



Ad-Hoc Query on Female Genital Mutilation and Asylum in the EU

Requested by SE EMN NCP on 1st of February 2010

Compilation produced on 22nd of March 2010

Responses from [Austria](#), [Belgium](#), [Cyprus](#), [Czech Republic](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Hungary](#), [Latvia](#), [Malta](#), [Poland](#), [Portugal](#), [Slovak Republic](#), [Slovenia](#), [Spain](#), [Sweden](#), [United Kingdom](#) (18 in Total)

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1. Background Information

The Swedish EMN NCP has received an ad-hoc query on Female Genital Mutilation and Asylum in the EU from one of our national network partners.

The WHO estimates that around 100-140 million women and girls have been subjected to Female Genital Mutilation (FGM), with an estimated 3 million at risk each year. The practice of FGM is widespread in large parts of Africa, some countries in the Middle East and in some communities in Asia and Latin America. The practice is also prevalent in the EU among certain communities originating from countries where FGM is practiced. The exact number of women and girls living with FGM in Europe is still unknown, although the European Parliament estimates that it is around 500,000 with another 180,000 women and girls at risk of being subjected to the practice every year.



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FGM is a form of gender-based violence that inflicts severe harm, both mental and physical, and amounts to persecution. According to the UNHCR Guidance Note on Refugee Claims relating to FGM, FGM constitutes both gender-based and child specific persecution. Claimants are usually the women or girls who fear undergoing FGM and/or the girl's parents who fear persecution for opposing a social norm. They are also in principle protected by the 1951 Geneva Convention according to the UNHCR since their opposition to a social norm discriminating against women creates a fear of persecution.

The EC Reception Conditions Directive sets out minimum standards for the reception of asylum seekers. The Commission's proposal has strengthened the directive by referring to the need to take into consideration the gender and age of applicants. During the debates on the proposal, the European Parliament has included a specific reference to victims of FGM under the mention of persons with special needs who require special protection. Both Commissioner Reding and Commissioner Malmström referred in their EP hearings to the need for the EU to protect women and girls at risk for FGM.

We kindly ask you to provide your answers by the 19th of February.

2. Responses

		Wider Dissemination?	<ol style="list-style-type: none"> 1. Have there been any cases of FGM-related asylum claims in your country? How many and where from? Were any of them unaccompanied minors? How many claims were granted? 2. Do you have a coordinator and/or focal point dealing with FGM? Are you working in close contact with NGOs specialised on FGM? Please specify which ones. 3. Do you have any established guidelines on how to deal with FGM related asylum claims? Has your state adopted gender guidelines? 4. Do asylum seekers with FGM have access to specialised health care upon arrival in the country?
	Austria	NO	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	<ol style="list-style-type: none"> 1. Yes. We have cases of mothers who invoke a fear of FGM for their daughter(s) (most of the cases), as well as cases of young women who invoke fear of FGM. Both are included in the following table with FGM-numbers for 2009.





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	Refusal (RS+SP)	Convention Status	S B	Others	Total
Afghanistan	0	0	1	0	1
Angola	1	0	0	0	1
Armenia	0	0	1	0	1
Burkina-Faso	0	2	0	0	2
Cameroon	4	2	0	0	6
Congo RDC	1	0	0	0	1
Ivory Coast	1	4	0	0	5
Djibouti	1	1	0	0	2
Egypt	0	1	0	0	1
Gambia	1	0	0	0	1
Guinea	16	65	0	1	82
Kenya	5	4	0	1	10
Liberia	2	1	0	0	3
Mauritania	4	3	0	0	7
Niger	0	4	0	0	4
Nigeria	6	0	0	0	6
Uganda	2	0	0	0	2
Senegal	1	3	0	0	4
Sierra Leone	4	2	0	0	6
Sudan	0	4	0	2	6
Somalia	4	3	0	0	7
Chad	0	1	0	0	1
Togo	1	0	0	0	1
TOTAL	54	100	2	4	160


2. Yes. Within the Belgian Commissariat-general for Refugees and Stateless persons there is a FGM coordinator and a gender coordinator. In Belgium, the NGO GAMS (Groupe pour l'abolition des mutilations sexuelles) assists women who underwent FGM, activities : raising awareness, training, research, individual support, support for students, workshops

