

5.2.3. Applicants’ access to all medical examination documents

Article 25(4) of the APR addresses the right to information on medical methods and establishes that “all documents relating to the medical examination shall be included in the applicant’s file”, thereby extending the right to information to both the carrying out and the conclusion of medical examinations. This right is closely linked to the right to an effective remedy, as demonstrated in the jurisprudence of the ECtHR and the CRC Committee.

In addition to the requirement to provide adequate information during the age assessment process, in *Darboe and Camara* v *Italy* (21 July 2022, paras 142-148) the ECtHR also noted that a judicial decision or administrative measure formally establishing the applicant as an adult had not been issued, which prevented him from lodging an appeal and contributed to a finding of a breach of Article 13.

However, subsequent ECtHR case law has at times addressed this information under Article 8 rather than Article 13. One such ruling was the case of *A.C.* v *France* (16 January 2025, paras 177-182).55 The ECtHR found that the information provided to a non-asylum-seeking Guinean national was incomplete and imprecise, as it was not established in the judgment that the authorities informed him of the initial report challenging his minority or the subsequent medical conclusions. Although the applicant had not requested asylum and the age assessment was therefore not subject to the requirements of the recast APD, the court nevertheless held that the respondent State was required under international and domestic laws to provide adequate information on the age assessment procedure. Contrary to *Darboe*, in *A.C.* the ECtHR did not find a violation of Article 13 but instead confined the breach to Article 8 of the Convention, under which it also subsumed elements typically associated with access to an effective remedy. These included the failure to inform the applicant of the conclusions of the medical age assessment, the individualised reasons for denying him educational assistance following the majority finding and the lack of complete and precise information on how to appeal, including available remedies and applicable deadlines.

This issue has also arisen in the CRC Committee’s jurisprudence, notably in *R.Y.S.* v *Spain* (4 February 2021, paras 2(8), 2(9), 7(3), 8(3), 8(5) and 9). The applicant, who had been wrongly classified as an adult, did not gain access to the medical records that showed the mistake until after she challenged the decisions before a court. Because the right to access the information, reports and documents on which an age assessment decision is based is closely connected to the right to an effective remedy, this will be examined further in *Section 5.3*.

In sum, information and consent are core rights in age assessment procedures, firmly grounded in Article 25 of the APR, Article 8 of the ECHR and Articles 3 and 12 of the CRC. Consent must be genuine and substantive, surrounded by safeguards ensuring that it is freely given, in line with the child's best interests, and based on information that is complete and comprehensible, meaning delivered in a child-friendly manner and in a language that the applicant understands. This includes clear explanations of the examination method, its implications, how to challenge it and the right to give or withhold consent at any time, which implies that these safeguards must be maintained throughout the process, as noted by the Czech Constitutional Court.

A refusal to undergo a medical age assessment must never, in itself, result in the rejection of an asylum application or, as the CRC Committee and French case law have consistently held, an automatic finding of majority. It remains to be seen how this standard will be applied to Article 25(6) of the APR, which states that such a refusal may only constitute a rebuttable presumption that the applicant is not a minor.

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  Council of Europe, European Court of Human Rights, *A.C.* v *France*, 15457/2025, 16 January 2025, paras 177-182.

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