



Co-funded by the
European Union



SPAIN – 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 Spain, although FGM is not specifically mentioned as a reason for persecution, gender can be included as a cause for persecution and therefore women and girls are considered for refugee status for belonging to a specific social group (art. 7. 1 e) Law 12/2009, of October 30). Moreover, FGM is considered an act (not a reason) of persecution, since article 6 of the law includes the different ways in which an act of persecution can occur, including “acts of physical or psychological violence, including acts of sexual violence”.

Categories of asylum seekers that are granted asylum based on FGM in Spain are: Women and girls being at risk of FGM; Parents protecting their daughters from FGM and uncut siblings; Individuals opposing FGM (necessary to demonstrate the real risk of persecution); women already cut. Little by little the Spanish Asylum Office is granted protection to women that have already undergone FGM. However, it is not assured that it as a fixed criteria of protection yet, and the coming asylum applications based on being already cut will need to be analysed.

In Spain, 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 Spain (but have nationality of the parents) and face return at the time the claim is lodged.

b. Criteria for assessment

For women and girls at risk of FGM:

In Spain, age of risk and socio-economic situation are explored based on the COI. There is no safe country of origin list.

For women and girls who have already undergone FGM:

In Spain, recently there have been a significant change of criteria in terms of women and girls who have already undergone FGM. Progressively Spanish Asylum Office is recognizing

protection to women and girls who have already undergone FGM. However, it is needed to keep the track to these cases in order to assure this criteria is maintained in future.

c. Country of Origin Information

Spain uses the European COI database (ecoi.net) and Refworld as sources for COI, which are available online on all countries, as well as info from UNHCR or EASO.

2. Procedures

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

In Spain, once vulnerable applicants are *identified*, there are reception centres for receiving asylum seekers with a vulnerable profile financed by MITRAMISS (Ministry of Labor, Migration and Social Security) and managed by different entities. *Information* on the procedure is provided to applicants at an early stage only upon contacting a specialised entity before formalising the asylum application. However, in most cases applicants are informed about the asylum procedures and the qualification criteria once the first asylum interview is completed. So, it's very common that women and girls are unaware that they can apply for asylum in relation to FGM.

In terms of *support* services for vulnerable applicants, there is only possibility to choose the sex of the interpreter, and not in every case. Moreover, there are many differences among the reception centres and in general there is a lack of gender perspective. Provision of services such as social and psychological attention in these facilities is also not systematic. Finally, there isn't a legal support system to prepare the case/interview, which is mainly left to NGOs.

b. Available gender-sensitively trained stakeholders

In Spain, training is being provided in the General Directorate for International Protection to incorporate the gender perspective into the asylum analysis and internal guidelines have been developed. However, in practice, despite the increasing sensitivity at all levels, there is a lack of asylum professionals specifically trained in gender-, age- and cultural-sensitive procedures. Translation and interpretation services are managed by a private company which manages the interpretation of asylum interviews in all police stations, detention centres and in the Asylum and Refuge Office where asylum interviews are held.

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

In Spain, the OAR does not establish the obligation of a medical certificate. However, it is a tool for the defence of the asylum application. Currently Médicos del Mundo Spain is the organization in charge to the medical exploration and provides this medical certificate. Moreover, a medical report from the gynaecology department from the Public Health System is an accepted document to prove FGM. Regarding the psychological certificate or another discipline, it could be another tool to support the file, as long as there are significant elements to reflect (for example: trauma, social aspects that reflect why the woman or girl does not want to submit to a medical examination). There is still little info, training and attention to

psychological consequences of FGM and there isn't a list of experts or a reference NGO in charge to provide the psychological certificates. The direct cooperation that might happen between all the aforementioned actors is of course based on the consensus of the asylum seeker.

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

In Spain no protection measures for refugee women and girls at risk are in place.

e. Late disclosure and the credibility issue

Late disclosure 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.

Moreover, currently Spain is in a process of streamlining the procedures and processes for asylum seekers, which if the information on the reasons for requesting asylum is not provided prior to the first interview, may make it impossible to access asylum for reasons of FGM at a later stage.

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 Spain, each reception center has its own procedures, but in general there are separate areas for women and men (including separate floors). There are a few specific women's centres, both with dependent children and without them. In common areas there isn't a gender perspective, so there are mainly occupied by men.

b. Gender-sensitive accessible general and specialised services

In Spain, the reception centres for women are gender sensitive. These women and girls are referred to the public health services, where they may be able to find trained professionals. Also the professionals of reception centres normally refer to expert NGOs for assessment. In Spain asylum seekers are entitled to free healthcare, and services depend on the regions, so depending on the advancement of regions with regards to FGM support, there might be more or less services available. There is a prevention network for Female Genital Mutilation at the Comunidad Autónoma de Madrid, coordinated by MDM, and different NGOs, health professionals, regional and local health centres are part of it. Mental healthcare is still scarce throughout the country. Finally, comprehensive care protocols and services for women and girls survivors of FGM have not yet been developed, and therefore the referral and care itineraries are interrupted. In the case of unaccompanied minors, cases of FGM have been detected without addressing or treating due to ignorance. Still many professionals do not treat it in pediatric examination.

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

In Spain, there is a law on Measures of Integral Protection Against Gender Based Violence which applies also to reception centers, there are protocols for action and services, which must be put in place and be referred to in these cases. However, these focus more on domestic violence rather than on all forms of violence, including FGM. Moreover, there is still a lack of training of professionals in gender-based violence, or interventions with an intercultural perspective, or specifically in cases of FGM. Depending on who coordinates the reception centre, information on criminalisation of GBV might or not be given.

Spain is still in the process of guaranteeing resources and comprehensive care services that recognize all forms of gender-based violence according to the framework of the Istanbul Convention, however, they do not always address or address FGM.

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 Spain, 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 Spain such information is given in a non-homogenous way depending on the entity responsible for the reception centre.