

2.1.2. Rebutting the presumption of authenticity through substantive challenges

The ECtHR has often recalled that the assessment of civil status documents is a delicate matter, for which national authorities are generally better placed than international human rights bodies; therefore a margin of appreciation must be given (see *Mugenzi* v *France*, 10 October 2014, paras 47, 51-62; *A.C.* v *France*,16 16 January 2025, para 157; and *F.B.* v *Belgium*, 6 March 2025, para 72). This indicates that the criteria for challenging the authenticity of documents submitted by asylum applicants claiming to be minors have largely been developed at the domestic level, where courts have often required that such challenges be substantive, meaning that they must address the specific shortcomings of the documents under analysis and be based on material rather than purely formal considerations.

First, the requirement of specificity entails that any such challenge must identify which concrete elements support the conclusion that the examined documents are not authentic or accurate. Therefore, general assertions about the unreliability of issuing authorities or widespread documentary fraud in the country of origin have been typically regarded as insufficient.

This is exemplified in case law involving the use of expert reports to assess documents, including from the Danish Refugee Appeals Board (1 November 2025), which gave decisive weight to a passport screening by the National ID Centre; the Dutch Court of the Hague seated in Middelburg (21 January 2021) disregarding a family booklet based on an expert report pointing to the fact that the legalisation of the document had been falsified; and French and German case law.

Notably, in *A.C.* v *France* (16 January 2025, paras 33 and 215),17 a case concerning a non-asylum-seeking Guinean applicant, the ECtHR endorsed the French national practice of presuming the authenticity of civil status documents submitted as proof of age and requiring authorities to challenge them specifically rather than merely questioning their general reliability. Although in the case the ECtHR found a violation of Article 8 of the Convention due to the authority's failure to provide adequate information on the age assessment and the decisions concerning childcare *(see Section 5.2)*, it held that the applicant had been afforded an effective remedy to challenge the decisions. This was partly because a domestic court ultimately upheld the applicant's appeal on the basis of his civil status documentation, finding that the expert report questioning their validity had not identified any falsification but had instead improperly questioned the documents' validity because they did not contain photographs identifying their

holder and because of the general problem of widespread documentary fraud in Guinea.

In the same vein, in *O.A.* v *Denmark* (7 November 2017, paras 2(9), 8(8), 8(11) and 8(12)), the UN Human Rights Committee noted that Danish authorities had disregarded a Syrian applicant's family book and birth certificate on the basis of inconsistencies and background information indicating that, after 4 years of war, the civil registry in Syria was no longer functioning. The committee found that the domestic authorities had not undertaken "any act to verify the documents", among other considerations leading to the conclusion that the handling of the case violated Articles 7 and 24 of the International Covenant on Civil and Political Rights (ICCPR).

Also addressing Syrian documents, the Higher Administrative Court of Rhineland-Palatinate (26 January 2024) questioned the reliability of Syrian civil, family and birth records by specifically pointing out that a birth had been registered 15 years after it occurred, after the applicant had left Syria and that this was inconsistent with customary registration practices and the family's earlier registration of younger siblings. For its part, the Higher Administrative Court of Bremen (27 June 2024) did not accord probative value to the birth certificate of a Ugandan applicant claiming minority, noting that her stated place of birth differed from that indicated in the certificate and adding that the certificate could not benefit from the presumption of authenticity, given the unreliability of the Ugandan civil registration system.

Second, challenges must go beyond purely formal objections, such as the absence of a translation or legalisation, which courts and international bodies – including the CRC Committee or the French Court of Cassation – have considered immaterial to the probative value of documentary evidence in the context of an age assessment. In this respect, the French Court of Cassation ruled that two reports by the Document Fraud and Identity Division (DEFDI) based on the lack of legalisation of submitted civil status documents were insufficient to rebut the presumption of authenticity. The applicant, whose majority had been established following a bone examination, had submitted a *jugement supplétif* (judicial declaration of birth), a civil register extract and, subsequently, a passport. The Court of Appeal dismissed the documentation based on the DEFDI reports, which initially relied on the absence of any legalisation of the civil status documents and later on the lack of double legalisation, the presence of a second wet stamp mark on the tax stamp suggesting that it had been reused, and the fact that the passport had been issued on the basis of the contested documents. However, the Court of Cassation held that the formal objections from the DEFDI were insufficient to rebut the presumption of authenticity of civil status documents pursuant to Article 47 of the Civil Code, as they did not demonstrate that the document itself was fraudulent or factually inaccurate.

Similarly, in *U.A.* v *France* (5 July 2024, para 8(5)),18 the CRC Committee examined the case of a non-asylum-seeking Pakistani national who had been deemed an adult following a summary age assessment based largely on physical appearance, during which his original birth certificate was also disregarded on formal grounds, including a lack of translation and legalisation. On appeal, the applicant submitted a translated birth certificate, an embassy-issued extract, a youth identity card and copies of his parents' identity documents, none of which were given probative value due to the absence of legalisation. The committee did not find the lack of a translation or legalisation sufficient to justify dismissing the documents and recalled that States may not disregard original, official identity documents unless their validity has been formally contested,

finding violations of Articles 3, 8 and 12 of the CRC.

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  Council of Europe, European Court of Human Rights, *A.C. v France*, 15457/2025, 16 January 2025, para 157.

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

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  UN Committee on the Rights of the Child, *U.A. v France*, CRC/C/96/D/132/2020, 5 July 2024, para 8(5).

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