

6. Conclusions

Accurate and fair age assessments are essential to ensure that applicants who claim to be minors receive the protections and services to which they would be entitled as children. As outlined in this report, before the Pact on Migration and Asylum, age assessments remained largely regulated under the procedural autonomy of EU+ countries, guided by principles developed over time in national and European case law. The instruments of the Pact have now incorporated some of these principles into binding EU law, and Article 25 of the APR now requires Member States to follow a two-step structure for an age assessment that is strictly sequenced, progressing from the least to more intrusive methods. Therefore, the Pact provisions call for a multidisciplinary approach with medical methods used only as a measure of last resort, the assessment of evidence as a whole and the appointment of a representative as a key procedural safeguard from the outset.

The first step consists of a multi-disciplinary age assessment *(see Section 2)* featuring non-medical methods, such as document analysis *(Section 2.1),* interviews, visual inspections and psychosocial assessments conducted by professionals with expertise in child development, including psychologists, social workers and paediatricians. Article 25 further codifies CRC Committee soft law,68 requiring that available documents be presumed genuine unless there is evidence to the contrary and the child's statements be duly considered. Case law has interpreted this as extending to a broad range of evidence, well beyond biometric identity documents, and requiring States to challenge it in order to rebut this presumption of authenticity. Any such challenge must be specific and substantive, rather than relying on purely formal deficiencies, such as the absence of a translation or legalisation.

The requirement that the child's statements be considered within the age assessment calls for conducting interviews and, when appropriate, psychosocial assessments *(Section 2.2).* Based on recent ECtHR case law (*F.B. v Belgium*, 6 March 2025, paras 82-83), the interviews must be carried out in a meaningful and substantive way to provide the minor a chance to react to any doubts expressed by the interviewer and submit documents and other evidence supporting their statements. A routine interview marking a form is not considered to be meaningful. An example of this approach can be found in case law from Germany (Higher Administrative Court of Bremen , 4 June 2018), where age assessment reports are based on interviews and visual assessments by two qualified *Jugendamt* officers, applicants are allowed to clarify any doubts regarding their claim to minority, and the reports set out traceable conclusions, thus ensuring transparency and contributing to more effective judicial review.

However, before the Pact, interviews have been unevenly applied and therefore are not uniformly standardised across EU+ countries, requiring harmonisation, particularly if common standards for mutual recognition are to be established. Moreover, the evidentiary weight of

psychosocial assessments remains insufficiently defined both in practice (Norwegian Court of Appeal, 21 March 2019) and under EU law, and their use may also be affected by factors such as trauma, which can require additional time to assess. The growing procedural complexity may conflict with the strict timelines for processing asylum applications, especially at the border, and with the general requirement that age be verified promptly.

Under the APR, only when the initial multi-disciplinary assessment remains inconclusive may medical examinations be used as a second step in the age assessment process *(Section 3).* They must be the least invasive possible and respect the applicant's dignity, with the examined case law prohibiting or strongly discouraging sexual maturity examinations. Additionally, methods involving ionising radiation have been regarded as intrusive, particularly when used for non-medical purposes such as an age assessment. This was recently underlined by the ECtHR in *F.B. v Belgium* (6 March 2025, paras 87-90), which held as well that the Belgian referral policy for medical age assessments failed to comply with EU law and international standards because it did not ensure the applicant's informed consent to the medical examinations. The judgment prompted a review of age assessment policies in several countries, including Belgium and Denmark.

Imaging-based age estimation methods are also considered unreliable, with the APR expressly requiring age assessments to clearly state the resulting age range and to interpret it in favour of minority. Accordingly, several jurisdictions have long relied on a combination of medical methods, including physical inspections and imaging tests of the hand/wrist, collarbone and dentition. The APR further grants applicants the right to access all documents relating to medical examinations, mitigating issues that had previously limited access to information and effective remedies (see the CRC Committee views in *R.Y.S. v Spain*, 4 February 2021, para 2(9); and the ECtHR judgments in *Darboe and Camara v Italy*, 21 July 2022, para 147; and *A.C. v France*, 16 January 2025, paras 179 and 190). The APR responds to the warnings of the CRC Committee and other national courts (French Constitutional Council, 21 March 2019) that a person should not be declared an adult solely due to their refusal to undergo medical tests (*J.A.B. v Spain*, 31 May 2019, paras 13(4), 13(5) and 13(9)), by providing that such a refusal creates only a rebuttable presumption of majority. Whether the committee will regard this approach as compatible with its standards remains to be seen.

The APR further requires both the multi-disciplinary age assessment and the medical examination, when it is carried out, to be analysed together in order to obtain the most reliable results *(Section 4).* It states that, **if after this process, minority cannot be reliably determined, applicants must be assumed to be minors**. This rule, often referred to as the **benefit of the doubt**, may suggest that the applicable standard of proof is lower than the preponderance of evidence, with practice from various EU+ countries suggesting a standard closer to the mere possibility.

