioned above. In addition, the Policy Note on 'Equal Opportunities' 2014, of the Minister of Equal Opportunities, tackled the subject of forced marriage in the framework of her strategy to improve equality between men and women⁷.

A special brochure on forced marriage for professionals has been published in 2015⁸, to assist service providers (police men, magistrates, medical doctors, teachers, social workers, etc.) in identifying (potential) victims of forced marriage and to propose pathways to support victims.

It should be noted that the Belgian authorities have given attention to so-called honour-related violence in the past. So-called honour-related violence was taken up in the 4th Action Plan, and in the most recent one as well (2015-2019). A research study was carried out by the Vrije Universiteit Brussel in collaboration with Ghent University. The Federal Department Justice set up a steering group and pilot project were initiated in two cities. More recently, a risk taxation instrument on honour-related violence was published, in order to help professionals assess the risk of this type of violence and to make adequate decision to decrease and manage these risks⁹. Forced marriage is included in this so-called honour-related violence.

Criminal laws on FGM and forced marriage

In 2001, a specific criminal law provision on FGM was adopted. Article 409 of the Penal Code prohibits all forms of FGM, ranging from clitoridectomy to infibulation. The criminal offence consists of the performance of FGM, the participation, the facilitation and the attempt to perform it. Committing the offence on an underage female is considered an aggravating circumstance that increases the penalty. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

Since July 2014 not only those practicing, facilitating or supporting any form of FGM, with or without the victim's consent, can be punished but also anyone who advocates or incites the practice.

Forcing someone to marry has been a criminal offence since 25 April 2007. It was added as Article 391sexies to the Criminal Code. The article states: "he who forces someone by violence or threats to enter into a marriage shall be punished with imprisonment from one month to two years, or with a fine of 100 to 500 EUR. The attempt is punished with imprisonment from fifteen days to one year or a fine of 50

⁶ Parents who wish to excise their daughters abroad are often visiting these travel clinics prior to departure, in order to get obligatory vaccines. Through this Guide, professionals have now specific instruments to assist in early detection of FGM.

⁷ Leye E, Sabbe A. op cit.

⁸ http://igvm-iefh.belgium.be/nl/publicaties/gedwongen_huwelijk_handleiding_voor_dienstverleners

⁹ Van Vossolle A. Risico taxatie instrument eergeerelateerd geweld. 2015.

to 250 EUR".¹⁰ The Law of 2 June 2013, 36 in its criminal component, increased the punishments incurred for the crimes of forced marriage and sham marriage (article 79 bis of the Law of 15 December 1980) and defined forced legal cohabitation (article 391 septies of the Criminal Code) and simulated legal cohabitation (article 79 ter of the Law of 15 December 1980) as crimes.

A study on the implementation of the criminal law in Belgium on FGM revealed there were issues when it comes to prosecuting cases. These were primarily related to finding sufficient evidence in order to bring a case to court, and secondly issues in reporting. There is a lack of reports from the communities but also professionals have a gap in knowledge about FGM, the legislative framework and on how to act in case they are confronted with the practice¹¹. The deficiencies in knowledge about FGM were further underlined by two KAP-surveys among Flemish gynaecologists and midwives, demonstrating the need for more trainings and awareness raising among these and other service providers¹².

Qualitative research on forced marriage in Belgium from 2015, equally showed that professionals confronted with the issue of forced and arranged marriages, have difficulties in identifying the issue and in tackling it appropriately¹³. Obviously, deficient knowledge this is not in the interest of women, girls and men who address service providers with issues related to FGM and forced marriage. Training of professionals is paramount in all areas, from prevention and protection to prosecution.

In 2016, policy makers will gather all municipality administrators to develop a list of indicators that will help them in recognising forced marriages, and how to distinguish it from forced marriages.

Policy debate in Belgium

In Belgium, harmful cultural practices have been taken up by policy makers since 2010, when FGM, forced marriage and honour-related violence have been included as specific forms of violence in the National Action Plans. The NAPs provide strategies and measures mainly with regard to prevention and protection, rather than to prosecution and repressive measures.

However, given that FGM and forced marriage touches upon different sectors (health, migration, education, justice, international cooperation, ...), the responsibilities for FGM related issues are divided between several ministries and administrations. In Belgium, this is further complicated due to the fact that responsibilities in these sectors are scattered over different governmental levels (federal and regional), which makes a coherent approach problematic in Belgium.

¹⁰ Leye & Sabbe, op cit.

¹¹ Leye E, Deblonde J, García-Añón J, Johnsdotter S, Kwateng-Kluytse A, Weil-Curiel L, Temmerman M. An analysis of the implementation of laws with regard to female genital mutilation in Europe. *Crime Law and Social Change*, vol 47, 1:1-31, 2007.

¹² Leye E, Ysebaert I, Deblonde J, Claeys P, Vermeulen G, Jacquemyn Y, Temmerman M. Female genital mutilation : knowledge, attitudes and practices of Flemish gynaecologists. *European Journal of Contraception and Reproductive Health Care*, vol 13, 2 :182-190, 2008.

Cappon S, L'Ecluse C, Clays E, Tency I, Leye E. Female genital mutilation: knowledge, attitude and practice of Flemish midwives. *Midwifery*, vol 31, 3, 2015.

