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5.1.2 Determining identity and assessing the age of a child applicant

ation of children travelling alone as unaccompanied or separated from their families remained a challenge in 2020. When children are not identified early in the asylum procedure, they may face detention or return, and they are at greater risk of falling into the hands of traffickers or becoming victims of crime or exploitation. UNICEF analysed the approach taken in selected countries (Bulgaria, Greece, Italy and Serbia) when identifying unaccompanied and separated girls.[1273] Overall a lack of available data and analyses of national and regional situations disaggregated by sex and age on the number and profiles of unaccompanied and separated girls hampered targeted responses. But the report discovered that interviewed children were often not aware of services available to help them, did not have access to information about the asylum procedure, and reported high levels of abuse and exploitation during their travel through Libya, which remained still one of the typical transit routes during 2020.

The identity and age of migrant children is often unclear as many do not have documentation. If there are substantial doubts about a child's age, an age assessment may be carried out by national authorities to determine the correct path for the applicant and ensure best interests in the case of a minor.

In 2020, some EU+ countries reviewed their age assessment procedures. In Greece, age assessments which were previously carried out by the competent structures of the Ministry of Health were shifted to reception centres or other competent facilities which are located close to the residence (for example, a public health facility or specialist doctor).[1274]

The Italian government signed an agreement with regional and local institutions to harmonise age assessment procedures throughout the country.[1275] The procedure would include a multi-disciplinary team with a paediatrician, psychologist, cultural mediator and social worker to undertake the age assessment in an adequate facility, preferably in the reception facility or in a local health care facility. The assessment follows three steps: an interview with the child, a psychological evaluation and a paediatric check-up. Not all steps are obligatory if the age can be assessed after the first or second step.

Following a formal notice from the European Commission in 2018, Bulgaria adopted amendments to the Law on Asylum and Refugees which introduced modifications to the age assessment procedure. Children must be fully informed about the methods of the examination and possible consequences. The examination must respect human dignity and use the least invasive way. If

there are remaining doubts about the age, the applicant will be presumed to be a minor. If a child refuses to undergo an expert examination, this cannot be held as a ground for rejecting the application for international protection.

Rädda Barnen/Save the Children noted that medical age assessment methods have been criticised for several years in Sweden. In response, in 2020 the government initiated a national enquiry on the method of medical age assessments that are currently used by the National Board of Forensic Medicine in the framework of asylum procedures. The results of this inquiry will clarify how a person of an unknown age can be assessed as being older or younger than 18 on the basis of the medical method currently applied.[1276]

The UN Committee on the Rights of the Child (CRC) analysed age assessment procedures, for example in Austria and noted that “the age assessment procedure does not always respect the dignity and the best interests of the child and, despite possible inaccuracy, it is not possible to appeal the outcome of the procedure separately”. The CRC also pointed out that the age assessment procedure, which takes time, affected the appointment of a legal guardian since this is provided after being assigned to a reception facility. The CRC urged having “a legal guardian appointed to all unaccompanied or separated children without delay upon their arrival in the State party”.[1277]

The CRC also recommended to improve age assessment procedures in Hungary, initiate the procedure only in cases of serious doubt and use a multidisciplinary methods. It also called for mechanisms to identify child soldiers so they can be referred protection services for physical and psychological support. Finally, the CRC recommended training border police on children's rights to ensure that alleged cases of violence against children are promptly investigated.[1278]

In Spain (*M.B.* v *Spain*), the CRC ruled that Spain had violated the Geneva Convention, Articles 3 and 12 when registering a minor Guinean national as an adult and detaining him for 52 days prior to implementing a return. The child’s representatives provided a birth certificate, but it was disregarded due to issues with its authenticity. The applicant was then housed in a social residence for adults and was not assigned a guardian. The CRC recommended several general measures to align the age assessment procedure in Spain with the Geneva Convention.[1279]

Following repetitive complaints, the Spanish Ombudsman raised concern to the Public Prosecutor General's Office (*Fiscalía General del Estado*) about a lack of medical evidence and forensic intervention in age assessment procedures and difficulties in appealing the decision. The tests do not follow the guidelines of good practices from the institute of forensic medicine in Spain or guidelines issued by the office of the public prosecutor.[1280]

The French Defender of Public Rights reported to the United Nations Committee on the Rights of the Child that the practices and facilities for age assessments varied considerably across France. In addition, if bone x-rays to assess the age of an applicant remain, a second assessment of the results should be done by specialised doctors.[1281]

In partnership with the Council of Europe, EASO developed a child-friendly video animation on age assessments, which is available in 23 languages. Particularly targeted at the 14- to 19-year-old age

group, the video provides information on the age assessment process and about children's rights and obligations throughout this process.

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