

5.3. Right to an effective remedy

A persistent concern in the age assessment of asylum-seeking children relates to the availability of effective remedies for challenging the outcomes.56 While the APR establishes a common framework for age determination procedures across EU+ countries, it does not provide specific rules governing the review of age assessment decisions. Nonetheless, the right to an effective remedy is guaranteed under Article 47 of the EU Charter, Article 13 of the ECHR and Article 12 of the CRC.

At the EU level, the EUAA Practical Guide on Age Assessment (November 2025, p. 61) recently emphasised that the age determined by the competent authority should always be subject to a review when new evidence or information emerges at a later stage. For its part, the Council of Europe Children's Rights Division has recommended that "decisions taken on the basis of age assessments and the assessment procedure itself should be subject to administrative or judicial appeal" and has stressed the need for mechanisms allowing for the review of age assessment outcomes, enabling the child to "(…) present information or documentation that has become newly available or rectify any information falsely reflected in the decision".57 Finally, the CRC Committee has consistently held that applicants must be able to challenge the outcome of an age assessment separately, through child-sensitive procedures before an appropriate and independent body, with a suspensive effect.58

The review of jurisprudence is based on a context in which international and EU law recognise a general right to an effective remedy, but not a concrete model for its application to age assessment procedures. Because the relevant legal instruments governing age assessments do not specify how appeals should operate in practice, the principle of national procedural autonomy applies by default, subject to the following requirements identified in the examined case law:

- The ECtHR requires that an effective remedy must enable applicants to challenge the substance of the age determination. Such a remedy need not necessarily be judicial and may result from a combination of aggregate measures. However, the court has found remedies ineffective when no formal or reviewable decision exists, the decision is not communicated to the applicant, no clear avenue to challenge the decision is available or excessive delays deprive the remedy of effectiveness in practice *(see Section 5.4).*
- While the CRC Committee requires redress mechanisms to have an automatic suspensive effect to be effective, the ECtHR generally considers it sufficient that domestic law allows the negative effects of being classified as an adult to be temporarily suspended on a case-by-case basis pending an appeal, for example through interim measures or discretionary powers of the reviewing authority or court.

- The CRC Committee has urged that age assessment decisions be directly appealable. EU law, however, does not impose such a requirement. National systems may therefore allow age determinations to be challenged indirectly through related procedures, such as appeals against detention, decisions terminating child-protection or reception arrangements, proceedings concerning AMMR transfers or international protection claims themselves. Nevertheless, the case law suggests that reliance on indirect avenues of review may impair the effectiveness of the remedy.

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  ECRE (December 2022). Age Assessment in Europe: Applying European and International Legal Standards at all Stages of Age Assessment Procedures, Legal Note 13, p. 4.

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  Council of Europe (September 2017). Age assessment: Council of Europe Member States' policies, procedures and practices respectful of children's rights in the context of migration, paras 177-180.

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  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, paras 4, 14, 17(h).

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