Please cite as: EUAA, '5.6.3. Assessing the age of an applicant claiming to be a child' in *Asylum Report 2023*, Mayo 2023.

5.6.3. Assessing the age of an applicant claiming to be a child

5.6.3. Assessing the age of an applicant claiming to be a child

icon presenting assessing the age of a child applicant

ECRE published a legal note on challenges in age assessment procedures and the international and European legal standards that guide the process in January 2023.1406

The Spanish Ministry of Justice approved a preliminary draft of a new law on age assessments. The process aims to bring the legislative framework in line with recommendations from the UNCRC and the Spanish Ombudsperson.1407 Civil society organisations working with unaccompanied minors sent their comments on the draft law. The organisations argued, for example, that the procedure should be planned as preferential but not urgent. This would allow judges to suspend or extend deadlines when necessary to make an adequate age assessment. 1408

Convive-Fundación Cepaim noted that the trend from previous years continued, whereby unaccompanied children arriving in Ceuta and Melilla declared themselves as adults to be transferred more quickly to the mainland.1409

In Luxembourg, due to a rise in the number of applications from unaccompanied minors, and thus in cases where minority was in doubt, the Directorate of Immigration requested an increase in the number of age assessments that could be conducted in a month.

The description of the age assessment method followed by the National Board of Forensic Medicine was updated in Sweden. The procedure itself did not change, but its description became more detailed and transparent to minimise risks and to interpret the margin of errors and factors affecting the statistical model. The legal position on a child's age assessment for family reunification was updated with recent CJEU case law *(see Section 4.14)*. The Netherlands Forensic Institute changed its practice based on a recent literature review, and since October 2022, applicants with a mature collarbone are considered to be at least 18 years old, instead of 20 years.1410

The UNCRC expressed its concern about the generalised use of the age determination procedure in Greece, and it found the procedure to be inappropriate overall.1411 The Greek Council for Refugees observed delays in the age assessment procedure in Samos due to a lack of trained

staff.1412

Caritas International noted a gap in Belgian age assessment practices, leaving several youngsters on the streets without access to material reception conditions. In October and November 2022, the Guardianship Service did not conduct age assessment procedures among the youngsters sleeping outdoors, but without a proof of their minority, these youngsters could not be prioritised for reception. Qualifying as single male adults, they had little chance to be accommodated during the crisis situation *(see Sections 4.7 and 5.6.5)*.1413

The Cypriot Administrative Court of International Protection observed several deficiencies in the age assessment procedure of a Somali applicant. The youngster provided his birth certificate in English, but this was not evaluated by the authorities. He needed to undergo a medical examination, without receiving details on the reason for it nor about the possibility that he can provide comments on the procedure. The choice of method for the medical examination was not reasoned and justified. In addition, for the purpose of family reunification, the authorities took into account the date of his medical examination and not the date of his application for international protection.

The Immigration Appeals Board in Malta examined the age determination process in a case of a child who was declared to be an adult following the age assessment of AWAS, based on a photo of a documentation from the Principal Immigration Officer. The board underlined that the Principal Immigration Officer did not have the right to intervene in age assessment procedures, and AWAS had no competence to review its own age assessment. The applicant was declared to be a minor again and the board ordered that he should be accommodated in the open shelter for unaccompanied minors.

The Council of State in the Netherlands clarified some principles of age determination in the framework of the Dublin procedure. The applicant was registered with different ages – both as a minor and as an adult – in various Member States *(see Section 4.2)*.

The ECtHR found that the age assessment procedure of an unaccompanied child in Italy was in breach of the ECHR, Article 8 (respect for private and family life). The child expressed his wish to apply for international protection, but a guardian was not assigned to him for 6 months and he went through the age assessment procedure without a representative. The authorities did not provide information on the chosen method and its consequences, and they did not send the medical report to him. As there was no formal decision issued to consider him an adult, he was unable to appeal the decision. The Italian authorities failed to apply the principle of the presumption of minority.

- 1406European Council on Refugees and Exiles. (December 2022). Age assessment in Europe. Legal Note #13, 2022. https://ecre.org/wp-content/uploads/2023/01/Legal-Note-13-FINAL.pdf
- 1407Ministry of Justice of Spain | Ministerio de Justicia. (2022, April 20). Anteproyecto de Ley por la que se regula el procedimiento de evaluación de la edad [Draft Law regulating the age assessment procedure]. https://www.mjusticia.gob.es/es/AreaTematica/ActividadLegislativa/Documents/APL%20procedimi

- 1408Spanish Commission for Refugee Aid | Comisión Española de Ayuda al Refugiado. (2022, May 10). ONGs piden permitir documentos de los países de origen de los menores no acompañados en la determinación de su edad. https://www.cear.es/ong-expertas-en-infancia-y-migracion-piden-procedimiento-evaluacion-permita-revisar-sentencias/
- 1409Convive Foundation Cepaim | Convide Fundación Cepaim. (February 2022). Input to the Asylum Report 2023. https://euaa.europa.eu/sites/default/files/2023-02/convive_fundacion_cepaim.pdf
- 1410Immigration and Naturalisation Service | Immigratie- en Naturalisatiedienst. (2022, October 4). IB 2022/92 Toekennen leeftijd bij gestelde Amv [IB 2022/92 Assigning age to an alleged UAM]. https://puc.overheid.nl/ind/doc/PUC_1294821_1/1/
- 1411United Nations Committee on the Rights of the Child. (2022, June 28). Concluding observations on the combined fourth to sixth periodic reports of Greece [CRC/C/GRC/CO/4-6]. https://uhri.ohchr.org/Document/File/115ee2b4-0565-44c3-8973-8319f32fbcd2/E9B9A517-C497-4E44-95B9-5CE737138E51
- 1412Greek Council for Refugees | Ελληνικό Συμβούλιο για τους Πρόσφυγες. (February 2023). Input to the Asylum Report 2023. https://euaa.europa.eu/sites/default/files/2023-02/greek_council_for_refugees.docx
- 1413Caritas Belgium. (2022, November 18). Situatie Pacheco [Situation in Pacheco building]. https://www.caritasinternational.be/wp-content/uploads/2022/12/18.11.22-situatie-Pacheco.pdf

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu