

ITALY – 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 Italy FGM is ground for international protection, not explicitly, but based on the combined provisions in the Qualification Decree of Articles 7(2)(A) (“acts of physical or psychological violence including sexual violence”) and 8(1)(D) (“acts directed against a particular social group”), FGM constitutes a form of gender-based moral and physical violence, on the grounds of which international protection can be recognised. Article 3(4) ensures that the law covers past and future persecution (past persecution being a serious indication of the applicant’s well-founded fear of persecution or real risk of suffering serious harm unless there are reasons to believe that the persecution or serious harm will not be repeated and provided that there are no serious humanitarian reasons that prevent the return to the country of origin).

b. Criteria for assessment

For women and girls at risk of FGM:

In Italy, the age of risk is in practice assessed based on available literature, as it is the socio-economic situation, and on the specific profile of the applicant. The COI is of course very relevant to determine the gender-based persecution. Moreover, list of safe countries adopted in 2019 include Ghana and Senegal which are not completely safe for women due to widespread FGM. However, the Ministry of Foreign Affairs didn’t take into consideration this information, so now women and girls coming from those two countries and being affected by FGM have less protection, within the limited terms of accelerated procedures (1-week time, no time for support or medical examinations) and with an additional burden of proof (they have to prove that that safe country is not safe for them).

For women and girls who have already undergone FGM:

In Italy the use of a medical certificate in these cases is not compulsory but quite often used by the applicants to prove the violence suffered, and it is taken into consideration during the assessment. The risk of future re-infibulation in the event of repatriation is an element taken into account by the Territorial Commissions during interviews.

c. Country of Origin Information

In Italy the COI Unit of the National Asylum Commission uses the COI database ecoi.net and Refworld as sources for COI, which are available online on all countries, as well as documents from UNHCR or EASO. The fact they are in English was a problem but that was solved with arrival of new case workers. The gender analysis is not present in those sources, but they are quite complete. Case workers have received an initial training on many protection related issues, including COI research. There are also many Training courses organised at the national level by the National Commission, or at local level. Some of these courses focus on SGBV related issues, including FGM.

2. Procedures

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

In Italy, there is no procedure defined in law for the *identification* of vulnerable persons, however EASO and UNHCR help putting it in place in practice. Police should hand out *information* brochures to asylum seekers with information over reception conditions as well as contacts of UNHCR and refugee-assisting NGOs. However, in practice this is not done on a regular basis due to the insufficient number of police staff dealing with the number of asylum applications, as well as to the shortage of professional interpreters and linguistic mediators.

In terms of *support*, despite the existence of [national guidelines on SGBV](#), support programs, are not implemented in an integrated manner that is consistent throughout all Italian regions. This inadequacy has led to a service offer that is geographically fragmented throughout the Italian territory, thus insufficient. This is due to both lack of funding and autonomy of the regions when it comes to defining which are the minimum levels of assistance it will provide to asylum seekers. It is not possible to choose the gender of the professionals involved in the asylum procedure. However, during the interview with the Territorial Commission, the applicant may have a same sex interviewer/Commissioner as foreseen in the law See art. 12, para 1 bis Legislative decree 25/2008. Free legal assistance and representation during the first instance of the regular and prioritised procedure is not guaranteed, so in practice, if they don't find an association able to provide such service, the vast majority of applicants go through the personal interview without the assistance of a lawyer. Finally, due to the Salvini Decrees, access to services is reduced for accelerated procedures for asylum seekers from safe countries of origin, and a type of reception centre (SPRAR) that provided a series of services even for vulnerable individuals, including FGM survivors, has been dismantled. Now asylum seekers can only be accommodated in Emergency Reception Centres (CAS), where the level of services is almost non-existent (besides from the provision of minimal medical services).

b. Available gender-sensitively trained stakeholders

In Italy, all governmental caseworkers receive specific initial and continuous training on SGBV and FGM. However, for all other professionals, FGM training in practice exists but is

not done in a systematic way nor on the whole Italian territory or on a regular basis. Specific trainings on FGM are mainly organised by NGOs. Concerning interpreters, territorial commissions are provided with lists by agencies and organisations that provide the names of the interpreters. It must be noted that this takes place only at regional basis and not at national level nor in a consistent manner. Trainings for the interpreters are organised by the National Commission, but the regional distribution and the turn-over make the organization of specific trainings more difficult.

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

In Italy, where the Territorial Commission deems it relevant for the assessment of the application, it may, subject to the applicant's consent, arrange for a medical examination (free of charge) of the applicant concerning signs that might indicate past persecution or serious harm, but it is not compulsory. In practice, medico-legal reports are generally submitted to the Territorial Commissions by specialised NGOs, legal representatives and personnel working in the reception centres before, or sometimes during or after, the substantive interview at first instance. Despite formal protocols not existing, referral mechanisms are often in place.

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

In Italy, there is no obligation to put in place protection measures for women and girls who have been granted asylum based on their risk to undergo FGM.

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 together with others in terms of credibility. It is more likely 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 Italy, in all types of reception centres there are separate spaces for men and women, apart for households whose family unit is maintained. In general, concerns have systematically been raised about the high variability in the standards of reception centres in practice, which may manifest itself in: overcrowding and limitations in the space available for assistance, legal advice and social life; physical inadequacy of the facilities and their remoteness from the community; or difficulties in accessing appropriate information. Nevertheless, it must be pointed out that the material conditions also vary from one centre to another depending on the size, the occupancy rate, and the level and quality of the services provided by the body managing each centre.

b. Gender-sensitive accessible general and specialised services

In Italy, the Decree of the Ministry of Interior of 20 November 2018 cancelled all integration services as well as funding related to psychological support, which is guaranteed only in CPR (*Centri di permanenza per rimpatri*) and hotspots.

In many regions, there is an absence of connection between reception facilities and medical, health and social personnel specialised in the recognition and treatment of violence, including FGM (for example: with health agencies, with anti-violence centres). Asylum seekers suffering from mental health problems, including FGM survivors, are entitled to the same right to access to health treatment as provided for nationals by Italian legislation. In practice, they may benefit from specialised services provided by the National Health System (for free) and by specialised NGOs or private entities depending on the geographical location. Where not available women and girls may be referred to another region as FGM trained personnel works in informal networks.

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

In Italy, reception centres pay specific attention to gender-based violence prevention, through for instance separate spaces for women and men, but also minors. Even family units could be separated in the case of domestic violence, upon decision of the juvenile prosecutor's office or the juvenile tribunal. Within reception centres there are operators

who are required to maintain a high attention to signs of domestic violence, which must be reported to the responsible prefecture.

There is no information on the criminalisation of GBV or FGM systematically made available in reception centres.

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

i. Trends

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

5. Integration

f. Tailored service provision after being granted asylum

In Italy, the law does not provide for accessing to specific services after leaving the reception centres, but refugees are entitled to the same health care services as everyone else. At the local level, practices may change based on the work of the operators of the individual reception centre. There is also no obligation to provide information around specialised services for female refugees coming from FGM-affected countries.