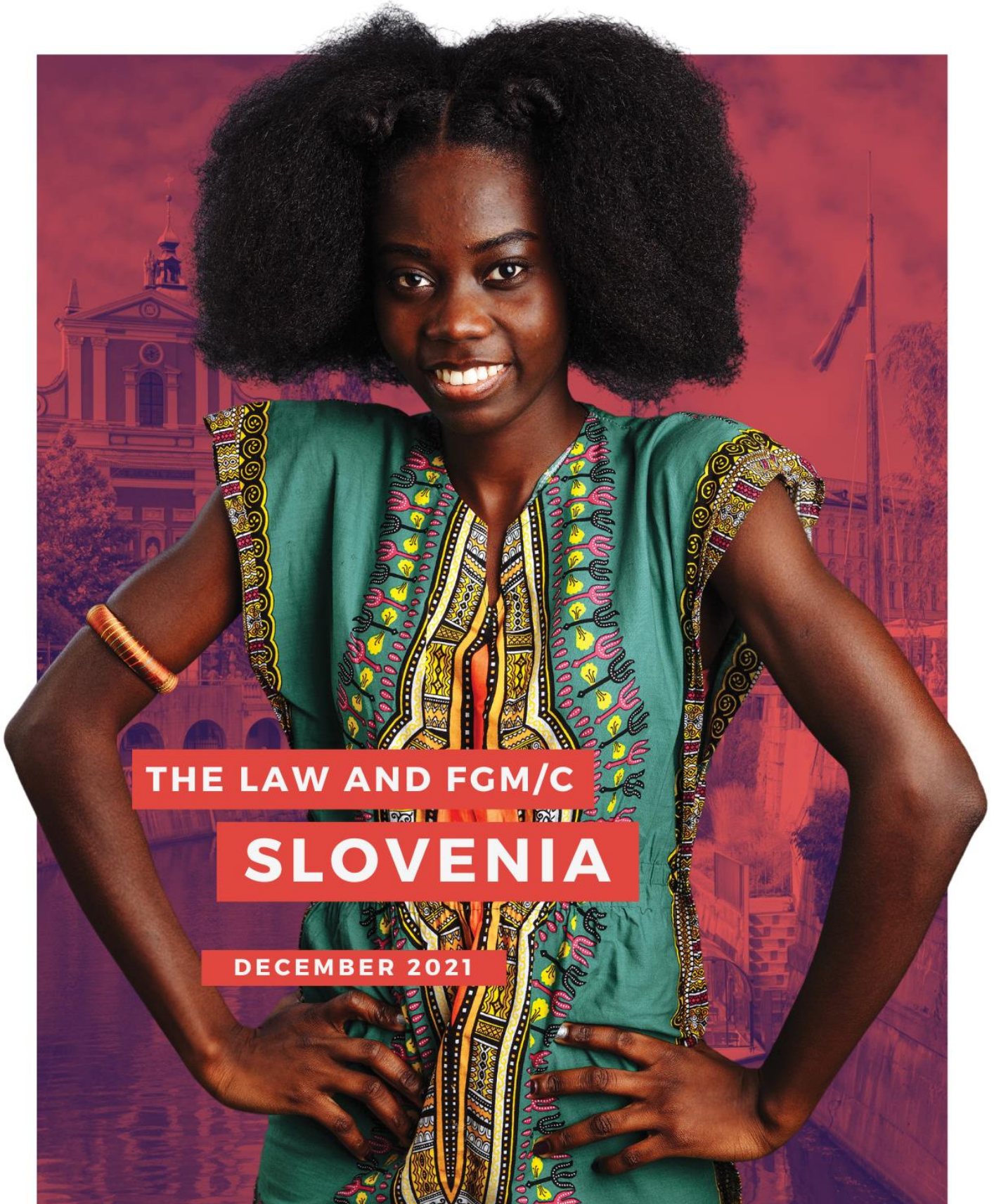




**28 TOO MANY**  
FGM... let's end it.

ORCHID  PROJECT



**THE LAW AND FGM/C**  
**SLOVENIA**

**DECEMBER 2021**

# National Legal Framework

## Overview of National Legal Framework in Slovenia

### National legislation:

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

## Introduction

Slovenia is a country in central Europe with an estimated population of 2.1 million.<sup>1</sup> Slovenia is a decentralised unitary republic with a parliamentary democracy and has a civil-law legal system.<sup>2</sup>

### FGM/C Prevalence

There is no information available on the prevalence of female genital mutilation/cutting (FGM/C) in Slovenia, either for girls and women who have undergone FGM/C or those who are at risk of FGM/C. It is known that the number of migrants from FGM/C-practising African countries is very low in Slovenia.

