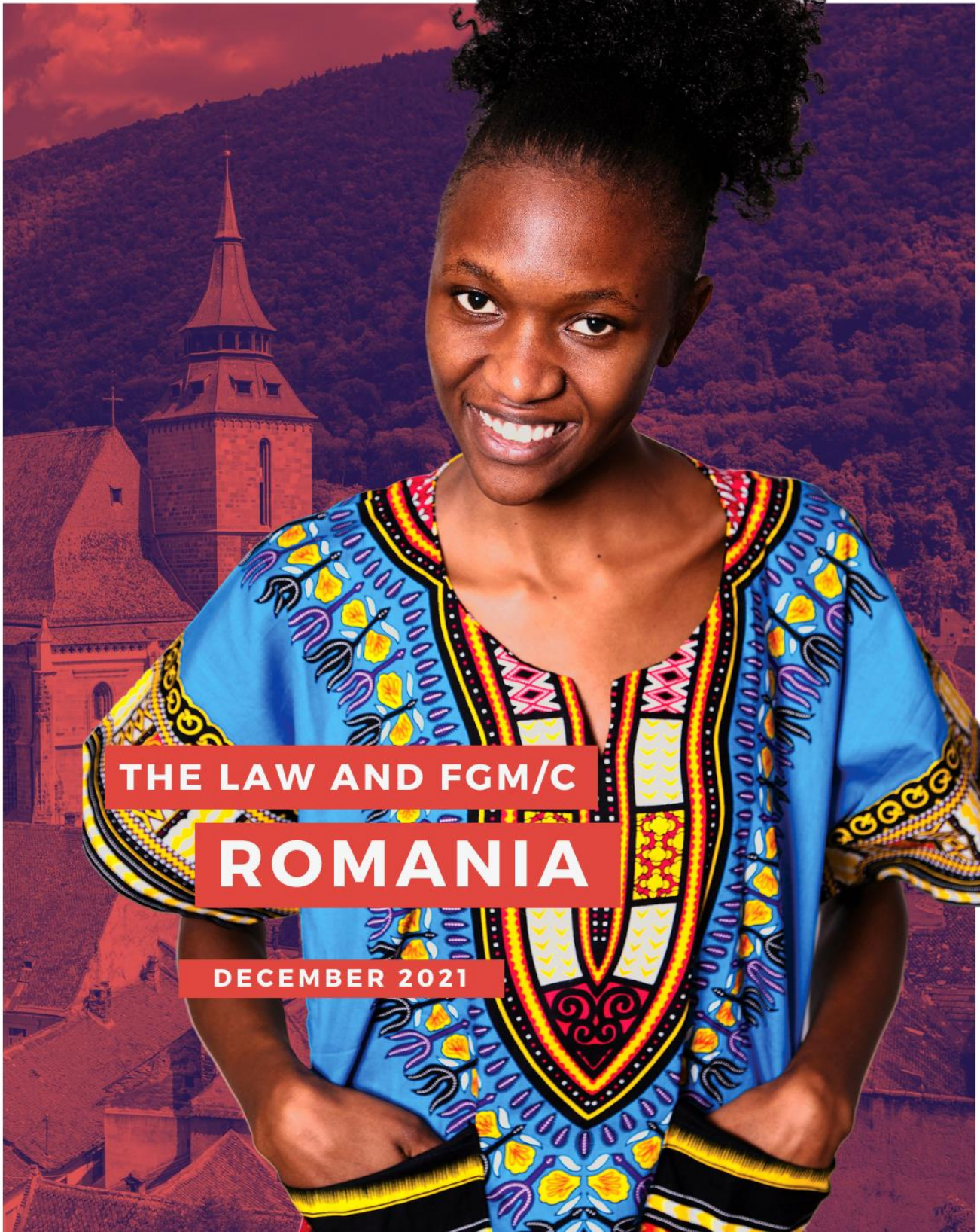




28 TOO MANY
FGM... let's end it.

ORCHID  PROJECT



THE LAW AND FGM/C

ROMANIA

DECEMBER 2021

National Legal Framework

Overview of National Legal Framework in Romania

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
X	Obligation to report incidents of FGM/C to the authorities
✓	Criminalises the participation of medical professionals in acts of FGM/C
✓	Extraterritorial application regardless of double criminality

Introduction

Romania is a country in south-eastern Europe with an estimated population of 19.3 million.¹ The country is a unitary, semi-presidential republic with a parliamentary democracy.