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			<p>(http://www.gams.be/) Other NGO's/organisations specialized in FGL active in Belgium: La Palabre (www.la.palabre.org), Le collectif liégeois contre les mutilations génitales féminines (CMGF), SOBSI (Somalisch-Belgische Sociale Integratie Email: sobsi@representative.com) GAMBEL (Gambian-Belgian Association Email : gambel.org@hotmail.com)</p> <p>3. Yes. A woman who invokes the risk of FGM of her daughter can be granted refugee status. Conditions: her nationality must be clearly established, the fear that her daughter is at risk of FGM must be real and the protection provided by the state must be insufficient/non-existing. Of course, the risk must also be in line with available COI (Belgium has Subject Related Briefings on FGM for most countries where this practice exists). Additional conditions: the woman must bring her daughter at risk with her to the asylum interview (to verify the parental link), she must provide medical proof that her daughter(s) underwent/ did not undergo FGM; if there is doubt about the parental link: DNA-testing is possible. When the refugee status is granted, a clause will be included in the decision pointing out that: the Belgian commissariat-general has the authority to withdraw the recognition decision when it would become clear that the daughter underwent FGM and that this is punishable (prison sentences) under Belgian law.</p> <p>4. Yes. Asylum seekers are immediately after their claim received in open reception centres managed by FEDASIL (institution in charge of the reception of asylum seekers in Belgium arrival). Women from countries where FGM exists, will systematically be interviewed by a social assistant and if necessary be referred to GAMS or another NGO for assistance. GAMS works with a network of doctors, midwives, gynaecologists with raised awareness and special training to deal with FGM</p>
	Cyprus	Yes	No, there have not been any cases of FGM-related asylum claims. There was one case of a Kenyan woman who firstly filed an application having a claim of FGM but later on withdrew her application. Anyhow, every case is examined individually and according to its facts. Surely, an FGM claim is examined by a female eligibility officer, and according to the national legislation, a person subjected to such a practice will receive, if there is consent, the relevant psychological or medical support, either when the person requires it prior to the interview or request it during the interview.
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Estonia	Yes	<ol style="list-style-type: none"> 1. There haven't been any FGM-related asylum claims in Estonia. 2. No, we have no coordinator or NGO contact dealing specifically with FGM. 3. We have no guidelines on how to deal with FGM related asylum claims. 4. Asylum seekers with FGM have access to a general health control.
	Finland	Yes	<ol style="list-style-type: none"> 1. In Finland there have been only a few FGM -related asylum claims. Those cases have also included claims on forced marriage but plausibility of those claims has proved to be difficult to assess. It is obvious that many applicants have been subject to FGM but never refer to it during the asylum process. Finnish Immigration Service hasn't any information in relation to FGM performed in Finland or persons sent abroad for FGM. 2. We have not nominated anyone particular as a coordinator or a focal point dealing with FGM. 3. Each case is being individually assessed and examined. 4. All asylum seekers have access to basic health care services. Asylum seekers are also provided with health advice and based on their individual needs all the necessary health care services, even the specialised care.

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	<p>France</p>	<p>Yes</p>	<p>1. In France, there have been cases of FGM, more specifically cases of excision regarding Malian nationals and to lesser extent Senegalese nationals. In 2008, there were more than 3 350 Malian asylum applications (684 re-examinations and 1 288 accompanying minors) mainly motivated by the problem of excision.</p> <p>2. The OFPRA (French Office for the Protection of Refugees and Stateless People) deals with asylum applications and as a matter of fact is faced with the issue of FGM. Nevertheless, in France, there is no focal point strictly dealing with FGM.</p> <p>3. The OFPRA (French Office for the Protection of Refugees and Stateless People) has changed its guidelines over the last years:</p> <ul style="list-style-type: none"> • The jurisprudence Sissoko of the CNDA (National Court of Asylum) of December 7th 2001 recognized the refugee status on the basis of membership of a social group to Malian parents. These ones were exposed, because of their refusal to submit their minor daughter to the practise of excision, to violence directed against them and to the risk that their child may be excised against their will. <p>Thus, children who had undergone FGM as well as their parents (when they could prove that mutilations had been held against their will) could be entitled to the recognition of refugee status.</p> <p>However, this jurisprudence concerned asylum seekers who had recently fled their country to escape the risk of FGM.</p> <ul style="list-style-type: none"> • Yet, since 2007, the profile of asylum seekers from Mali has changed and asylum applications based on the risk of excision are mainly lodged by people who have been in France for several years, legally and illegally, declaring their intention to withdraw their children born in France to the practice of excision if they return to their country of origin. <p>Unlike the jurisprudence Sissoko, this is not the risk of excision that motivated the initial departure from the country of origin, and in most cases, the OFPRA has noticed that personal fears expressed by parents were unfounded; only children may actually have been exposed to inhuman and degrading treatment.</p> <ul style="list-style-type: none"> • Thus, the OFPRA has changed its doctrine in 2008, after conducting a study mission in Mali and considered it appropriate in this case to give the child the benefit of subsidiary protection, and to reject the asylum application of the parents. <p>To protect itself against the risks of abuse of process, the OFPRA only recognizes and renews subsidiary protection to a child on presentation of a medical certificate attesting that she has not been excised.</p> <p>In March 2009, the CNDA (National Court of Asylum) has made a series of decisions that give the child and her parents the benefit of subsidiary protection. In this case, the parents automatically get a temporary residence permit for one year, renewable as long as subsidiary protection is maintained.</p> <p>4. There is no specific plan for people who were victims of FGM. However, asylum seekers with FGM on the same level as asylum seekers in general benefit from the support of many associations regarding health care.</p>
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SE EMN Ad-Hoc Query: Female Genital Mutilation and Asylum in the EU