According to a report by a civil-society organisation, two cases of suspected FGM/C were registered, but no further action was taken.<sup>3</sup>

## National Legal Framework

### General Law

There is no specific law or provision criminalising FGM/C in Slovenia, nor has 28 Too Many encountered any statements by the Slovenian Government condemning FGM/C or confirming the application of general criminal law to it.

However, general criminal law does implicitly apply to FGM/C. FGM/C could fall under **Articles 123 or 124 of the Slovenian Criminal Code (2008, amended 2017)** (the *Criminal Code*). Which offence FGM/C would fall under would depend on the consequences of each individual case.

**Article 123(1) of the Criminal Code** defines 'severe bodily harm' as inflicting damage to health by endangering the life of the victim, including the destruction or permanent, severe impairment of an organ; the temporary, severe weakness of an organ; temporary loss of the ability to work; temporary

disfigurement of the victim; or serious, temporary damage or less severe, but permanent damage to the health of the victim. Under **Article 123(2)**, it is an aggravating circumstance if severe bodily harm results in the death of the victim.

**Article 124(1)** defines 'extremely severe bodily harm' as inflicting damage to health resulting in a risk to life of the victim; destruction or substantial, permanent impairment of any vital organ; permanent loss of the ability to work; or severe, permanent damage to the health of the victim. Under **Article 124(2)**, it is an aggravating circumstance if extremely severe bodily harm results in the death of the victim.

**Article 192(2)** prescribes that a parent, guardian, foster parent or any other person who maltreats or tortures a minor is punishable by law. Performing FGM/C on a child can be considered maltreatment or a torturous act and would therefore be criminalised under **Article 192(2)**.

**Article 125(2)** prescribes that intentional infliction of 'severe' (**Article 123**) or 'extremely severe' (**Article 124**) bodily harm is not a criminal offence if the victim gives her consent, provided that the interests of others are not adversely affected or a common legal value is not endangered. It should be noted that the physical integrity of an individual is a limitedly disposable good, which means that a full and unrestricted ability to dispose with one's rights in relation to one's body is largely contrary to public morality and disruptive and threatening to social peace. Consent in such a situation does not exclude the unlawfulness of the conduct. An individual's consent to injury to the most fundamental bodily integrity – i.e. mutilation (without any medical indication) – cannot make any such conduct lawful.

**Article 125(3)** prescribes that intentional infliction of 'severe' (**Article 123**) or 'extremely severe' (**Article 124**) bodily harm during medical treatment or a healing activity is not a criminal offence if consent is given in the form and under the conditions laid down by law. Since FGM/C would most likely not be recognised as a medical or healing treatment in Slovenia, these conditions would exclude consenting to FGM/C as an exemption from punishment.

### Definition of FGM/C

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

### Women and Girls of All Ages

The performance of FGM/C on women and girls of all ages has been criminalised in Slovenia. **Articles 123 and 124 of the Criminal Code** do not contain an age restriction.

### Procuring, Aiding and Abetting

Procuring, aiding and abetting FGM/C are criminalised in Slovenia through general criminal law.

Procuring FGM/C – when someone hires another person to perform FGM/C – would most likely fall under **Article 37(1) of the Criminal Code**, which criminalises soliciting another person to commit an offence, and would qualify someone as an 'accomplice'.

Aiding FGM/C would fall under **Article 38(2)**, which criminalises assisting another person in committing an offence by providing advice or instructions, providing means, removing obstacles or making a promise to assist the perpetrator post-FGM/C. This would also qualify someone as an 'accomplice'.

Abetting FGM/C – when someone instigates another person to perform FGM/C or assists him or her in it – would fall under **Article 38(2)** and would also qualify someone as an 'accomplice'.