FGM/C Prevalence

There is no information available on the prevalence of female genital mutilation/cutting (FGM/C) in Romania, either for girls and women who have undergone FGM/C or those who are at risk of FGM/C. According to the European Institute of Gender Equality, this could be explained by the low number of migrants from countries where FGM/C is practised.²

National Legal Framework

General Law

FGM/C is not criminalised specifically under Romanian law, but any act of FGM/C would be criminalised under the general provisions of Romanian criminal law. This is further detailed below, but there is no known case law at present.

There are specific statements mentioning FGM/C in the Romanian legal framework. Firstly, there is a specific statement by the Romanian Government – **Order no. 1136/2007 of the Ministry of Health, in Article 7 under Annex 2** – that any form of FGM/C, as well as any other procedure that can be defined as ‘female circumcision’, is prohibited under sanction of criminal liability. The order also elaborates that a woman’s consent to undergo FGM/C is irrelevant in such cases.

Furthermore, FGM/C is expressly referenced in the **Law on Equal Opportunities for and Equal Treatment of Men and Women** as a form of gender-based violence as defined in **Article 4(l)**¹ of said law.

Additionally, the **Methodology Framework for Multidisciplinary Prevention and Intervention Units and Networks on Cases of Violence against Children**, as approved by **Governmental Decision No. 49/2011**, includes genital mutilation under its definition of 'sexual abuse'. Note that, according to the European Institute for Gender Equality (the *EIGE*), no prevalence study on FGM/C had been conducted in Romania, which can be explained by the low number of migrants from countries where FGM/C is performed.³² According to the EIGE, '[T]here are records of four claims for asylum requested on the grounds of FGM. Asylum was granted in two cases.'⁴

In terms of criminalisation, while specific provisions of the **Penal Code of the Republic of Romania (2009, amended 2017)** (the *Criminal Code*), are not mentioned in Order 1136/2007, FGM/C would most likely be qualified as 'battery and other acts of violence' under **Articles 193–194 of the Criminal Code**, or as 'ill-treatment of a minor in one's care' under **Article 197 of the Criminal Code**.

There are several forms of 'battery and other acts of violence' (*Acts of Violence*), distinguished by the consequences and the intent of those consequences:

- **Article 193(1)** criminalises Acts of Violence causing physical suffering.
- **Article 193(2)** criminalises Acts of Violence causing traumatic injuries or those affecting the health of an individual that need up to 90 days of medical care to heal.

(For both of the above forms of battery, criminal action commences only upon the complaint of the victim.)

- **Article 194(1)** criminalises Acts of Violence causing bodily harm. Bodily harm is present when the act causes:
 - an impairment;
 - traumatic injuries or a health impairment that need more than 90 days of medical care to heal;
 - a serious or permanent aesthetic injury;
 - a miscarriage; or
 - an endangerment of an individual's life.
- **Article 194(2)** criminalises Acts of Violence intentionally inflicting bodily harm.
- The applicable provision depends on the type of FGM/C and any subsequent complications. For example, Types II and III (as defined by the World Health Organization⁵) are likely to fall under **Article 194(2)**, since they are undertaken intentionally and cause serious and, without intervention, permanent aesthetic injury.
- **Article 197 (ill-treatment of a minor in one's care)** criminalises serious endangerment, by treatment of any kind, of the physical, intellectual or moral development of a minor by a parent or any person caring for the minor. This would apply to all types of FGM/C when they are performed by the parents or performed on their orders.

1 Law no. 202/2002 as amended and restated.

2 Note this information was as of February 2012, although we have not been able to identify such a study as at June 2022.