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	Germany	Yes	<p>1. There are individual cases in Germany where the applicant claims a threat of FGM as a reason for her asylum application. However, information on the number of asylum applications or decisions based on FGM are not available, since the reasons for escape are not recorded in the statistics. For the same reason, it is not possible to name specific countries of origin and/or age groups of applicants (minors).</p> <p>2. With regard to gender-specific persecution, the Federal Office for Migration and Refugees has specially trained caseworkers. Additionally, the section “Asylum Procedure Management” has collected addresses of different contact persons who can offer assistance on the subject of FGM. Where appropriate, caseworkers can access this list and provide the respective applicants with information on contact points. The range of these contact points covers regional offices or representations of NGOs, local groups assisting refugees, medical practitioners and qualified individuals.</p> <p>3. Germany has so-called “Quality Handbooks” and instructions for interviewing and for the decision procedure, which also cover the treatment of victims of gender-specific persecution. Decision-making with regard to gender-specific persecution, in particular FGM, is managed by way of internal directives, e.g. the directive on persecution in connection to membership of a certain social group, and by country-specific guidelines.</p> <p>4. The provision of medical services to asylum seekers is in the competence of the individual federal <i>laender</i>. If required, access is provided to the necessary medical or psychological treatment. This applies also to care for FGM victims. Facilitation of networking (see answer 2) serves to provide applicants with information on advice and support beyond the capacity of authorities.</p>
	Hungary	Yes	<p>1. In Hungary two FGM-related Nigerian unaccompanied minor asylum-seekers were granted refugee status. It turned out later that the claim of one of them was unjustified and she was qualified as an abuser of international protection. Therefore, her refugee status was withdrawn by the authority. Other FGM-related asylum-seekers were not granted international protection.</p> <p>2. In Hungary there is not any coordinator, focal point or NGO contact who deals specifically with FGM.</p> <p>3. Because of the small number of FGM-related asylum-seekers Hungary did not work out any specific guidelines on how to deal with these types of cases. However, the Hungarian authorities do every possible action to ensure their interests and rights in the asylum procedure.</p> <p>4. Asylum seekers with FGM have access to a general health control but there is not any specialised health care available for FGM-related asylum-seekers. According to Hungarian legislation, in order to determine whether the person requesting recognition, the refugee or the beneficiary of subsidiary or temporary protection, requires special treatment, the refugee authority may, with the consent of the affected person, use the assistance of a medical or psychological expert.</p>
	Latvia	Yes	<p>We have not had any the cases of FGM – related asylum claims in the Republic of Latvia till now.</p>
	Malta	Yes	<p>1. Have there been any cases of FGM-related asylum claims in your country? How many and where from? Were any of them unaccompanied minors? How many claims were granted?</p> <p>The Office of the Refugee Commissioner, has dealt with one case of FGM. An Ethiopian family claimed that they cannot return to Ethiopia because they do not want FGM to be practiced on their minor daughter. In this case, asylum was not granted because according to the Country of Origin information, the Ethiopian government had banned the practice in 2004. Although, in certain regions of Ethiopia FGM is widely practiced, there are certain regions which do not practice FGM so prevalently (e.g. Tigray and Gambela regions).</p>