**Article 38(1)** prescribes that any person who intentionally aids the perpetrator in the commission of a crime is generally subject to the liability of the perpetrator of a crime or may be given a lighter penalty.

### Allowing the Use of Premises

Allowing the use of premises for the purpose of FGM/C is most likely criminalised in Slovenia through general criminal law. It is very likely that allowing the use of premises would qualify as aiding or abetting the crime by removing obstacles and providing opportunity for the commission of the crime and would thus fall under **Article 38(1) of the Criminal Code**.

### Providing or Possessing Tools

Providing (specific) tools for the purpose of FGM/C is criminalised in Slovenia through general criminal law. Providing (specific) tools would qualify as aiding or abetting the crime by providing instruments for the commission of the crime under **Article 38(1) of the Criminal Code**.

**Article 39** prescribes that aiders and abettors who are involved in a criminal attempt are subject to the liability established by the law for the criminal attempt.

Possessing (specific) tools for the purpose of FGM/C has not been criminalised in Slovenia. The **Criminal Code** does not contain a general provision on preparation, but it does contain a definition of an 'attempt' of an offence. **Article 34(1)** prescribes that any person who intentionally initiates a crime, but does not follow through with it is punishable for a criminal attempt if:

- that crime is punishable by at least three years' imprisonment; and
- that crime is punishable by a lesser sentence, but the law under which it is criminalised specifically provides that an attempt is also punishable.

Possessing (specific) tools for the purpose of FGM/C may qualify as an attempt to commit a crime; however, someone only possessing (specific) tools can still change his or her mind. Merely possessing (specific) tools is specified as a 'preparatory act(s)', which may be detected externally, but a person does not yet meet the legal elements of 'criminal offence'. Criminalising preparatory acts may lead to difficulties in proving the person's intention; for example, purchasing particular things or devices are often routine tasks that do not necessarily aim at the subsequent execution of a criminal offence.

### Failure to Report FGM/C

Failing to report FGM/C has been criminalised in Slovenia, but only in instances where FGM/C results in the death of a victim.

**Article 281(1) of the Criminal Code** prescribes that any person who is aware of the commission of a crime punishable by at least fifteen years' imprisonment and fails to report it to the competent authorities is punishable by law.

**Article 281(2)** prescribes that an official who intentionally fails to report a crime is subject to the same punishment as prescribed under Article 281(1).

However, **Article 281(3)** prescribes an exemption from the penalty if the person who fails to report the crime is a spouse, partner, lineal relative, sibling, adoptive parent, adoptive child or the advocate, physician or priest (confessor) of the perpetrator.

**Article 280(1)** prescribes that any person who is aware of preparations for a crime that is punishable by three- or more-years' imprisonment and fails to inform the competent authorities in order to prevent it is punishable by law.

If a crime is punishable with at least fifteen years' imprisonment or a life sentence, **Article 280(2)** prescribes that a person who fails to report the preparations for such a crime is subject to a harsher penalty than the one prescribed under Article 280(1).

However, **Article 280(3)** prescribes an exemption from the penalty if the person who fails to report preparations for a crime is a spouse, cohabitant, partner, lineal relative, sibling, adoptive parent or adoptive child of the perpetrator.

**Article 45 of the Patient's Rights Act** permits medical professionals to breach their professional secrecy to report a patient's medical condition where a risk to life or a risk to health is present.

**Article 6 of the Family Violence Prevention Act** prescribes that institutions and organisations that encounter possible continuous violence have an obligation to report such instances to the Social Work Centre, unless a criminal offence is not suspected and a victim is explicitly against reporting the instance. If the victim is a child, any person, especially one working in the educational, medical or care sectors, has an obligation to report such an instance to the Social Work Centre, the police or the prosecutor.

### Medicalised FGM/C

Medicalised FGM/C is criminalised in Slovenia under **Articles 123 and 124 of the Criminal Code**, since there is no specific provision on medicalised FGM/C in the Criminal Code, nor one on malpractice by a licensed medical professional or medical quackery.