Definition of FGM/C

The law does not contain a definition of 'FGM/C'; however, **Order 1136/2007** clearly states that all forms of genital mutilation and all other procedures that can be qualified as female circumcision are prohibited. That definition should cover all types of 'FGM' as defined by the World Health Organization.⁶

Women and Girls of All Ages

The performance of FGM/C on women and girls of all ages is criminalised in Romania. **Article 7 of Annex 2 of Order 1136/2007** does not mention any age limit and even specifies that any consent is irrelevant to the prohibition of FGM/C. There is also no indication that **Articles 193 and 194** on Acts of Violence put any limit on the age of the victim. Ill-treatment of a minor in one's care would only apply when the victim is a minor (i.e. arguably under 18 years of age at the time of the FGM/C, if FGM/C is sought to be categorised as ill-treatment of a minor).

Procuring, Aiding and Abetting

Procuring, aiding and abetting FGM/C are criminalised in Romania through general criminal law. It is, however, unclear whether procuring FGM/C – when someone has a cutter (or any other person) perform FGM/C on the victim – qualifies someone as a 'joint perpetrator' or an 'accomplice'.

- **Article 46(2) of the Criminal Code** defines 'joint perpetrators' as persons who directly commit the same act that is criminalised by law. It could be argued that if, someone pays another person to perform FGM/C on the victim and is closely involved in planning the FGM/C, such direct involvement would amount to direct commission by multiple persons. However, no other provisions in the Criminal Code have been found to support this argument.
- **Article 48(1) of the Criminal Code** defines an 'accomplice' as someone who in any way aids in or abets the commission of an offence under criminal law.
- **Article 49 of the Criminal Code** prescribes that the co-perpetrator and accomplice to an offence committed with intent be punished with the penalty prescribed for the perpetrator by the law, taking their contribution to the crime into account. This means that someone who arranged FGM/C and contracted/paid a cutter would most likely receive a higher sentence than someone who 'just' allowed the use of their premises.

Failure to Report FGM/C

Failing to report FGM/C has not been specifically criminalised in Romania. However, under **Article 89(3) of the Law on the protection and promotion of the rights of the child [272/2004]** (the *Child Protection Law*), employees of public or private institutions who come into contact with children and suspect possible abuse or maltreatment are obligated to notify the Directorate General for Social Assistance and Child Protection immediately.

Forensic doctors also have a duty to report signs of crimes they find during examinations carried out for cases pending in court. **Article 37(2) of Decision 774/2000** on the organisation of the activity and functioning of forensic medicine institutions prescribes that if, during an examination carried out at the request of parties to a case, a forensic doctor finds forensic signs that indicate an offence that can be prosecuted without the victim pressing charges, he/she must record this in the forensic documents and bring it to the attention of a competent judicial authority.

Medicalised FGM/C

Medicalised FGM/C is criminalised in Romania through general law.

In relation to medical malpractice, **Article 196(3) of the Criminal Code** criminalises inflicting bodily injury (as set out in Article 194(1)) as a result of not complying with the legal provisions and measures for the exercise of a profession.

However, this general law does not seem the most appropriate provision to apply to medicalised FGM/C. First of all, Article 196 in general is focussed on inflicting bodily injury *through* fault; for example, when a doctor ignores certain safety measures during an operation and causes injuries. This does not really apply to FGM/C, since performing FGM/C is a very intentional act. One could hardly say that medicalised FGM/C is a case of a doctor inflicting injury through fault because they did not comply with certain measures. It therefore seems that, although the specific provision of Article 196(3) is in place for criminal prosecution when a person fails to comply with the rules governing a profession, as would be the case for a medical professional, it would be more appropriate to prosecute medicalised FGM/C under **Articles 193 and 194**.

Extraterritoriality

The **Romanian Criminal Code** has extraterritorial application in some cases, which could apply to FGM/C, depending on the circumstances.

- **Article 9(2)** prescribes that Romanian criminal law applies to offences committed outside of the country by a Romanian citizen, provided the act is also an offence under the criminal law of the country where it was committed.
- **Article 10(1)** prescribes that Romanian criminal law applies to offences committed outside of the country by a foreign citizen or a person without citizenship against a Romanian citizen.

These provisions seem to only apply in cases of people of Romanian nationality, not permanent residents.

In any case, **Article 9(2)** could extend extraterritorial application of the Criminal Code when Romanian nationals take their daughters to countries of origin where FGM/C is also a criminal act. **Article 10(1)** could apply in cases where permanent residents of Romania take their Romanian national daughters to countries of origin and have FGM/C performed.