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


			<p>2.Do you have a coordinator and/or focal point dealing with FGM? Are you working in close contact with NGOs specialised on FGM? Please specify which ones.</p> <p>From the information made available to the NCP, the refugee Commissioner, the Ministry of Health all indicate that no official coordinator or focal point dealing with FGM has been identified as yet. However, a Migrant Health Unit was set-up in 2008. The Unit organises specific FGM focus groups for women. One of the roles for this unit is for Capacity Building and Knowledge sharing.</p> <p>The UNHCR, has a focal point in the Protection Team who liaises and assists the Government entities in dealing with FGM claims. The UNHCR office was made aware of some FGM cases directly by the applicants seeking protection, who approached the office for any possible intervention; In one particular case, the UNHCR was in communication with the Refugee Appeals Board and provided information on the nature of an FGM claim. The UNHCR also attended one of the discussions which the Appeals Board organised on the above mentioned case so as to share its views on the matter.</p> <p>3.Do you have any established guidelines on how to deal with FGM related asylum claims? Has your state adopted gender guidelines?</p> <p>The UNHCR has guidelines on FGM related asylum claims including those found in the ‘Guidance Note on Refugee Claims relating to Female Genital Mutilation’ and the ‘Guidelines on International Protection: Gender Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees’ to mention a few.</p> <p>The asylum claims concerning FGM before the Refugee Commissioner have so far been minimal. The Ministry is aware of the above mentioned UNHCR guidelines in this regard.</p> <p>4.Do asylum seekers with FGM have access to specialised health care upon arrival in the country?</p> <p>Asylum seekers are provided with generic medical service offered by a private company which provides the closed centres with a doctor and another service provider provides a nurse, however referrals to psychological care is available on request. Over the past four years, the service has only come across one patient from East Africa, who had suffered female genital mutilation.</p> <p>Furthermore, checks with the Ministry of Social Policy, confirm that the Hospital Activity Analysis at the Gozo General Hospital and at the Mater Dei Hospital in Malta do not have any activity related to FGM practice.</p> <p>The Migrant Health Unit, reported that during the course of a focus group carried out last October almost all Somali migrant women claimed that they had undergone FGM when they were children. However, Ms Podda Connor was never approached to have the procedure performed on their daughters, in Malta.</p> <p>In fact the majority of women who attended this course said that they and their spouse, are against this practice and will not have it performed on their daughters.</p>
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			Since FGM asylum seekers have just general care upon arrival, Ms Podda Connor, the person responsible of the Migrant Health Unit, suggests that it would be good if health professionals in Obstetrics and Gynaecology address this issue since a number of women have asked about de-infibulation. FGM, says Dr Podda Connor, must not be taken as cultural relativism as migrant women in the focus groups have shown that it is not something they are happy with. On the contrary they speak about it as an agonising experience in their childhood which is still effecting them physically and psychologically.
	Poland	Yes	<ol style="list-style-type: none"> 1. There is no statistics available on reasons of seeking the asylum. Due to the gender structure (mainly single males) of the applicants from the countries of origin where FGM is a problem this is a rare issue in PL. There was only one case in the recent (2006 – 2009) years where FGM was claimed the reason of fear of persecution and the real country of origin of the applicant was never established with satisfactory certainty (Burundi/Uganda/Tanzania). Surprisingly, from time to time, male applicants claim they feared of persecution because they opposed or agitated against FGM practices (2 cases from Sierra Leone remembered, 2006, 2009). No unaccompanied minors with FGM related claims were recorded. No positive decisions relating to those applicants were issued. 2. There is no focal point concerning specifically FGM. NGO's are contacted upon necessity. PL applies Standard Operating Procedures on Sexual Gender Based Violence. 3. PL does not have guidelines on how to deal with FGM related asylum claims. PL does not have guidelines on gender in asylum procedures. <p>Asylum seekers with FGM have access to health care on general terms applying to all asylum seekers.</p>
	Portugal	Yes	Portugal didn't register, until this moment, any asylum seekers victims of female genital mutilation, so for that reason Portugal don't have experience in these cases.
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Slovak Republic had only one case of this kind, however after the commencement of the asylum procedure the asylum seeker left the country. 2. Slovak Republic does not have a focal point or coordinator dealing with FGM. There are no NGOs which would specifically and exclusively deal only with this issue. 3. Slovak Republic does not have specific guidelines on this issue. In this case SR applies the Act on Asylum (Nb. 480/2002), i.e. in case of a vulnerable asylum seeker the interview is conducted by a decision maker who is specialized in dealing with vulnerable asylum seekers. 4. These women belong to the group of vulnerable asylum seekers and according to the Act on Asylum (Nb. 480/2002), they are provided medical and psychological care and/or mental treatment.
	Slovenia	Yes	<ol style="list-style-type: none"> 1. We had no FGM asylum cases in past five years. 2. There is no such NGO organisation, specialized for FGM in Slovenia. We also do not have a focal point . 3. No, we do not have such guidelines.

