

Case Summary: Female Genital Mutilation as Basis for Asylum – The Second Positive Decision in Austria

On 5 June 2002 a 14-month-old child from Ethiopia was granted asylum by the Austrian second instance asylum authority, the Independent Federal Asylum Senate (IFAS), on account of her fear of being subjected to female genital mutilation (FGM). During her asylum procedure the girl was legally represented by her mother.

The positive decision was based on well-founded fear of persecution for her membership of a particular social group, namely “Ethiopian women who are to be mutilated”. This was only the second case in Austria in which fear of FGM was regarded a reason for granting asylum.

Key Facts

The applicant belongs to the ethnic minority of the Oromo. Her mother had become pregnant after having been raped by a policeman during an attack by the state’s security forces, who arrested her grandmother.

The applicant feared to be subjected to FGM after her return to Ethiopia.

Country of origin information

The IFAS came to the following conclusions:

- Although the Ethiopian constitution theoretically provides for equal rights for men and women, the latter are, in practice, still politically and socially discriminated.
- FGM is a common practice in many parts of the State. The government, together with international organisations, endeavours to counteract this tradition through educational work. However, no legal sanctions against the practice of FGM have so far been initiated, although punitive measures are supposed to be included into a future revision of the criminal code.
- The Oromo Liberation Front (OLF) is regarded as a terrorist organisation by the Ethiopian government. Thus, the police arbitrarily arrests and tortures ethnic Oromos on the basis of their insinuated association with the OLF.

Legal reasoning

Persecution based on the fear of genital mutilation can be regarded as persecution for membership of a particular social group, namely membership of the “group of Ethiopian women who are to be mutilated”. Upon return to Ethiopia the applicant would run a serious risk of being subjected to FGM, which is to be considered a severe and unjustified infringement of her personal integrity and as an evidence of the oppression of women.

Apart from FGM the applicant’s persecution by state authorities can also not be excluded due to the fact that she belongs to the Oromo minority and that she is a child of rape by a policeman.

Furthermore, it would not be possible for the applicant to move to another region within Ethiopia in view of her own and her mother’s age and the prevailing social situation of women in Ethiopia. They would not be able to establish a new existence without family or tribal links.