Article 10 gives no requirement of double criminality. However, **Article 10(2)** does stipulate that the Romanian Criminal Code will not be applicable if the offence is already the subject of judicial proceedings in the country where the offence was committed.

Allowing the Use of Premises

Allowing the use of premises for the purpose of FGM/C is criminalised in Romania under the general law criminalising aiding and abetting.

Article 48(1) of the Criminal Code prescribes that anyone who intentionally aids the commission of an offence in any way is an 'accomplice'. Allowing the use of premises for the purpose of FGM/C, thereby granting opportunity and facilitating the commission of the offence, is very likely to qualify as 'aiding'.

Providing or Possessing Tools

Providing tools for the specific purpose of FGM/C is criminalised in Romania under the general law criminalising aiding and abetting. As with allowing the use of premises, providing tools facilitates the commission of the offence and is very likely to qualify as 'aiding'.

Possessing tools for the specific purpose of FGM/C has not been criminalised in Romania, since preparation of an offence has not been criminalised and possessing tools cannot be qualified as an ‘attempt’ under **Articles 32–34 of the Criminal Code**.

Penalties

There are differing penalties for FGM/C in Romania set out in the **Criminal Code**. The penalty for FGM/C would depend on which form of ‘battery and other acts of violence’ would apply to the specific instance of FGM/C.

- **Article 193(1)** prescribes a sentence of *two months’ to two years’ imprisonment or a fine* for Acts of Violence causing any suffering.
- **Article 193(2)** prescribes a sentence of *six months’ to five years’ imprisonment or a fine* for causing a traumatic injury or damage to a person’s health that needs no more than 90 days of medical care to heal.
- **Article 194(1)** prescribes a sentence of *two- to seven-years’ imprisonment* for Acts of Violence causing bodily harm.
- **Article 194(2)** prescribes a sentence of *three- to ten-years’ imprisonment* for intentionally inflicting bodily harm.
- **Article 197** prescribes a sentence of *three- to seven-years’ imprisonment* for ill-treatment of a minor under one’s care.

Cases of FGM/C are very likely to include aggravating circumstances under **Article 77 of the Criminal Code**. The applicable aggravating circumstances are the following:

- committing an offence with cruelty or by subjecting the victim to degrading treatment (**Article 77(b)**);
- committing an offence taking advantage of the obvious vulnerability of the victim due to, *inter alia*, age or other reasons (**Article 77(e)**); and
- committing an offence for reasons of, *inter alia*, gender (**Article 77(h)**).

Article 77(h) would certainly apply, since FGM/C is a form of gender-based violence, as is also stated in Article 4(l) of the Law on Equal Opportunities for and Equal Treatment of Men and Women. Article 78(1) of the Criminal Code prescribes that, in a case with aggravating circumstances, *two years may be added to the original maximum sentence*. These two years may not exceed a third of the original maximum sentence. Since FGM/C would, in many cases, be qualified as ‘intentionally inflicting bodily harm’ with aggravating circumstances present, the *maximum sentence would be 12 years’ imprisonment*.

Protection

Protecting Uncut Women and Girls

There are general child protection laws that protect uncut girls. Under **Article 89(1) of the Child Protection Law**, a child has the right to be protected from all forms of violence. **Article 89(2)** prescribes that any natural or legal person, as well as the child, may refer the matter to the Directorate General for Social Assistance and Child Protection of the county where the child lives to take appropriate measures to protect the child. Under **Article 98 of the Child Protection Law**, the Directorate General has the mandate to verify and resolve all reports of abuse and ensure the provision of protective services as enumerated in **Article 119 of the Child Protection Law**.

There are three types of services mentioned in **Article 119(1)** – day, family and residential.

- **Article 120(1)** describes ‘day services’ as those that ensure the maintenance, restoration and development of the child’s and parents’ capacities in order to overcome situations that could lead to the child’s separation from his/her family.
- **Article 121** describes ‘family services’ as those that, at the home of a natural person or a family, provide the upbringing and care of children who have been separated, either temporarily or definitively, from their parents as a result of enforcing the placement measure in accordance with the present law.
- **Article 123(1)** describes ‘residential services’ as those that ensure the protection, upbringing and care of children separated, temporarily or permanently, from their parents, following the establishment, under the conditions of this law, of the measure of placement.