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			4. They have access to general healthcare, the same as other asylum applicants.
	Spain	Yes	<ol style="list-style-type: none"> 1. Spain has received applications for asylum on grounds of female genital mutilation; however, statistics do not specify the reason for the application for international protection. Nevertheless, we are aware that applications for protection putting forward this motive have been filed. In most cases, lack of credibility has been proven. The nationalities of those who claim FGM are Nigerian and Somali. 2. All experts on international protection who analyse these cases have been trained on matters related with FGM. In fact, a “Good Practices Guide” has been compiled for the study of this issue, and there has been participation in training and awareness courses. On the other hand, Law 12/2009 of 30 October 2009 governing the right to asylum and subsidiary protection (BOE number 263 of 31 October), has set forth a protection framework aimed at individuals in situations of vulnerability, for which a differentiated treatment is foreseen. 3. The “Guide on Female Genital Mutilation as grounds for Applications for Asylum”, UNHCR, May 2009, is also used. Law 12/2009 of 30 October also considers the concept of the <u>social group</u> of the collective which flees, depending on the circumstances in the country of origin, due to well-founded fears of suffering persecution for reasons of gender, sexual orientation or age. 4. Like all asylum seekers, they are entitled to specialized healthcare.
	Sweden	Yes	<ol style="list-style-type: none"> 1. In Sweden we have had FGM-related asylum claims but unfortunately there is no statistics available on the subject neither on asylum claims or numbers granted. We do know that most come from Somalia and Eritrea but has no experience of unaccompanied minors. Cases from Somalia and Eritrea are granted if there is a risk of FGM in the home country. 2. No, we have no coordinator or NGO contact dealing specifically with FGM. 3. Sweden have guidelines on how to deal with FGM related asylum claims and gender guidelines. 4. Asylum seekers with FGM have access to a general health control. As to healthcare, adult asylum seekers have access to health care that cannot be delayed. Asylum seeking children have the right to health care on the same terms as children resident in Sweden.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. In the UK, there are no statistics available on the number of FGM related asylum claims. 2. No, we have no co-ordinator. The UK Border Agency engages with stakeholders on gender issues in the asylum claim, but there is no single NGO dealing specifically with this issue that we engage with. 3. Yes, the UK does have guidelines on how to deal with these claims. Specifically: <ul style="list-style-type: none"> • Women who may be subject to FGM have been found by the courts in some circumstances to constitute a particular social group (PSG) for the purposes of the 1951 Convention. Whether a PSG exists will depend on the conditions in the "society" from which the applicant comes. If there is a well-founded fear, which includes evidence that FGM is knowingly tolerated by the authorities or they are unable to offer effective protection, and there is no reasonable possibility of internal flight, an applicant who claims that she would on return to her home country suffer FGM may

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			<p>qualify for refugee status.</p> <ul style="list-style-type: none"> • There is also country specific guidance in the Operational Guidance Notes produced by our Country Specific Policy Team (CSPT) on countries where FGM frequently features in asylum claims, eg on Sierra Leone (attached). The UKBA Country of Origin Information Service (COIS) country reports provide information about country practices (summarised in the attached survey). If an applicant has a well-founded fear of FGM but does not come within the Convention definition of a PSG, we would consider the grant of Humanitarian Protection (which equates to the EU Qualification Directive provisions for 'subsidiary protection') in recognition of the need for international protection. <p>4. Asylum seekers with FGM have access to general healthcare and specialist healthcare if necessary.</p>
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