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THE NETHERLANDS – 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 the Netherlands, women and girls at risk of being cut can be given asylum (subsidiary protection). Categories of asylum seekers that are granted asylum based on FGM in the Netherlands are: Women and girls being at risk of FGM; Women and girls who have already undergone FGM (and who could be at risk of re-cutting); Parents protecting their daughters from FGM and minor siblings; Individuals opposing FGM (necessary to demonstrate the real risk of persecution).

In the Netherlands, there is the legal status of "*refugee sur place*", where international protection is granted for applicants coming from FGM-affected countries but who are born in the Netherlands and face return at the time the claim is lodged.

b. Criteria for assessment

For women and girls at risk of FGM:

In the Netherlands, all is based on COI (which often cite anonymous sources not corroborated by any other authoritative official source). In terms of socio-economic situation, the court cases show that circumstances such as economic independency, level of education of the mother or living in an urban area are included in the assessment of the risk. In terms of unaccompanied minors, there is no legal indication that unaccompanied children are more likely to be granted asylum than accompanied children fearing FGM. Of course, it will be much more difficult for the Immigration Services to proof that the parents of the child are able to protect her against FGM. As per the Dutch list of safe country of origin, the migration services have the assumption that the asylum seeker faces no genuine risk. Since for none of the safe country of origin 'girls at risk of FGM' form a group of exception or special attention, the burden of proof is much heavier.

For women and girls who have already undergone FGM:

In the Netherlands, women and girls are not granted asylum if they have undergone FGM (it is a hypothetical right under traumatic reasons but never applied). The risk of re-cutting is however recognized in case-law.

c. Country of Origin Information

In the Netherlands, COI Reports (both per country as thematic) are written by the Dutch Ministry of Foreign Affairs on a limited number of countries. These are realised with the Ministry's own methodology and through fact finding country missions. Most of the sources that they speak on their fact-finding mission are presented as anonymous sources in the final report, which makes the verification challenging (especially when they are in open contradiction with authoritative UN sources). When Dutch COI are not available, other international sources are used such as ecoi.net or the US State Department country reports and authoritative UN or NGOs reports. The gender-analysis contained in the reports depends on the authors.

2. Procedures

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

In the Netherlands, vulnerabilities can be identified on the basis of signals from partners in the asylum process such as AVIM, COA or security, or on the basis of personal observation by the IND employee during or around the interview according to an instruction (2015/8), which helps them shape the necessary procedural support and guarantees. Asylum seekers are invited to undergo a voluntary medical advice, where special needs can be identified. The government provides information to asylum seekers through distributing flyers. Moreover, this is also done individually or in a group-setting by the volunteers of the Dutch Refugee Council (VluchtelingenWerk Nederlands), which is an NGO.

b. Available gender-sensitively trained stakeholders

In the Netherlands, training is organised by NGOs or EASO modules are available for asylum officers but not mandatory. There is no specific mandatory training on GBV or FGM. Freelance interpreters employed by the IND are considered independent and neutral so they are not provided any training. In practice, not all languages are always available.

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

In the Netherlands, it is not a hard requirement, but it is possible (and fairly conventional) to put forward a medical and/or psychological report to support a FGM claim. Most notably one can contact the independent organisation IMMO to assess the asylum seeker both physically as mentally. All exchange of personal details happen always with the authorisation of the asylum seeker.

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

In the Netherlands there is no such obligation.

e. Late disclosure and the credibility issue

In the Netherlands there are no specific provisions for the late disclosure of FGM (unlike for example for homosexuality).

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 the Netherlands, for safety reasons, single men and women are never placed together in a room. Families are placed as a family unit in a room in the reception location. If safety requires this, the offer of customized solutions in terms of accommodation at the reception location will be addressed. In addition, there are special activities for women and girls in every reception location. These are focused on pleasure, meeting and relaxation. Examples of this are the women's coffee room, various sports activities for women such as yoga and pilates and girls' evenings. These take place under the guidance of the COA staff by volunteers from local NGOs.

b. Gender-sensitive accessible general and specialised services

In the Netherlands, in every reception centre (COA) there is a healthcare centre connected with the Healthcare for Asylum Seekers service (GZA). There, personnel has a contract with the GGD GHOR NL which provides group information on various topics in the context of health promotion including the prevention of Female Genital Mutilation among asylum seekers. This information is only open to residents of COA locations and there are no costs for residents. Women who have health problems after FGM can go to FGM consultation hours in the region. In addition, suitable 2nd line / mental health care is available for all reception centres' residents, upon referral from the general practitioner. This care falls

under the Asylum Seekers Medical Care Regulations (RMA) and there are no costs for residents. The contracted care providers are located in the neighbourhoods of the COA locations.

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

In the Netherlands, in every reception centre there are 2 to 5 (depending on the size) attention officers for domestic violence and child abuse. They are trained to recognize signals and are in charge of the reporting code. In addition, information meetings are organized for all COA employees to recognize signs of violence, including the action perspective that follows. In case violence occurs, either the perpetrator is brought to a different centre or the woman is transferred into a women's shelter in the municipality in collaboration with the network Veilig Thuis. In every reception centre there is also a contact person for human trafficking / smuggling at every location to signal to the police signs of forced prostitution.

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 the Netherlands, 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 the Netherlands, there is no such information provided on services or illegality of FGM once moving out of the reception centre. However, such information was given during the asylum procedure.