Furthermore, under **Article 68(1)(a)**, a child can be temporarily put in emergency placement in case of subjection to violence.

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

Victims

There are no specific laws protecting victims of FGM/C in Romania. However, **Article 90 of the Child Protection Law** prescribes that all relevant actors, including public authorities and private bodies, must take all appropriate measures to facilitate the physical and psychological recovery and social reintegration of any child who has been the victim of any form of abuse, torture or cruel, inhuman or degrading treatment, and ensure that the conditions necessary for the child’s rehabilitation and reintegration are conducive to the child’s health, self-respect and dignity.

Implementation of The Law

Court Cases

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

Conclusions and Recommendations

Conclusions

The criminality of FGM/C and the application of the **Criminal Code** to FGM/C has been confirmed by the Romanian Government in a **governmental order**.

The governmental order does not contain a definition of 'FGM/C', but clearly states that all **types of FGM/C** are prohibited. This should cover all types of 'FGM' as defined by the World Health Organization. **Medicalised FGM/C** is not specifically addressed, but is likely to be covered by the general criminality of FGM/C.

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

There is an **obligation to report** FGM/C to the authorities for employees of public and private institutions who come into contact with children and suspect possible abuse or maltreatment.

The Criminal Code extends **extraterritorial application** of Romanian criminal law to the performance of FGM/C abroad, regardless of double criminality, if the *victim* has Romanian nationality. If only the *perpetrator* has Romanian nationality, extraterritorial application is extended under the requirement of double criminality.

Recommendations

We recommend that Romania order an inquiry into the prevalence of FGM/C and the number of girls and women possibly at risk of FGM/C.

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

We also recommend that Romania extend extraterritorial application of Romanian criminal law, regardless of double criminality, to cases where the perpetrator has Romanian nationality or is a habitual resident of Romania, and where the victim is a habitual resident of Romania.

Appendix I: International and Regional Treaties

ROMANIA	Signed	Ratified/ Acceded	Reservations on reporting?
International			
International Covenant on Civil & Political Rights (1966) (ICCPR) ⁷	✓ 1968	✓ 1974	No
International Covenant on Economic, Social & Cultural Rights (1966) (ICESCR) ⁸	✓ 1968	✓ 1974	No
Convention on the Elimination of All forms of Discrimination Against Women (1979) (CEDAW) ⁹	✓ 1980	✓ 1982	No
Convention on the Rights of the Child (1989) (CRC) ¹⁰	✓ 1990	✓ 1990	No
Regional			
Istanbul Convention ¹¹	✓ 2014	2016	Yes*
European Convention on Human Rights ¹²	✓ 1993	✓ 1994	No

* 'In accordance with Article 78, paragraphs 1 and 2, of the Convention, Romania reserves the right not to apply or to apply only in specific cases or conditions the provisions laid down in:

- Article 30, paragraph 2;
- Article 44, paragraphs 1.e, 3 and 4;
- Article 55, paragraph 1, in respect of Article 35 regarding minor offences;
- Article 59.'

'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 of Romania

Art. 9

- (1) Legea penală română se aplică infracțiunilor săvârșite în afara teritoriului țării de către un cetățean român sau de o persoană juridică română, dacă pedeapsa prevăzută de legea română este detențiunea pe viață ori închisoarea mai mare de 10 ani.
- (2) În celelalte cazuri, legea penală română se aplică infracțiunilor săvârșite în afara teritoriului țării de către un cetățean român sau de o persoană juridică română, dacă fapta este prevăzută ca infracțiune și de legea penală a țării unde a fost săvârșită ori dacă a fost comisă într-un loc care nu este supus jurisdicției niciunui stat.
- (3) Punerea în mișcare a acțiunii penale se face cu autorizarea prealabilă a procurorului general al parchetului de pe lângă curtea de apel în a cărei rază teritorială se află parchetul mai întâi sesizat sau, după caz, a procurorului general al parchetului de pe lângă Înalta Curte de Casație și Justiție. Termenul în care procurorul poate emite autorizarea este de până la 30 de zile de la data solicitării autorizării și poate fi prelungit, în condițiile legii, fără ca durata totală să depășească 180 de zile.