### Extraterritoriality

The **Criminal Code** extends extraterritorial application of Slovenian criminal law to the commission of FGM/C abroad only if FGM/C constitutes a crime in the country in which it was committed (**Article 14(3)**) – thus it is always under the requirement of double criminality.

Under **Article 12**, Slovenian criminal law applies to FGM/C committed abroad if the perpetrator is a Slovenian citizen.

Slovenian Criminal law applies to anyone who commits FGM/C abroad against a woman or a girl who is a Slovenian citizen (**Article 13(1)**) or has been apprehended in the territory of Slovenia and has not been extradited to the foreign country (**Article 13(2)**).

## Penalties

In Slovenia, there are penalties for committing FGM/C and crimes related to it, depending on which provision of the **Criminal Code** FGM/C or the related crime can be prosecuted under in a specific instance.

- **Article 123(1)** prescribes a sentence of *up to five years' imprisonment* for inflicting severe bodily harm.
- **Article 124(1)** prescribes a sentence of *up to ten years' imprisonment* for inflicting particularly severe bodily harm.

In FGM/C cases it is likely that aggravating circumstances set out under **Articles 123 and 124** apply.

- **Article 123(2)** prescribes a sentence of *up to ten years' imprisonment* for inflicting serious bodily harm resulting in the death of a victim.
- **Article 124(2)** prescribes a sentence of *up to fifteen years' imprisonment* for inflicting particularly severe bodily harm resulting in the death of a victim.
- **Article 192(2)** prescribes a sentence of *up to five years' imprisonment* for maltreatment or torture of a minor by her parent, guardian, foster parent or any other person.

Thus, the maximum penalty for FGM/C in Slovenia is *fifteen years' imprisonment*.

- **Article 38(1)** prescribes that aiders and abettors of a crime are subject to the liability of the perpetrator of a crime.

- **Articles 281(1) and 281(2)** prescribe a sentence of *up to three years' imprisonment* for any person who fails to report to the competent authorities a crime punishable by at least fifteen years' imprisonment, or any official who fails to report to the competent authorities a crime of which he/she becomes aware in the course of his/her duties, where the prescribed penalty is imprisonment for at least three years, and the perpetrator is prosecuted *ex officio*.
- **Article 280(1)** prescribes a sentence of *up to one year of imprisonment* for any person who fails to report to the competent authorities preparations for a crime punishable by three- or more-years' imprisonment. **Article 280(2)** prescribes a sentence of *up to three years' imprisonment* for any person who fails to report to the competent authorities preparations for a crime punishable by at least fifteen years' imprisonment or a life sentence.

## Protection

### Protecting Uncut Girls and Women

Uncut girls can be protected through child protection laws in general civil law.

**Article 106 of the Non-Contentious Civil Procedure Act** provides the possibility of the court to *ex officio* issue an interim order in proceedings for the protection of the child's best interests. Such protection may limit or prohibit contact between parent(s) and a child.

**Article 7(3) of the Family Code** prescribes that the child's best interests are provided if parents take into account in particular the personality of the child, his or her age and stage of development, and his or her desires; they adequately meet his or her material, emotional and psychosocial needs by acting in a manner that demonstrates their care for and responsibility towards the child; and they provide the child with appropriate educational guidance and encouragement in his or her development. **Article 173(1)** prescribes that, in agreement with a Social Work Centre, the court may prevent contact between the parent(s) and the child if the child is at risk as a result of the contact and his or her best interests can only be sufficiently safeguarded by limiting or withdrawing the right of contact.

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

## Implementation of The Law

### Court Cases

There are no Slovenian court cases in relation to FGM/C known to 28 Too Many.

# Conclusions and Recommendations

## Conclusions

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

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

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

It is a criminal offence in Slovenia to **fail to report** that FGM/C is being prepared. However, spouses, cohabitants, partners, lineal relatives, siblings, adoptive parents or adoptive children of perpetrators are exempt.

The Criminal Code extends **extraterritorial application** of Slovenian criminal law to the performance of FGM/C abroad, always under the requirement of double criminality, if either the perpetrator or the victim has Slovenian nationality.

