

3.2.1. Radiological methods and the right to physical integrity

In its landmark judgment in *Darboe and Camara* v *Italy* (21 July 2022, paras 33, 67, 85-87 and 136-147), the ECtHR referred to several human rights instruments and cautioned States against the use of X-rays for age determination, citing concerns that such procedures are intrusive, unreliable and potentially harmful because of exposure to ionising radiation. The court recalled that medical assessments should specify their margin of error. In this case, a Gambian applicant had initially been classified as an adult based on a comparison of an X-ray of his wrist and hand with the G&P Atlas. It was only once a representative had been appointed that the applicant could challenge this conclusion by having the same results assessed under the TW3 method, which indicated that his claimed date of birth was compatible with the test findings, thus evidencing the variability of medical age assessment methods and the need to factor in the margin of error.

Subsequently, in *F.B.* v *Belgium* (6 March 2025, paras 89-94), another ECtHR leading judgment, the court further addressed the intrusive nature of radiological examinations carried out for age assessment purposes. The applicant had been referred for a medical examination without having been properly informed or interviewed by a specialised officer of the guardianship service before a triple X-ray examination was conducted. The ECtHR recalled that the reliability of bone tests remained disputed and emphasised their intrusive nature, particularly when used for non-medical purposes such as age assessments. It concluded that the procedure lacked adequate safeguards to guarantee the applicant's free and informed consent, noting that the absence of such consent "may constitute an infringement of their physical integrity engaging the rights protected by Article 8 of the Convention".

At the national level, the French Constitutional Council has also addressed the intrusiveness and potential effects for physical integrity of methods involving ionising radiation. In its judgment of March 2019 concerning a Guinean applicant claiming to be a minor who refused to undergo a medical age assessment, the French Constitutional Council examined and upheld Article 388 of the French Civil Code, which governs radiological age assessment methods. The council considered that the provision offered sufficient safeguards against the intrusiveness and inaccuracy of these methods. It made reference to the best interests of the child, derived from the Preamble to the 1946 French Constitution and the Convention on the Rights of the Child, and noted that radiological assessments could be used only in the absence of valid identity documents and where the claimed age appeared implausible. It further held that their conclusions must specify a margin of error, the results cannot alone determine whether a person is a minor, and they must be assessed alongside all other available evidence, including social

assessments and interviews conducted by child-protection services. Applicants must also be given the benefit of the doubt.

Regarding their intrusiveness and effects on physical integrity, the council held that the use of methods involving ionising radiation requires the applicant’s informed consent but does not, in itself, infringe the right to human dignity or the principle of the inviolability of the human body, as such examinations do not involve internal intervention or constitute painful or invasive procedures. It highlighted that the French legal framework establishes safeguards requiring medical age assessments to be authorised by a judge, who must consider their last-resort nature and any existing medical opinion advising against them if they pose any particular risks to the person concerned.

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