Art. 10

- (1) Legea penală română se aplică infracțiunilor săvârșite în afara teritoriului țării de către un cetățean străin sau o persoană fără cetățenie, contra statului român, contra unui cetățean român ori a unei persoane juridice române.
- (2) Punerea în mișcare a acțiunii penale se face cu autorizarea prealabilă a procurorului general al Parchetului de pe lângă Înalta Curte de Casație și Justiție și numai dacă fapta nu face obiectul unei proceduri judiciare în statul pe teritoriul căruia s-a comis.

Art. 46

- (1) Autor este persoana care săvârșește în mod nemijlocit o faptă prevăzută de legea penală.
- (2) Coautori sunt persoanele care săvârșesc nemijlocit aceeași faptă prevăzută de legea penală.

Art. 48

- (1) Complice este persoana care, cu intenție, înlesnește sau ajută în orice mod la săvârșirea unei fapte prevăzute de legea penală.
- (2) Este de asemenea complice persoana care promite, înainte sau în timpul săvârșirii faptei, că va tăinu bunurile provenite din aceasta sau că va favoriza pe făptuitor, chiar dacă după săvârșirea faptei promisiunea nu este îndeplinită.

Art. 49

Coautorul, instigatorul și complicele la o infracțiune săvârșită cu intenție se sancționează cu pedeapsa prevăzută de lege pentru autor. La stabilirea pedepsei se ține seama de contribuția fiecăruia la săvârșirea infracțiunii, precum și de dispozițiile art. 74.

Art. 77

Următoarele împrejurări constituie circumstanțe agravante:

- a) săvârșirea faptei de trei sau mai multe persoane împreună;
- b) săvârșirea infracțiunii prin cruzimi sau supunerea victimei la tratamente degradante;
- c) săvârșirea infracțiunii prin metode sau mijloace de natură să pună în pericol alte persoane ori bunuri;
- d) săvârșirea infracțiunii de către un infractor major, dacă aceasta a fost comisă împreună cu un minor;

- e) săvârșirea infracțiunii profi tând de starea de vădită vulnerabilitate a persoanei vătămate, datorată vârstei, stării de sănătate, infirmității sau altor cauze;
- f) săvârșirea infracțiunii în stare de intoxicație voluntară cu alcool sau cu alte substanțe psihoactive, când a fost provocată în vederea comiterii infracțiunii;
- g) săvârșirea infracțiunii de către o persoană care a profitat de situația prilejuită de o calamitate, de starea de asediu sau de starea de urgență;
- h) săvârșirea infracțiunii pentru motive legate de rasă, naționalitate, etnie, limbă, religie, gen, orientare sexuală, opinie ori apartenență politică, avere, origine socială, vârstă, dizabilitate, boală cronică necontagioasă sau infecție HIV/SIDA ori pentru alte împrejurări de același fel, considerate de făptuitor drept cauze ale inferiorității unei persoane în raport cu celelalte.

Art. 78

- (1) În cazul în care există circumstanțe agravante, se poate aplica o pedeapsă până la maximumul special. Dacă maximumul special este neîndestulător, în cazul închisorii se poate adăuga un spor până la 2 ani, care nu poate depăși o treime din acest maximum, iar în cazul amenzii se poate aplica un spor de cel mult o treime din maximumul special.
- (2) Majorarea limitelor speciale ale pedepsei se face o singură dată, indiferent de numărul circumstanțelor agravante reținute.

Art. 193

- (1) Lovirea sau orice acte de violență cauzatoare de suferințe fizice se pedepsesc cu închisoare de la 3 luni la 2 ani sau cu amendă.
- (2) Fapta prin care se produc leziuni traumatice sau este afectată sănătatea unei persoane, a cărei gravitate este evaluată prin zile de îngrijiri medicale de cel mult 90 de zile, se pedepsește cu închisoare de la 6 luni la 5 ani sau cu amendă.
- (3) Acțiunea penală se pune în mișcare la plângerea prealabilă a persoanei vătămate.