## Recommendations

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

We recommend that Slovenia issue a governmental declaration confirming the application of criminal law to FGM/C, including a definition of 'FGM/C' that corresponds to the World Health Organization's definition of 'FGM' and specifying that FGM/C 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 Slovenia instate an obligation for (at least) relevant professionals and institutions to report cases of FGM/C and cases where there are reasonable grounds to believe that FGM/C may be committed imminently.

Finally, we recommend that Slovenia extend extraterritorial application of Slovenian criminal law to the performance of FGM/C abroad, regardless of double criminality, in cases where either the perpetrator or the victim has Polish nationality or is a resident of Poland.

# Appendix I: International and Regional Treaties

SLOVENIA	Signed	Ratified/ Acceded	Reservations on reporting?
<b>International</b>			
International Covenant on Civil & Political Rights (1966) (ICCPR) <sup>4</sup>	X	✓ 1992	No
International Covenant on Economic, Social & Cultural Rights (1966) (ICESCR) <sup>5</sup>	X	✓ 1992	No
Convention on the Elimination of All forms of Discrimination Against Women (1979) (CEDAW) <sup>6</sup>	X	✓ 1992	No
Convention on the Rights of the Child (1989) (CRC) <sup>7</sup>	X	✓ 1992	No
<b>Regional</b>			
Istanbul Convention <sup>8</sup>	✓ 2011	✓ 2015	Yes*
European Convention on Human Rights <sup>9</sup>	✓ 1993	✓ 1994	No

\* Reservations to Art. 30, para 2 and Art. 44, para 1.e, 3 and 4 regarding jurisdiction, Art. 55, para 1 regarding *ex parte* and *ex officio* proceedings, Art. 58 regarding statute of limitation and Art. 59 regarding residence status.

**‘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. 12

Kazenski zakon Republike Slovenije velja za državljana Republike Slovenije, tudi če stori v tujini kakšno drugo kaznivo dejanje poleg kaznivih dejanj, naštetih v prejšnjem členu.

### Art. 13

- (1) Kazenski zakon Republike Slovenije velja tudi za tujca, ki stori zunaj Republike Slovenije, proti njej ali njenemu državljanu kaznivo dejanje, čeprav to niso kazniva dejanja iz 11. člena tega zakonika.
- (2) Kazenski zakon Republike Slovenije velja tudi za tujca, ki stori proti tuji državi ali proti tujcu v tujini kaznivo dejanje, če se zaloti na ozemlju Republike Slovenije, pa se ne izroči tuji državi. V takem primeru sodišče ne sme izreči hujše kazni od tiste, ki je predpisana z zakonom države, v kateri je bilo kaznivo dejanje storjeno.
- (3) Kazenski zakon Republike Slovenije velja tudi za vsakogar, ki stori v tujini kakšno drugo kaznivo dejanje, ki se po mednarodni pogodbi ali po splošnih pravnih načelih, ki jih priznava mednarodna skupnost, preganja v vseh državah, ne glede, kje je storjeno.

### Art. 14

- (1) Če se je v primerih iz 10. člena in prve alineje 11. člena tega zakonika kazenski postopek začel ali se je končal v tujini, se storilec preganja v Republiki Sloveniji z dovoljenjem ministrice oziroma ministra (v nadaljnjem besedilu: minister) za pravosodje z opozorilom, pod kakšnimi pogoji se s pregonom ne krši prepoved ponovnega sojenja v isti zadevi.
- (2) V primerih iz 12. člena ter prvega in drugega odstavka 13. člena tega zakonika se storilec ne preganja:
  - 1) če je kazen, za katero je bil v tujini obsojen, popolnoma prestal ali je bilo skladno z mednarodno pogodbo določeno, da bo v tujini izrečeno kazen prestal v Republiki Sloveniji;
  - 2) če je bil v tujini s pravomočno sodbo oproščen ali mu je bila kazen odpuščena ali je izvršitev kazni zastarala;
  - 3) če se kaznivo dejanje po tujem zakonu preganja na zahtevo oškodovanca, taka zahteva pa ni bila vložena oziroma je bila umaknjena.
- (3) V primerih iz 12. člena ter prvega in drugega odstavka 13. člena tega zakonika se storilec preganja samo, če je dejanje kaznivo tudi po zakonu države, v kateri je bilo storjeno.
- (4) Če v primeru iz 12. člena tega zakonika dejanje po zakonu države, v kateri je bilo storjeno, ni kaznivo, je pa to dejanje, storjeno proti Republiki Sloveniji ali njenemu državljanu, se sme storilec preganjati samo z dovoljenjem ministra za pravosodje.
- (5) V vseh drugih primerih razen primerov iz druge alineje 11. člena, tretjega odstavka 13. člena in četrtega odstavka tega člena tega zakonika, ko je dejanje storjeno v tujini, pa v državi, v kateri je bilo storjeno, ni kaznivo, se storilec sme preganjati z dovoljenjem ministra za pravosodje, če je dejanje takrat, ko je bilo storjeno, veljalo za kaznivo dejanje po splošnih pravnih načelih, ki jih priznava mednarodna skupnost.
- (6) V primeru iz 10. člena tega zakonika se sme ob pogojih, določenih z zakonom, pregon tujca odstopiti tuji državi.
- (7) V primerih iz tretjega odstavka 13. člena tega zakonika se storilec preganja samo z dovoljenjem ministra za pravosodje.

