

## Persons affected by FGM/C as a reason for protection

### What to do if the Federal Office for Migration and Refugees (BAMF) requires proof?

#### FGM/C: Female Genital Mutilation/Cutting

##### Why can FGM/C be considered a reason for protection?

FGM/C is a serious violation of fundamental human rights and is recognized as **a reason for granting refugee status due to gender-specific persecution** (Section 3a (1) No. 1 of the Asylum Act (AsylG), in conjunction with Section 3a(2) No. 6 of the Asylum Act (AsylG). FGM/C can therefore be a reason for granting refugee status.

This is particularly true when girls and women are at risk of circumcision in their country of origin. If the threat is described in a plausible manner, **refugee status is regularly granted according to the Geneva Convention on Refugees** and therefore a **residence permit is approved**.

## Who has to provide proof?

### *(a) In an ongoing asylum procedure*

Girls and women who a) have already suffered FGM/C and are afraid of further circumcision or b) are from certain countries of origin and fear FGM/C, must submit proof. This falls under the so-called **duty to cooperate** (also the duty to submit evidence) in an asylum procedure.

→ If the BAMF requires a proof, they are **obliged to submit a specialist medical certificate or expert opinion**.

→ An examination to ascertain this proof is considered **reasonable**.

→ We recommend submitting an expert opinion before the hearing.

→ In addition to the medical expert opinion, the person affected should also submit or present a summary assessment in the hearing, including a description of the dangers that they would face if they returned to their country of origin.

Contents should include the following:

- "Non-governmental, gender-specific, individual persecution" that violates human rights due to facts and circumstances that need to be explained clearly
  - Possible revenge by human trafficking gangs
  - Violation of codes of conduct for women in their community of origin
  - There may be additional problems such as forced marriage, second circumcision, abuse, trafficking/forced prostitution, protecting the daughter, or post-traumatic stress disorder (PTSD). These are also facts that should be presented.

## Who has to provide proof?

*b) In revocation proceedings?*

We recommend having an existing injury documented by gynaecologists:

When going back, there is often a risk of being injured again in the event of marriage or the birth of a child.

**Important: According to the EU Directive on Receiving Refugees, girls and women who have already experienced FGM/C are recognized as particularly vulnerable. According to this, they are entitled to special protection and help, e.g., hearing by special representatives and the right to female language mediators. For this, proof of imminent or suffered FGM/C is required.**

## Who can provide a medical certificate?

### *a) For children: a pediatrician*

→ In principle, we recommend presenting proof in the form of a medical certificate and asking their pediatrician to provide written proof.

→ During so-called U-examinations (currently U1 to U9 and J1), i.e., regular examinations to check the general health of the child, the genitals are also examined. Therefore, the person affected does not necessarily have to be re-examined and only a medical certificate for the BAMF has to be issued.

→ Paediatricians may document both an injury and no injury (no existing FGM/C)

→ Examining children as well is generally **considered reasonable**.

**If you have any problems finding doctors to acquire a medical certificate, please contact the Medical Association of Lower Saxony, phone: 0511/380-02, fax: 0511/380-2240, [info@aeKn.de](mailto:info@aeKn.de)**

### *(b) For adult women and adolescents: gynecologists*

→ We advise adolescents and women to contact a gynecologist for a medical certificate.

→ You can document both injuries and no injuries (no existing FGM/C)

## What does the medical certificate or expert opinion have to include?

(a) *In the case of no injuries to genitalia:*

→ It is sufficient to state that the genitalia are not injured

(b) *In the case of genital injuries:*

→ Which type of FGM/C according to WHO (Types 1–4) is it? Which types of injuries can be seen?

→ Health consequences of FGM/C:

→ What needs to be treated, if necessary?

→ What were the possible consequences of no treatment?

→ Physical symptoms perceived should also be documented. Often, those affected have severe pain when urinating, during their period, or during sexual intercourse.

→ Possible risk, pregnancy, medical reasons for an inability to travel

See BAMF'S 2019 regulations, page 175:

[https://www.asyl.net/fileadmin/user\\_upload/Gesetzestexte/DA-Asyl\\_21\\_02\\_2019.pdf](https://www.asyl.net/fileadmin/user_upload/Gesetzestexte/DA-Asyl_21_02_2019.pdf)

### Who bears the costs for the medical certificate/proof/statement?

In principle, the BAMF assumes the costs in this case and discloses these in the request, which is communicated in writing. Otherwise, treatment is initiated over the Asylum Seekers Benefits Act (AsylbLG).

### What happens after providing proof? What residence status do I get?

A residence status according to **Section 25 (2) no. 1 Alt. of the Residence Act (AufenthG)**. A **prohibition of deportation according to Section 25(3) of the Residence Act (AufenthG)** may also be granted.

### Punishability for FGM/C here in Germany

Performing FGM/C is a criminal offense in Germany (**Section 226 a of the Criminal Code (StGB)**) and is therefore considered grievous bodily harm. **Parents who allow their children to be injured in such a way are also liable for prosecution.**

→ They can face up to 15 years in prison.

→ Parents who have their daughter circumcised can be expelled from Germany. This also applies to FGM/C, which is carried out, for example, on holiday abroad.

## Where can I get counselling?

Competent contact persons can be found throughout Germany, including pro-family. The colleagues who are specialized in topics of sexuality, partnership, pregnancy, and family.

## Further information:

[https://fim-frauenrecht.de/wp-content/uploads/2020/09/FGMC\\_Dossier\\_FIM.pdf](https://fim-frauenrecht.de/wp-content/uploads/2020/09/FGMC_Dossier_FIM.pdf)

<https://www.caritasnet.de/export/sites/dicv/fgm/.content/.galleries/downloads/Weibliche-Genitalverstuemmelung-im-luechtlingskontext.pdf>

[https://www.bundesaerztekammer.de/fileadmin/user\\_upload/downloads/pdf-Ordner/Empfehlungen/2016-04\\_Empfehlungen-zum-Umgang-mit-Patientinnen-nach-weiblicher-Genitalverstuemmelung.pdf](https://www.bundesaerztekammer.de/fileadmin/user_upload/downloads/pdf-Ordner/Empfehlungen/2016-04_Empfehlungen-zum-Umgang-mit-Patientinnen-nach-weiblicher-Genitalverstuemmelung.pdf)

<https://www.aerzteblatt.de/nachrichten/131559/Neue-Handlungsempfehlung-zur-Interventionbei-weiblicher-Genitalverstuemmelung-und-Frueh-Zwangsverheiratung>

<https://www.proasyl.de/news/weibliche-genitalverstuemmelung-ist-ein-asygrund/>

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