Courts in Belgium (*A.M. v Belgian State*, 27 May 2025) and the Netherlands (*Applicant v The Minister for Asylum and Migration*, 9 October 2024) have interpreted ECtHR judgments such as *Darboe* and *F.B.* as requiring authorities to rebut an applicant's claim to minority by carrying out evidentiary activity on their own motion, thereby shifting the burden of proof to the authorities once a claim to minority is made.

When an authority challenges an applicant's claim to minority, the authority becomes responsible both for organising and conducting the evidentiary process and deciding its outcome, therefore requiring strong procedural safeguards. The first of such protections is the presumption of minority, which affords applicants with a claim to minority with age-appropriate protections *(Section 5).* **Case law shows that the presumption of minority triggers as soon as authorities have indications to suspect that an applicant may be a minor, insofar that the claim is not unfounded or unreasonable**. This principle was first addressed by the ECtHR in *Darboe* (21 July 2022, paras 131, 153 to 156), which also considered the applicant's right to a representative as an integral part of that presumption.

Representation during an age assessment *(Section 5.1)* **is further strengthened under the new RCD, the APR and the Screening Regulation**. While the 2013 recast RCD and the recast APD required the appointment of a representative for an unaccompanied minor "as soon as possible" and was thus open to interpretation, the new framework explicitly covers suspected minors and individuals who plausibly claim to be minors from the outset, embedding the presumption of minority into binding EU law. The new instruments also set indicative time limits for the appointment, establish caseload ceilings for representatives and clarify supervisory duties for Member States. Contingency planning must also ensure a representation for a minor even in emergency or high-pressure situations.

Guardians are tasked with supporting children throughout the age assessment and related procedures, including asylum processing, AMMR transfers, Eurodac registration, family tracing and status withdrawal. This reinforces the need for representatives to be independent and qualified, as highlighted by the CRC Committee and case law concerning German Youth Welfare Offices, which have warned against frameworks in which representatives are, for instance, affiliated with authorities responsible for conducting age assessments or making decisions on custody.

This must be read together with the changes introduced by the AMMR concerning responsibility for examining applications by unaccompanied minors who have no family members legally present in another Member State. Under Article 8(4) of the Dublin III Regulation, responsibility lay with the Member State where the child lodged the application, which the CJEU, in light of the principle of the best interests of the child, interpreted in case C-648/11 (6 June 2013, paras 46-60) as referring to the Member State where the minor is present after lodging the application there, rather than the country where an application was first lodged. In contrast, the AMMR assigns responsibility to the Member State of first registration, and it remains to be seen how the CJEU will reconcile its existing case law with the current wording of EU law.

In parallel, the new Eurodac Regulation lowers the age threshold for registration from 14 to 6 and, together with the AMMR, requires unaccompanied children to be assisted by a representative during biometric data collection and determination of responsibility.

At the same time, the Pact leaves certain procedural issues unresolved. One significant issue concerns the responsibility of the determining authority to undertake the age assessment of an applicant for international protection. Prior to the APR, responsibility for initiating, coordinating and/or deciding on age assessments was often assigned to different actors depending on the national framework, including determining authorities but also guardianship, immigration,

reception and judicial authorities (see EUAA's Age Assessment Practices in EU+ Countries: A baseline for Pact implementation, March 2026, pp. 9-14). Under Article 25(1) of the APR, the responsibility now falls within the remit of the determining authority, although the regulation does not specify how this should be organised in national practice. The principle of good administration under Article 41 of the EU Charter may help clarify some of the obligations associated with the determining authority's responsibility for the procedure. Viewed through the lens of Article 41, this would include ensuring that applicants can directly raise issues about the age assessment procedure before the authority, receive reasoned decisions from the authority throughout the age determination procedure, and the determining authority being actively involved in upholding the rights to a fair, impartial and timely procedure, the right to be heard and access to the file. Nonetheless, the practical implications of placing the 'undertaking' of age assessments under the responsibility of determining authorities remains to be clearly outlined.

A further point not clarified by the new instruments is how the right to an effective remedy established in Article 47 of the EU Charter and Article 13 of the ECHR translates into the age assessment procedure *(Section 5.3).* In the absence of a common EU framework, the principle of procedural autonomy at the country level applies by default, meaning that there are a variety of approaches to how age assessment decisions can be challenged by applicants. In practice, indirect or aggregate remedies remain common across EU jurisdictions, with only a limited number of countries providing a direct procedure to appeal an age assessment decision.

Given the above-mentioned diversity of institutional arrangements for initiating, coordinating or deciding on age assessments, the reviewed case law offers numerous examples of applicants contesting decisions through indirect avenues, such as appeals concerning guardianship, placement in age-appropriate accommodation, detention or within the international protection procedure and related issues, such as Dublin proceedings. However, the case law suggests that relying on appeals within long, complex procedures, such as international protection, as the only method to challenge age assessments may complicate the process, as shown in cases when the deadline to appeal the age assessment was considered expired even though the deadline to appeal the main procedure had not yet elapsed (*F.S. and A.S.* v *Hungary*, 19 June 2025, paras 23-24) or when the main procedure has already become final by the time issues concerning the applicant's age arose (*Applicant* v *The Minister for Asylum and Migration*, 18 December 2024).