### **Art. 34**

- (1) Kdor je naklepno kaznivo dejanje začel, pa ga ni dokončal, se kaznuje za poskus, če je to kaznivo dejanje, za katero se smejo po zakonu izreči tri leta zapora ali hujša kazen; za poskus drugih kaznivih dejanj pa samo, če zakon izrecno predpisuje, da je kazniv tudi poskus.
- (2) Storilec se kaznuje za poskus v mejah kazni, predpisane za kaznivo dejanje, lahko pa tudi mileje.

### **Art. 38**

- (1) Kdor naklepoma pomaga storilcu pri naklepnem kaznivem dejanju, se kaznuje, kakor da bi ga sam storil, sme pa se kaznovati tudi mileje.
- (2) Kot pomoč pri storitvi kaznivega dejanja se šteje zlasti: če da kdo storilcu nasvet ali navodila, kako naj stori kaznivo dejanje, če mu da na razpolago sredstva ali odstrani ovire za storitev, če vnaprej obljubi, da bo prikril kaznivo dejanje, storilca, sredstva, s katerimi bo kaznivo dejanje storjeno, sledi kaznivega dejanja, predmete, nastale s kaznivim dejanjem ali premoženjsko korist, pridobljeno s kaznivim dejanjem.

### **Art. 39**

Če ostane kaznivo dejanje pri poskusu, se napeljevalka oziroma napeljevalec (v nadaljnjem besedilu: napeljevalec) in pomagačka oziroma pomagač (v nadaljnjem besedilu: pomagač) kaznujeta kakor za poskus.

### **Art. 123**

- (1) Kdor koga tako telesno poškoduje ali mu prizadene tako škodo na zdravju, da bi bilo lahko zaradi tega v nevarnosti življenje poškodovanca, ali je uničen ali za vselej in znatno oslabljen kakšen del njegovega telesa ali kak organ ali je začasno in znatno oslabljen pomemben del telesa ali pomemben organ ali je zaradi tega poškodovani začasno nezmožen za vsakršno delo ali je njegova zmožnost za delo za vselej zmanjšana ali je bila začasno precej zmanjšana ali je bil začasno skažen ali mu je začasno hudo ali za vselej v manjši meri okvarjeno zdravje, se kaznuje z zaporom od šestih mesecev do petih let.
- (2) Če poškodovani zaradi poškodbe iz prejšnjega odstavka umre, se storilec kaznuje z zaporom od enega do desetih let.
- (3) Kdor stori dejanje iz prvega odstavka tega člena iz malomarnosti, se kaznuje z zaporom do dveh let.
- (4) Če je storilec dejanje iz prvega ali drugega odstavka tega člena storil na mah, ker ga je poškodovanec brez njegove krivde z napadom ali hudimi žalitvami močno razdražil, se kaznuje z zaporom do treh let.

