

2.1.1. Presumption of authenticity for a wide range of documents

The presumption of authenticity of documents in age assessment procedures rests on soft law and jurisprudence recognising that applicants for international protection, especially minors, often face difficulties in providing evidence. Various ECtHR judgments have affirmed that applicants' statements and supporting documents must be afforded the benefit of the doubt. The court's ruling in *Mugenzi* v *France* (10 October 2014, paras 47 and 51-62) is of particular interest because the ECtHR adopted a reasoning akin to the presumption of authenticity of documents in age assessments by drawing on the evidentiary advantage under Article 11 of the Family Reunification Directive, which – unlike the APR – is not formulated as a strict presumption ("where a refugee cannot provide official documentary evidence of the family relationship, the Member States shall take into account other evidence").13

The case concerned the family reunification of a Rwandan refugee with his wife and children, who lacked identity documents. The refugee submitted various civil status documents, including birth certificates, school certificates, photographs and baptism certificates, to support the minority of his eldest two sons. These documents were disregarded following an oral cavity examination conducted without radiographic imaging by the French embassy in Kenya. The ECtHR found that the authorities had not complied with their obligations under EU law and the government "did not credibly establish that the applicant's allegations concerning the children's age were unfounded", in breach of Article 8 of the ECHR.

Notably, the same presumption of authenticity now codified in the APR appears in the joint General Comment issued in 2017 by the CRC Committee and the Committee on the Protection of the Rights of All Migrant Workers.[i] Accordingly, the CRC Committee's jurisprudence has consistently affirmed that documents submitted by applicants claiming to be minors, even when they are not biometric identity documents, must be accepted at face value unless their authenticity is challenged by the authorities. In several cases, including *R.K.* v *Spain* (18 September 2019, para 9(10)), *A.D.* v *Spain* (4 February 2020, paras 10(10), 15(15) and 10(16)) and *M.B.* v *Spain* (28 September 2020, paras 9(9) and 9(15)), the CRC Committee found that the authorities had breached Articles 8 and 12 of the CRC by dismissing applicants' birth certificates attesting to their age on the ground that they were not biometric identity documents, without formally assessing their content or challenging their authenticity. The committee held in all these cases that the applicants' identities had been unduly altered through the assignment of a different age and their right to be heard during the proceedings had not been respected.

The CRC Committee reached the same conclusions in *J.A.B.* v *Spain* (31 May 2019, para 13(5)), where none of the documents submitted by the applicant, including the full birth certificate, consular identity card, consular registration certificate and passport application receipt, were considered valid prior to the age determination decision. In *R.Y.S.* v *Spain* (4 February 2021, para 8(11)), in which the applicant admitted using and later destroying a false passport to enter the country, the committee likewise found violations of Articles 8 and 12 of the CRC due to the authorities' failure to assign any evidentiary value to the applicant's vaccination booklet, school card and school records which were submitted in support of her claim of minority.

For their part, national jurisdictions, including courts in Czechia and France, have also accepted the *prima facie* validity of documents in age assessment cases, even when the documents were copies or submitted at a later stage, as illustrated by a Czech Constitutional Court judgment delivered in July 2021. In that case, the Czech Constitutional Court overturned the decision determining that a detained Iraqi applicant was an adult based on medical assessments. Although this was not the central issue in the proceedings, the Constitutional Court observed that the Czech Supreme Administrative Court had incorrectly dismissed the applicant's copies of his birth certificate and identity document as "low-quality photocopies" and unverifiable. Referring to the CRC Committee's views in *A.L.* v *Spain* (31 May 2019, paras 12(4) and 12(1)), where authorities had likewise erroneously disregarded a copy of the applicant's birth certificate, the Constitutional Court reviewed the translation of the copies filed by the applicant and found them mostly legible, with only minor uncertainties regarding the exact hour and day of birth. The court found that the copies were neither redundant, irrelevant nor lacking in probative value and, taking into account the difficulties associated with detention and obtaining documents from a conflict zone, held that accepting them as evidence would better uphold procedural fairness.

As seen in the ECtHR's ruling in *A.C.* v *France* (16 January 2025, paras 33 and 215)[i] and a January 2022 ruling of the French Court of Cassation, French courts have similarly applied a presumption of authenticity to civil status documents in age assessment proceedings, based on Article 47 of the French Civil Code, which assumes such documents to be authentic unless there is clear evidence that they are irregular, falsified or factually inaccurate. In both cases, the documents at issue were Guinean *jugements supplétifs* (judicial declarations of birth), as well as, in the first case, a criminal record extract, and in the second, an extract from the civil registry.

The above case law shows that the presumption of authenticity extends well beyond biometric identity documents, such as passports and identity cards, to the broader category of civil status documentation commonly held by children and families, including birth certificates, school certificates, photographs, baptism certificates, consular identity cards, consular registration certificates, passport application receipts, criminal record extracts, civil register extracts, judicial declarations of birth and, in some instances, even copies of birth certificates or identity documents. Reflecting this standard, the recent EUAA Practical Guide on Age Assessment (November 2025, pp. 12, 53, 87) highlights that authorities are required to exhaust all possibilities when assessing documentation and to consider a broad range of evidence beyond identity documents. The guide includes UNHCR travel documents, religious or civil certificates, family vaccination cards or medical records, time-stamped photographs, dated social media posts, statements or documents provided by family members or relatives, and any other means

of proof deemed valid.

[i] Council of Europe, European Court of Human Rights, *A.C. v France*, 15457/2025, 16 January 2025, paras 33, 215.

[i] UN (16 November 2017). Joint General Comment No 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4-CRC/C/GC/23, para 4.

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  Council of the European Union. Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, Articles 9-12 (family reunification of refugees).

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