In addition, the Pact does not address whether appeals should have an automatic suspensive effect, as urged by the CRC Committee. Since both the APR and the 2024 RCD provide that guardianship ceases if the assessment concludes that the applicant is not a minor, applicants may be left without representation when challenging the age assessment unless the appeal is given a suspensive effect.

The relationship between the right to an effective remedy and the competence to conduct age assessments under Article 25(1) of the APR raises another issue that may call for clarification by EU courts. The CJEU has consistently held that courts must be able to carry out a full and *ex nunc* assessment of the case, allowing them to consider new facts and evidence that may emerge during appeal proceedings, which may include verifying an applicant's age when this is relevant to the outcome of the case. While the independent commission of an age assessment would appear consistent with the right to an effective remedy under Article 47 of the Charter

and the requirement of effective judicial review under Article 67 of the APR, Article 25(1) of the same Regulation may instead require the involvement of the determining authority in this process.

Another matter not specifically addressed by the Pact is the duration of an age assessment *(Section 5.4),* which the examined case law concurs must be short because a delay in verifying a claim to minority may restrict access to essential protections, while prolonged age determination procedures may obstruct the examination of an application for international protection, family tracing and reunification, or render the process moot due to applicants reaching majority. On this note, the ECtHR has typically associated undue delay with a lack of diligence on the part of the authorities (*Elmi*, 22 November 2016, paras 144-148), the practical application of which will likely become clearer as procedures converge under the Pact. This also underscores the need for Member States to anticipate capacity demands through contingency planning and the use of the solidarity mechanism.

Lastly, Article 25(7) of the APR introduces, for the first time in EU law, the possibility for Member States to recognise age assessment decisions taken by other EU+ countries. Mutual recognition has long been advocated by the Council of Europe Children's Rights Division, which notes that it can prevent repeated age assessments, including intrusive medical examinations, while saving time and resources for countries. At the same time, it has stressed the need for standardised procedures based on comparable methods and adequate safeguards, such as the right to challenge an age determination made in another country while still under the presumption of minority.[69]

Before the Pact, mutual trust in age determination had no formal legal basis, although some Member States applied it in limited contexts, such as voluntary relocations[70] or when foreign assessments met specific conditions (see EUAA's Age Assessment Practices in EU+ Countries: A baseline for Pact implementation, March 2026, p. 20). The Pact now gives this principle an explicit foundation, provided that the assessment complies with EU law. This, in turn, calls for the development of clear and common EU standards to carry out age assessments and structured information-sharing on the methods used and the reasoning underlying age assessments, potentially under Article 48(2)(d) of the AMMR, enabling an authority to verify compliance with EU standards. EU institutions and, in time, the CJEU will play a central role in shaping these common standards, which this report has aimed to identify.

The EUAA remains committed to developing guidance and resources for EU Member States, relevant to stakeholders working on age assessments and with unaccompanied children. Recent and ongoing initiatives include comprehensive case law analyses and updating of the EUAA Case Law Database, which highlights relevant jurisprudence on age assessments in asylum procedures, and the Database on International Protection, which outlines up-to-date legislation, policies and practices in EU+ countries. Furthermore, the EUAA publishes targeted thematic resources addressing key areas such as guidance on age assessment methodologies, the best interests of the child principle, family tracing, reception conditions, vulnerability assessments and statistical data on unaccompanied minors.

Box 2. Relevant EUAA guidance and materials

- **Age assessments:**
  - Practical Guide on Age Assessment, November 2025.
  - Age Assessment Practices in EU+ Countries: A baseline for Pact implementation, March 2026.
- **Data on unaccompanied children:**
  - Data Analysis of Unaccompanied Minors in 2024: Fact Sheet No 36, August 2025.
  - Data Analysis of Asylum Applications by Unaccompanied Minors in 2025: Fact Sheet No 46, August 2026.
- **Best interests of the child:**
  - Practical guide on the best interests of the child in the framework of international protection, March 2026.
- **Family tracing and transnational procedures:**
  - Transnational Procedures in the Framework of International Protection: Practical tool for guardians, April 2024.
  - Practical Guide on Family Tracing - Part I: Principles and practices on family tracing in the EU+ and third countries, April 2025.
  - Practical Guide on Family Tracing - Part II: Tracing and identifying family members under the asylum and migration management regulation, April 2025.
  - Family Tracing Form - Child - Interactive, February 2026.
  - Family Tracing Form - Adult - Interactive, February 2026.
- **Reception and vulnerability:**
  - Guidance on Mental Health and Well-being of Applicants for International Protection: Part II - for those working in the first line, November 2024.
  - Guidance on Mental Health and Well-being of Applicants for International Protection: Part III - Toolbox to support those working in the first line, November 2024.
  - Operational Standards and Indicators on Reception including Vulnerability-related Aspects, April 2026.

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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, para 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 194-196.

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FRA (11 May 2020). Relocating unaccompanied children: applying good practices to future schemes, p. 21.

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