### **Art. 124**

- (1) Kdor koga tako hudo telesno poškoduje ali mu prizadene tako hudo škodo na zdravju, da je bilo zaradi tega v nevarnosti življenje poškodovanca, ali je uničen ali za vselej in zelo oslabljen pomemben del njegovega telesa ali pomemben organ ali je postal poškodovani zaradi tega za vselej nezmožen za vsakršno delo ali je ostal skažen ali mu je bilo za vselej hudo okvarjeno zdravje, se kaznuje z zaporom od enega do desetih let.
- (2) Če poškodovani zaradi poškodbe iz prejšnjega odstavka umre, se storilec kaznuje z zaporom od treh do petnajstih let.
- (3) Kdor stori dejanje iz prvega odstavka tega člena iz malomarnosti, se kaznuje z zaporom do treh let.
- (4) Če je storilec dejanje iz prvega ali drugega odstavka tega člena storil na mah, ker ga je poškodovanec brez njegove krivde z napadom ali hudimi žalitvami močno razdražil, se kaznuje z zaporom od šestih mesecev do petih let.

### **Art. 125**

- (1) Povzročitev lahke telesne poškodbe (122. člen) ni protipravna, če je poškodovanec privolil vanjo. V tem primeru se pri mladoletni ali slabotni osebi upošteva privolitev, če jo v skladu z zakonom v skrbi za njuno zdravje da tisti, ki zastopa take osebe.

- (2) Naklepna povzročitev hude (123. člen) ali posebno hude (124. člen) telesne poškodbe ni protipravna, če je poškodovanec privolil vanjo in pri tem niso bile prizadete koristi koga drugega ali ogrožena kakšna skupna pravna vrednota.
- (3) Ne glede na prejšnji odstavek naklepna povzročitev hude ali posebno hude telesne poškodbe pri zdravljenju ali zdravilski dejavnosti ni protipravna, če je bila privolitev dana v obliki in ob pogojih, ki jih določa zakon.

#### **Art. 192**

- (1) Starši, skrbnik, rejnik ali druga oseba, ki hudo krši svoje dolžnosti do mladoletne osebe, se kaznuje z zaporem do treh let.
- (2) Starši, skrbnik, rejnik ali druga oseba, ki sili mladoletno osebo k pretiranemu delu ali k delu, ki ni primerno njeni starosti ali k opuščanju dela, ali jo iz koristoljubnosti navaja k beračenju ali drugim dejanjem, ki so škodljiva za njen razvoj, ali z njo surovo ravna ali jo trpinči, se kaznuje z zaporem do petih let.

#### **Art. 280**

- (1) Kdor ve, da se pripravlja kaznivo dejanje, za katero je z zakonom predpisana kazen treh ali več let zavora, pa ga v času, ko se je dalo še preprečiti, ne naznani in je bilo dejanje poskušeno ali dokončano, se kaznuje z zaporem do enega leta.
- (2) Če je šlo pri dejanju iz prejšnjega odstavka za kaznivo dejanje, za katero je z zakonom predpisana kazen najmanj petnajst let zavora ali dosmrtni zapor, se storilec kaznuje z zaporem do treh let.
- (3) Kdor ne naznani, da se pripravlja kaznivo dejanje iz prvega odstavka tega člena, se ne kaznuje, če je storilec zakonec, oseba, s katero živi v zunajzakonski skupnosti ali registrirani istospolni partnerski skupnosti, krvni sorodnik v ravni vrsti, brat ali sestra, posvojitelj ali posvojenec. Če se katera od oseb, navedenih v tem odstavku, ne kaznuje za opustitev ovadbe iz prvega odstavka tega člena, se za opustitev ovadbe ne kaznuje niti njen zakonec ali oseba, s katero živi v zunajzakonski skupnosti niti partner iz registrirane istospolne partnerske skupnosti.

