

GERMANY – Country Sheet

ASYLUM LAWS, POLICIES AND PRACTICES IN EUROPEAN COUNTRIES: WHAT IS THE IMPACT ON FGM-AFFECTED WOMEN AND GIRLS?

Main issues

1. Qualification

a. Legal framework

In Germany, FGM can be a ground for asylum according to the Asylum Act as (Section 3.a.2.1) acts of physical or mental violence, including acts of sexual violence; [...] 3.a.2.6. acts which are of a gender-specific and non-state nature or are directed against children.” And for belonging to a certain social group (Section 3.b.).

Categories of asylum seekers that are granted asylum based on FGM in Germany are: Women and girls being at risk of FGM; Women and girls who have already undergone FGM Parents protecting their minor daughters from FGM and unmarried siblings of a minor.

b. Criteria for assessment

For women and girls at risk of FGM:

In Germany, age of risk and socio-economic situation are explored based on the COI. There is a safe country of origin list, which includes Ghana and Senegal, which are not safe for women due to widespread FGM.

For women and girls who have already undergone FGM:

In Germany, women who have undergone female genital mutilation must have a medical certificate that meets certain criteria and are entitled to asylum on that basis since 2013.

c. Country of Origin Information

In Germany, the asylum authority (BAMF) has a Country-Specific Analysis department, which is the author of 22 COI, which are available to access to the public. The COI on Eritrea has a section on FGM.

2. Procedures

a. Early identification of vulnerable persons, provision of information and related support

In Germany, there is no systematic *identification* of special needs, despite a 2016 amendment to the German Asylum Act. Moreover, by law, there is no obligation for the federal states to transmit information about an applicant's vulnerabilities to the BAMF (German Federal Office for Migration and Refugees). Moreover, there is only an obligation to duly carry out the interview in cases where vulnerable people are involved, but not to provide adequate support to applicants in need of special procedural guarantees, as the Recast EU Procedures Directive would impose. Authorities rather rely on the official in charge of the interview to detect vulnerabilities, for what has been generally described as "a matter of luck and coincidence".

Since August 2018, group *information* and individual counselling sessions on the asylum procedure have been held at the AnKER facilities by the BAMF. However, often asylum seekers are not aware that these counselling services exist.

In terms of *support*, asylum seekers should ask at the moment of their application registration for an officer and interpreter of their preferred gender, and the request will be followed to the extent possible. Moreover, they are allowed to bring an accompanying person of choice. Applicants are however not always aware of this possibility. In addition, applicants have often reported issues with interpreters in terms of lack of preparation between applicant and interpreter prior to the interview, and abuse of power and intimidation by interpreters. Finally, the introduction of accelerated asylum procedures undermines the adequacy of the applicants' preparation.

b. Available gender-sensitively trained stakeholders

In Germany, the German Federal Office for Migration and Refugees (BAMF) has specially trained decision-makers to deal with gender-based human rights violations, such as rape, forced prostitution and other types of sexual abuse, threat of genital mutilation. Moreover, the BAMF has its own pool of interpreters for hearings. However, they are not always trained on gender-sensitivity, and at times they are not prepared to translate very specific and technical language and medical terms.

c. Role of certificates in the asylum procedure / cooperation between sectors

In Germany, for the decision-making at BAMF, the credibility and proof of a potential threat to life or physical integrity in the region of origin is crucial. For this purpose, BAMF requires an expert opinion. However, in practice, many physicians may not issue such a certificate due to uncertainties in dealing with FGM. Such medical certificates are not covered by the health insurance.

d. Protection measures for refugee women and girls at risk of FGM

In Germany there is no such obligation.

e. Late disclosure and the credibility issue

Late application does not invalidate the request for international protection, but it is an element to be evaluated in terms of credibility. It is very common that the profiles of vulnerability of victims of FGM emerge only at the presentation of a second asylum application, in consideration of the difficulty of making this life experience to emerge before the presentation of the first application.

f. Family reunification

Generally, there are no ways to facilitate family reunification of girls at risk of FGM (unless they fall into the family reunification criteria, which concerns spouses, (dependent) parents and minor children).

In general, when it comes to family reunification procedure of unaccompanied minors with a relative in another European country, most of the countries require a Best Interest Assessment of the child to be drafted, in order to examine if it is really in the best interest of the child to be reunified with the family member. In this context, the possibility that the relative would submit the minor girl to FGM could be investigated, through the opening of a risk assessment file.

g. Dublin decisions' effects on procedures

It would be possible to argue for overthrowing a Dublin decision based on the fact that the country of first entry does not offer sufficient protection to asylum applicant. In situations of vulnerability, it is possible to lodge appeals against Dublin decisions for reasons of, for example, interruption of the therapeutic path in progress in the second country. It would be equally possible to overthrow a Dublin decision if there was a risk of chain refoulement in case the applicant is sent to another Member State in the context of the Dublin Regulation.

3. Reception Conditions

a. Gender-sensitive reception centres

In Germany, there is great variety between states and municipalities concerning reception conditions (that can range from apartments to mass housing) and there are no uniform national standards. Women and men are separated in the same reception centre, and many accommodations provide protected areas or specific services for women and children only. Families are generally kept together. In some states there are accommodations that are specially designed for particularly vulnerable groups, such as women (Bavaria, Berlin, Hamburg and North Rhine-Westphalia). Many reception centres offer leisure activities for children and women affected by violence.

b. Gender-sensitive accessible general and specialised services

In Germany many reception centres offer trauma therapy, counselling and leisure activities for children and women affected by violence.

c. Policies to prevent and respond to gender-based violence in reception centres

In Germany, there are Minimum standards for a protection concept in refugee accommodation. However, they are not mandatory and only used as a guideline for the development and implementation of protection policies in refugee accommodation. Many operators already have policies and systems in place to prevent and respond to gender-based violence that might occur in reception centres. There is no generalised procedure to inform asylum-seeking women about the criminalisation of FGM and gender-based violence while they are in the reception centres during their asylum application.

d. Dublin decisions' effects on reception conditions

In all countries, a woman/girl who is subject to a Dublin decision still has all the rights associated with the status of asylum seeker.

4. Data collection

e. National registry for FGM cases in the asylum system

In Germany, the reasons for asylum requests are not recorded nor are the grounds on which it is decided to recognise or deny women's applications.

5. Integration

f. Tailored service provision after being granted asylum

In Germany, whether refugees are put in touch with civil society organisations dealing with FGM or made aware of the illegality of the practice depends on the social workers in the reception centres.