Art. 194

- (1) Fapta prevăzută în art. 193, care a cauzat vreuna dintre următoarele consecințe:
 - a) o infirmitate;
 - b) leziuni traumatice sau afectarea sănătății unei persoane, care au necesitat, pentru vindecare, mai mult de 90 de zile de îngrijiri medicale;
 - c) un prejudiciu estetic grav și permanent;
 - d) avortul;
 - e) punerea în primejdie a vieții persoanei, se pedepsește cu închisoarea de la 2 la 7 ani.
- (2) Când fapta a fost săvârșită în scopul producerii uneia dintre consecințele prevăzute în alin. (1) lit. a), lit. b) și lit. c), pedeapsa este închisoarea de la 3 la 10 ani.
- (3) Tentativa la infracțiunea prevăzută în alin. (2) se pedepsește.

Art. 196

- (3) Când fapta prevăzută în alin. (2) a fost săvârșită ca urmare a nerespectării dispozițiilor legale sau a măsurilor de prevedere pentru exercițiul unei profesii sau meserii ori pentru efectuarea unei anumite activități, pedeapsa este închisoarea de la 6 luni la 3 ani sau amenda.

Art. 197

Punerea în primejdie gravă, prin măsuri sau tratamente de orice fel, a dezvoltării fizice, intelectuale sau morale a minorului, de către părinți sau de orice persoană în grija căreia se află minorul, se pedepsește cu închisoarea de la 3 la 7 ani și interzicerea exercitării unor drepturi.

Order 1136/2007 of the Ministry of Health

Annex 2

Art. 7

Sub sancțiunea răspunderii penale și civile, se interzic mutilarea genitală sub orice formă, precum și orice altă procedură ce poate fi definită ca o circumcizie la femei; nu este luat în considerare acordul femeilor la niciuna dintre procedurile definite ca circumcizie a propriei persoane.

Law on Equal Opportunities for and Equal Treatment of Men and Women

Art. 4

- (l) prin violență de gen se înțelege fapta de violență direcționată împotriva unei femei sau, după caz, a unui bărbat, motivată de apartenența de sex. Violența de gen împotriva femeilor este violența care afectează femeile în mod disproporționat. Violența de gen cuprinde, fără a se limita însă la acestea, următoarele fapte: violența domestică, violența sexuală, mutilarea genitală a femeilor, căsătoria forțată, avortul forțat și sterilizarea forțată, hărțuirea sexuală, traficul de ființe umane și prostituția forțată.

Child Protection Law

Art. 68

- (1) Plasamentul în regim de urgență este o măsură de protecție specială, cu caracter temporar, care se stabilește pentru copilul aflat în următoarele situații:
 - a) abuzat, neglijat sau supus oricărei forme de violență;

Art. 89

- (1) Copilul are dreptul de a fi protejat împotriva abuzului, neglijării, exploatării, traficului, migrației ilegale, răpirii, violenței, pornografiei prin internet, precum și a oricăror forme de violență, indiferent de mediul în care acesta se află: familie, instituții de învățământ, medicale, de protecție, medii de cercetare a infracțiunilor și de reabilitare/detentie, internet, mass-media, locuri de muncă, medii sportive, comunitate etc.
- (2) Orice persoană fizică sau juridică, precum și copilul pot sesiza direcția generală de asistență socială și protecția copilului din județul/sectorul de domiciliu să ia măsurile corespunzătoare pentru a-l proteja împotriva oricăror forme de violență, inclusiv violență sexuală, vătămare sau de abuz fizic sau mental, de rele tratamente sau de exploatare, de abandon sau neglijență.
- (3) Angajații instituțiilor publice sau private care, prin natura profesiei, intră în contact cu copilul și au suspiciuni asupra unui posibil caz de abuz, neglijare sau rele tratamente au obligația de a sesiza de urgență direcția generală de asistență socială și protecția copilului.