#### **Art. 281**

- (1) Kdor ve za storilca kaznivega dejanja, za katero je z zakonom predpisana kazen najmanj petnajstih let zavora ali dosmrtnega zavora, ali kdor samo ve, da je bilo tako dejanje storjeno, pa tega ne naznani, čeprav je od take ovadbe odvisno, da se storilec ali dejanje pravočasno odkrije, se kaznuje z zaporem do treh let.
- (2) Uradna oseba, ki zavestno opusti ovadbo kaznivega dejanja, za katero zve pri opravljanju svoje službe, če je zanj z zakonom predpisana kazen treh ali več let zavora, storilec pa se preganja po uradni dolžnosti, se kaznuje z zaporem do treh let.
- (3) Kdor opusti ovadbo, se ne kaznuje, če je storilec zakonec, oseba, s katero živi v zunajzakonski skupnosti ali registrirani istospolni partnerski skupnosti, krvni sorodnik v ravni vrsti, brat ali sestra, posvojitelj ali posvojenec ali če je zagovornik, zdravnik ali spovednik storilca. Ker se katera od oseb iz tega odstavka razen zagovornika, zdravnika ali spovednika ne kaznuje za opustitev ovadbe iz prvega odstavka tega člena, se za opustitev ovadbe ne kaznuje niti njen zakonec niti oseba, s katero živi v zunajzakonski skupnosti niti partner iz registrirane istospolne partnerske skupnosti.

# The Non-Contentious Civil Procedure Act

## Art. 106

- (1) Postopek za odločanje o ukrepih za varstvo koristi otrok se začne na predlog enega od staršev, otroka, ki je dopolnil 15 let, če je sposoben razumeti pomen in pravne posledice svojih dejanj, skrbnika otroka, centra za socialno delo ali državnega tožilca. Postopek za namestitev otroka v zavod se začne na predlog centra za socialno delo.
- (2) Sodišče lahko postopek za odločanje o ukrepih za varstvo koristi otrok trajnejšega značaja začne tudi po uradni dolžnosti. Med postopkom odločanja o ukrepih za varstvo koristi otrok trajnejšega značaja lahko sodišče izda začasno odredbo tudi po uradni dolžnosti.

Postopek za izdajo začasne odredbe, s katero se otroka odvzame staršem in ga namesti k drugi osebi, v krizni center, rejništvo ali zavod se lahko začne le na predlog centra za socialno delo ali po uradni dolžnosti. Postopek za izdajo začasne odredbe po izvedenem nujnem odvzemu otroka se lahko začne le na predlog centra za socialno delo.

- 
- 1 John B. Allcock (1999) 'Slovenia', *Britannica*. Available at <https://www.britannica.com/place/Slovenia> (accessed 1 August 2021).
  - 2 European Committee of the Regions (2021) *Slovenia*. Available at <https://portal.cor.europa.eu/divisionpowers/Pages/Slovenia.aspx> (accessed 1 August 2021).
  - 3 European Institute of Gender Equality (2013) *Current situation of female genital mutilation in Slovenia*. Available at <https://eige.europa.eu/publications/current-situation-and-trends-female-genital-mutilation-slovenia> (accessed 4 August 2021).
  - 4 *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 1 August 2021).
  - 5 *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 1 August 2021).
  - 6 *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 1 August 2021).
  - 7 *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 1 August 2021).
  - 8 - 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?module=signatures-by-treaty&tratynum=210> (accessed 1 August 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?module=declarations-by-treaty&numSte=210&codeNature=0> (accessed 1 August 2021).
  - 9 - 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&tratynum=005](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?module=signatures-by-treaty&tratynum=005) (accessed 1 August 2021).
    - Council of Europe (2021) *Reservations and Declarations for Treaty 005, Convention for the Protection of Human Rights and Fundamental Freedoms*. Available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/?module=declarations-by-treaty&numSte=005&codeNature=0> (accessed 1 August 2021).

**Cover images:** Image of Slovenia from Canva stock library.  
Artem Onoprienko (undated) *Attractive young African-American fashion model in national clothes posing and smiling*. Shutterstock ID 1684553941.

*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/C.*

This report analyses and discusses the application of national (criminal) laws to the commission of FGM/C 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/C, available legal protective measures for girls and women at risk of FGM/C, and any obligations of national governments in relation to FGM/C.

The initial research conducted for this report consisted of a questionnaire developed by 28 Too Many (part of Orchid Project) 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 Slovenia. 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, Orchid Project, 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.

### **Acknowledgements:**

Ashurst LLP

Middelburg Human Rights Law Consultancy

**Version 4, October 2023**

© Orchid Project & 28 Too Many 2021  
research@orchidproject.org

