

Highlights

- Children continue to arrive in Europe through mixed migration routes, at times without an adult responsible for them. In 2025, 22,000 unaccompanied children applied for international protection in EU+ countries. When an applicant's age is in doubt, authorities apply age assessment methods to confirm minority or adulthood, which has an impact on the procedures and safeguards to be applied. **Until the adoption of the Pact on Migration and Asylum, EU law did not lay down common requirements governing age determination**. International law, as interpreted by the European Court of Human Rights (ECtHR) and the Committee on the Rights of the Child (CRC Committee), has guided national courts in establishing the standards applicable to age assessments.
- **Under the Pact, for the first time EU law requires that age determination follows a two-step process**, beginning with a multidisciplinary age assessment involving non-medical methods, such as the assessment of documentation, visual assessments based on physical appearance, interviews and psychosocial assessments. This reflects the case law of the ECtHR *(F.B. v Belgium)*, the CRC Committee *(R.Y.S. v Spain)* and domestic courts (including the Czech Constitutional Court and the French Court of Cassation), which have required that age determination be multidisciplinary and authorities assess all available evidence, proceeding from the least to more intrusive methods.
- For the purposes of age assessment, **all available documents**, extending well beyond biometric identity documents, must be taken into account and **treated as genuine** unless proven otherwise (see the CRC Committee's views in *J.A.B. v Spain*). This approach is now codified in Article 25 of the Asylum Procedures Regulation (APR).
- The ECtHR and the CRC have stressed the importance of **interviews** in age assessment procedures, which **must be substantive** *(F.B. v Belgium)* and allow for the meaningful participation of the child (*A.L. v Spain* and *A.D. v Spain*). Examples in national case law, such as Dutch rulings assessing their interview policies prior to the Pact and German case law addressing visual inspections and interviews, have stressed the importance of well-reasoned conclusions that can be traced to the interview findings.
- Pursuant to Article 25(2) of the APR, **a medical examination is permissible only when less intrusive means have proven inconclusive**, and it must respect the applicant's dignity. The ECtHR, the CRC Committee and several national courts have expressed concerns about the invasive nature and reliability of imaging-based methods to estimate age through skeletal development. **Several Member States combine methods**, such as X-rays of the hand, clavicle and jaw. Applicants have the right to access all documents relevant to a medical examination, and reports must clearly indicate the **margin of error**, which should be **interpreted in favour of the applicant**.
- Applicants and their representatives must first **consent to any medical examination**. Informed consent requires explaining the procedure and its consequences, including the

age assessment method and the right to refuse, in a language that the child understands, as addressed for instance in *F.B.* v *Belgium* and German case law.

- The CRC Committee (*J.A.B.* v *Spain*) and the French Constitutional Council have warned against automatically classifying applicants as adults solely because of their refusal to undergo a medical test. The APR provides that such a **refusal may give rise to a rebuttable presumption of majority**.
- **When an applicant cannot be reliably determined to be an adult, they must be given the benefit of the doubt** and treated as a child, according to Article 25(2) of the APR. This principle also affects the assessment of evidence and may imply a more flexible standard of proof. Several national courts, including in the Netherlands and Belgium, have understood that the **burden of proof shifts to the authorities** once an applicant plausibly claims to be a minor.
- Suspected minors and applicants who **plausibly claim to be minors must be presumed to be children from the moment the authorities become aware of it**, insofar as it is not deemed unfounded or unreasonable, and throughout the age determination process. This principle is recognised as part of the right to respect for private life by the ECtHR *(Darboe and Camara* v *Italy)*. The CRC Committee (for example in *A.L.* v *Spain* and *J.A.B.* v *Spain*) and several national courts (for instance in Malta, the Netherlands or Greece) have considered the presumption of minority to extend to a judicial review.
- A key procedural safeguard linked to the presumption of minority is the right to a representative (*Darboe and Camara* v *Italy*). A guardian must be appointed immediately, as early as the screening process, and must remain involved throughout the asylum procedure, including during registration, the procedure to determine the Member State responsible for examining an application, and the age assessment itself.
- **Representatives must be qualified and independent**, meaning free from any potential conflict of interest. The CRC Committee and jurisprudence in Germany (with regard to the procedure for age determination regulated by national law in Section 42f of Book VIII of the German Social Code) have warned against frameworks in which representatives are affiliated with the authority responsible for conducting age assessments or making decisions on custody.
- The ECtHR has emphasised the need for **effective remedies** in age assessment procedures (*Darboe and Camara* v *Italy*). The CRC Committee goes further, requiring direct appeals with an automatic suspensive effect (as in *S.E.M.A.* v *France*). However, **a common EU framework on appeals against age assessment findings does not exist**, and applicants must often challenge related proceedings, such as decisions on guardianship, reception placement or asylum. This may result in situations where an applicant is left without a clear path to challenge the age determination, an issue recently addressed by the Dutch Council of State.
- **Age assessments must be carried out swiftly**. A delay in initiating an age assessment may restrict access to essential protections, while prolonged age determination procedures may obstruct the examination of an application for international protection, family tracing and reunification, or render the process moot due to applicants reaching majority. The ECtHR has typically associated undue delays with a lack of diligence on the part of the authorities (*Abdullahi Elmi and Aweys Abubakar* v *Malta*).

- The implementation of the Pact marks an important shift toward a more structured and uniform age assessment framework across the EU. This new framework significantly enhances the capacity of Member States to manage this important issue by ensuring that support measures are triggered swiftly and placing fundamental rights and the best interests of the child at the centre of convergence efforts on age assessment procedures. The European Union Agency for Asylum (EUAA) will play a central role in equipping Member States with the tools needed to implement the Pact efficiently and in full alignment with human rights standards.

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