¹³ Leye E, Sabbe A. op cit.

Although there is a NAP and the Institute for Equal Opportunities is responsible for the implementation of the NAP in general, the specificity of the topic of FGM and forced marriages requires a more specific targeted and coordinated approach that joins civil society organisations, academics and governmental bodies. This should, preferably, been done by a governmental organisation.

The lack of sufficient funds for adequate prevention, protection, provision of services and research has been mentioned on a number of occasions (see e.g. EIGE Report FGM in Europe), and is equally a reality in Belgium.

Finally, evaluation of past and existing instruments, projects and programmes with FGM is still lacking in Belgium.

Belgium has two FGM reference centres since 2015, where patients can go for multidisciplinary care and support (including sexual and psychological counselling, clinical management of complications due to FGM and repair operations (defibulations and clitoral reconstructive surgery). This care is provided by two hospitals (University Hospital in Ghent and CHU Saint Pierre in Brussels) within the framework of health insurance, and is multidisciplinary.

Transferability aspects

The funding schemes provided by the government in both Italy and England might be something that Belgium could consider. Several NAPS were developed in Belgium, but no budgets attached to the measures that were developed.

A number of issues as identified in the UK fact sheet might be introduced in Belgium, including the launch of a public consultation on the draft guidance for frontline professionals, the mandatory collection and submission of data, the development of local protocols for police, the roll out of trainings for health professionals to the entire country (now a selection of hospitals has been trained), the development of multiagency statutory practice guidelines, the creation of units that can follow up girls that travel in order to provide adequate protection and support (such as the Forced Marriage units in the UK), joint trainings for prosecutors and police (for FGM but also very much needed for forced marriage) etc.

I also think that Belgium could take an example from Italy regarding the integration of FGM in the international cooperation. FGM, and forced/child marriage, are mainly prevalent in African and Asian countries. Belgium could increase its contribution to the UNICEF/UNFPA Joint Programme on FGM, that is the largest global programme regarding the abandonment of FGM, and to the Girls Not Brides Network.

Recommendations for action

- **Data collection and monitoring:** An evaluation of the registering of cases of FGM in hospitals, clearly showed that training on FGM and how to register it, have a direct impact on the number of registrations. In order to obtain a better overview of the magnitude and the complexity of FGM and forced marriage in Belgium, systematic efforts should be done to raise awareness among professionals on these types of violence, and how to keep records and register.

Efforts could be done at national level to collate data from several sectors. Registering of data using administrative data sources (e.g. helplines; shelters) should be enhanced. The reporting of cases of FGM in child protection and police and how they are followed up should be documented.

- **Legislative and policy measures:** The adoption of subsequent national action plans, that include chapters on FGM, forced marriage and honour-related violence, in Belgium is laudable. The chapters in the NAPs on harmful practices have been instrumental in pushing the agenda towards abandonment of the practices and in building capacities of NGOs. However, financial resources are too few and are not attached to the NAPs, which makes a timely implementation of the proposed measures very problematic. Attention to harmful practices should also be embedded in a wider debate and policy development regarding diversity in Belgian society. Harmful practices should receive sufficient attention in Belgian international development cooperation.
- **Support services:** In order to provide adequate and appropriate services for those at risk of FGM and forced marriage, or those who have already undergone these practices, professionals in Belgium need to be trained and equipped with adequate instruments. A lot of instruments have been designed in recent years on FGM, but with regard to forced marriage, Belgium needs to catch up. Training of professionals should be included in standard curricula of front line workers (health, police, social workers, teachers), and embedded in capacity building of intercultural competencies, in order to be better equipped for our superdiverse society¹⁴. Possibilities should be explored to create transnational and cross border mechanisms to prevent FGM and early/forced marriage, and to better protect those travelling between Europe and other continents and who are at risk of these harmful practices.
- **The FGM Reference Centres** should be made more visible to the communities affected by FGM, in order to lower the threshold to seek help. A sensitisation campaign could be created to enhance the visibility of the centres and increase the number of patients visiting the Centres. The multidisciplinary in which reconstructive clitoral surgery is performed is paramount; however, more research is needed to evaluate this type of surgery and to explore the views of women and girls regarding this surgery.
- **Coordination and intersectoral cooperation:** Although Belgium has a NAP and the Institute Equal Opportunities is responsible for the coordination, more coordination is needed between professionals in child protection, asylum, health sector, social sector and police, in order to adequately prevent and protect girls and women from FGM and forced marriage. Belgium could learn from the MARACs (family approach) in the UK and could also consider to set up a coordinating body or platform, to discuss actions, instruments and strategies regarding harmful cultural practices.
- **Further research and public debate:** Further research is needed to assess the extent and circumstances of FGM and forced marriage in Belgium, and how the migration context influences social norms related to these practices. Evaluations of current trainings, instruments, strategies, etc. could be done as well as

¹⁴ Such training could tackle racism, cultural and social norms across societies, intercultural communication, ...

research on attitude and behaviour change related to harmful practices in a migration context.

Finally, it is important to carefully consider how FGM data and initiatives are framed as they may be used and misused for a variety of political and ideological purposes, including racist and anti-immigrant discourse.