

4. Evidence and the benefit of the doubt

Pursuant to Article 4 of the Qualification Regulation (QR), applicants have a duty to cooperate with the authorities in establishing all elements relevant to their application for international protection, including their age, which is essential to an applicant's identity. Accordingly, the general rule in international protection procedures is that the burden of proof is, in principle, shared between the applicant and the authorities.

Recognising the evidentiary difficulties which are typical in claims for international protection, Article 4(5) of the QR accords the benefit of the doubt by providing that unsupported elements of a claim are to be accepted when applicants have made a genuine effort to substantiate them, have submitted all relevant elements at their disposal, and have explained the absence of any missing evidence, insofar as their statements are coherent and plausible and their general credibility has been established.

In the context of age assessments, where young applicants typically belong to one of the most vulnerable categories in society,[32] Article 25 of the APR requires authorities to take into account the minor's statements, relevant indications of age and available documentation, which must be presumed to be genuine unless proven otherwise. When minority is disputed, authorities must support their challenge through their own evidentiary activity, including document verification, multidisciplinary age assessments and, when necessary, medical examinations. Case law has found that, in effect, this shifts the burden of proof to the authorities when minority is contested.

Even then, results may remain inconclusive, which triggers the residual clause in Article 25(2) of the APR requiring that, when an age assessment fails to draw a clear finding about the applicant's age or returns an age range beginning below 18 years, the applicant must be treated as a minor. Like the evidentiary benefit provided for in Article 4(5) of the QR, this rule is also commonly referred to as the "benefit of the doubt", for instance in the EUAA's Practical Guide on Age Assessment (November 2025, pp. 38-39) and UN soft law instruments.[33] Consequently, the benefit of the doubt operates, on the one hand, in the evidentiary assessment during the procedure, allowing certain aspects of an applicant's account to be accepted despite insufficient corroboration and requiring authorities to consider statements and documents that may otherwise be disregarded. On the other hand, it prescribes the outcome of inconclusive age assessments by requiring authorities to assume that the applicant is a child when the available evidence does not exclude that possibility. In practice, this reflects a standard of proof lower than the balance of probabilities or preponderance of evidence.

Taken together, the examined case law shows that:

- Under Article 4 of the QR, applicants are required to substantiate their claim of minority. Nonetheless, given the vulnerabilities of asylum-seeking children, authorities must accept or verify such claims even when they are disclosed late. It follows that, once the authorities contest a claim to minority, the burden of proof shifts to them to rebut it.

- Evidence submitted by applicants must be afforded the benefit of the doubt, their statements must be taken into account, and documents must be considered to be genuine unless proven otherwise. Authorities must consider all available evidence as a whole and, when confronted with conflicting findings of minority and majority, resolve in favour of minority.

- A lenient standard of proof may be inferred from Article 25(2) of the APR, which provides that minority is established when, following an age assessment, doubts remain about an applicant's minority, including when the results indicate an age range extending below 18 years.

- National courts have found the benefit-of-the-doubt principle about an applicant's age to apply across contexts, including in family reunification procedures.

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  UN Committee on the Rights of the Child (1 September 2005). General Comment No 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6, para 1; Council of Europe, European Court of Human Rights, *F.B.* v *Belgium*, 47836/21, 6 March 2025, para 79.

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  UN Committee on the Rights of the Child (1 September 2005). General Comment No 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6, para 31(A); UNHCR (22 September 2009). Guidelines on International Protection No 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, HCR/GIP/09/08, G8:75.

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