Art. 98

În vederea asigurării respectării dreptului prevăzut la art. 89 alin. (1), direcția generală de asistență socială și protecția copilului este obligată:

- a) să verifice și să soluționeze toate sesizările privind posibilele cazuri de abuz, neglijare, exploatare și orice formă de violență asupra copilului;
- b) să asigure prestarea serviciilor prevăzute la art. 119, specializate pentru nevoile copiilor, victime ale abuzului, neglijării, exploatării și oricărei forme de violență asupra copilului.

Art. 119

- (1) Pentru prevenirea separării copilului de părinții săi, precum și pentru realizarea protecției speciale a copilului separat, temporar sau definitiv, de părinții săi, se organizează și funcționează următoarele tipuri de servicii:
 - a) servicii de zi;
 - b) servicii de tip familial;
 - c) servicii de tip rezidențial.
- (2) Regulamentul-cadru pentru organizarea și funcționarea serviciilor prevăzute la alin. (1) se aprobă prin hotărâre a Guvernului.

Art. 120

- (1) Serviciile de zi sunt acele servicii prin care se asigură menținerea, refacerea și dezvoltarea capacităților copilului și ale părinților săi, pentru depășirea situațiilor care ar putea determina separarea copilului de familia sa.
- (2) Accesul la aceste servicii se realizează în baza planului de servicii sau, după caz, a planului individualizat de protecție, în condițiile prezentei legi.

Art. 121

Serviciile de tip familial sunt acele servicii prin care se asigură, la domiciliul unei persoane fizice sau familiei, creșterea și îngrijirea copilului separat, temporar sau definitiv, de părinții săi, ca urmare a stabilirii în condițiile prezentei legi a măsurii plasamentului.

Art. 123

- (1) Serviciile de tip rezidențial sunt acele servicii prin care se asigură protecția, creșterea și îngrijirea copilului separat, temporar sau definitiv, de părinții săi, ca urmare a stabilirii în condițiile prezentei legi a măsurii plasamentului.
- (2) Din categoria serviciilor de tip rezidențial fac parte toate serviciile care asigură găzduire pe o perioadă mai mare de 24 de ore.
- (3) Sunt considerate servicii de tip rezidențial și centrele maternale.
- (4) Serviciile de tip rezidențial care aparțin autorităților administrației publice se organizează numai în structura direcției generale de asistență socială și protecția copilului, în regim de componente funcționale ale acestora, fără personalitate juridică.
- (5) Serviciile de tip rezidențial se organizează pe model familial și pot avea caracter specializat în funcție de nevoile copiilor plasați.

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- 1 National Institute of Statistics (2020) *Resident population on January 1, 2020 decreasing with 96.5 thousand people*. Available at https://insse.ro/cms/sites/default/files/com_presa/com_pdf/poprez_ian2020r.pdf (accessed 23 May 2021).
 - 2 European Institute for Gender Equality (2013) *Current situation of female genital mutilation in Romania*. Available at <https://eige.europa.eu/publications/current-situation-and-trends-female-genital-mutilation-romania> (accessed 23 May 2021).
 - 3 *Ibid.*
 - 4 *Ibid.*
 - 5 World Health Organization (2020) *Factsheet: Female Genital Mutilation*. Available at [https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation#:~:text=Female%20genital%20mutilation%20\(FGM\)%20involves,benefits%20for%20girls%20and%20women](https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation#:~:text=Female%20genital%20mutilation%20(FGM)%20involves,benefits%20for%20girls%20and%20women) (accessed 23 May 2021).
 - 6 *Ibid.*
 - 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 (accessed 23 May 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 (accessed 23 May 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 (accessed 23 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 (accessed 23 May 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?module=signatures-by-treaty&tratynum=210> (accessed 23 May 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 23 May 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&tratynum=005](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?module=signatures-by-treaty&tratynum=005) (accessed 23 May 2021).
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Cover images: Image of Romania from Canva photo library.
Paul Gulea (undated) *Happy African American girl with afro hairstyle, putting hands on cheeks and touching po[c]ket, standing in folk cultural center* . . . 123RF ID 125522012.

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.

The information in this report has been compiled in cooperation with Ashurst LLP and Middelburg Human Rights Law Consultancy from documents that are publicly available and is for general information purposes only. It has been prepared as a work of legal research only and does not represent legal advice in respect of any of the laws of Romania. 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.

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