Analysis of Case Law (2017-2026)

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EUROPEAN UNION
AGENCY FOR ASYLUM

Age Assessments of Applicants for International Protection

October 2026

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List of abbreviations

Term	Definition
AGFAD	Working Group for Forensic Age Assessment | *Arbeitsgemeinschaft für Forensische Altersdiagnostik* (German Society for Legal Medicine)
AMMR	Asylum and Migration Management Regulation (Regulation (EU) 2024/1351)
APD	recast Asylum Procedures Directive (Directive 2013/32/EU)
APR	Asylum Procedures Regulation (Regulation (EU) 2024/1348)
AVIM	Aliens Police, Identification and Human Trafficking Department | *Afdeling Vreemdelingenpolitie, Identificatie en Mensenhandel* (Netherlands)
CALL	Council for Alien Law Litigation | *Conseil du Contentieux des Étrangers* (Belgium)
CJEU	Court of Justice of the European Union
COA	Central Agency for the Reception of Asylum Seekers | *Centraal Orgaan opvang Asielzoekers* (Netherlands)
CRC	United Nations Convention on the Rights of the Child
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EUAA	European Union Agency for Asylum
Eurodac	European Asylum Dactyloscopy Database
FAC	Federal Administrative Court | *Bundesverwaltungsgericht* | *Tribunal administratif fédéral* | *Tribunale amministrativo federale* (Switzerland)
G&P	Greulich and Pyle Atlas
ICCPR	International Covenant on Civil and Political Rights
IND	Immigration and Naturalisation Service | *Immigratie-en Naturalisatiedienst* (Netherlands)
QD	recast Qualification Directive (Directive 2011/95/EU)
QR	Qualification Regulation (Regulation (EU) 2024/1347)
RCD	Reception Conditions Directive: recast (Directive 2013/33/EU) or amended (Directive (EU) 2024/1346)
SGB VIII	Book VIII of the Social Code – Child Welfare | *Sozialgesetzbuch VIII* (Germany)
TW3	Tanner-Whitehouse 3 scoring method
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

Note

The cases presented in this report are based on the EUAA Case Law Database, which contains summaries of decisions and judgments related to international protection pronounced by national courts of EU+ countries, the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR).

The database serves as a centralised platform on jurisprudential developments related to asylum, and cases are available in the Digest of cases (all registered cases presented chronologically by the date of pronouncement) and the Search page.

Some additional cases have been included that are not directly linked to international protection but have relevance to the judicial analysis of the age assessment procedure. These cases are not included in the EUAA Casa Law Database and therefore have not been hyperlinked within the main text, but they are referenced in the endnotes.

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Methodology

This report presents judgments, decisions, rulings and interim measures issued by national courts of EU+ countries, the Court of Justice of the EU (CJEU), the European Court of Human Rights (ECtHR) and United Nations treaty bodies concerning different aspects of age assessment procedures for applicants for international protection.

The selected cases cover 2017-2026. The examples are not exhaustive but provide a comprehensive overview of the main trends and challenges faced by national and European courts in determining the standards applicable to assess the age of applicants for international protection when there is a doubt about minority.

The cases are drawn from various sources, including EUAA networks of asylum officers, judges, members of courts and tribunals, independent experts and civil society organisations. We are grateful for their time and effort in sharing this jurisprudence.

Highlights

- Children continue to arrive in Europe through mixed migration routes, at times without an adult responsible for them. In 2025, 22,000 unaccompanied children applied for international protection in EU+ countries. When an applicant's age is in doubt, authorities apply age assessment methods to confirm minority or adulthood, which has an impact on the procedures and safeguards to be applied. **Until the adoption of the Pact on Migration and Asylum, EU law did not lay down common requirements governing age determination**. International law, as interpreted by the European Court of Human Rights (ECtHR) and the Committee on the Rights of the Child (CRC Committee), has guided national courts in establishing the standards applicable to age assessments.

- **Under the Pact, for the first time EU law requires that age determination follows a two-step process**, beginning with a multidisciplinary age assessment involving non-medical methods, such as the assessment of documentation, visual assessments based on physical appearance, interviews and psychosocial assessments. This reflects the case law of the ECtHR (*F.B.* v *Belgium*), the CRC Committee (*R.Y.S.* v *Spain*) and domestic courts (including the Czech Constitutional Court and the French Court of Cassation), which have required that age determination be multidisciplinary and authorities assess all available evidence, proceeding from the least to more intrusive methods.

- For the purposes of age assessment, **all available documents**, extending well beyond biometric identity documents, must be taken into account and **treated as genuine** unless proven otherwise (see the CRC Committee's views in *J.A.B.* v *Spain*). This approach is now codified in Article 25 of the Asylum Procedures Regulation (APR).

- The ECtHR and the CRC have stressed the importance of **interviews** in age assessment procedures, which **must be substantive** (*F.B.* v *Belgium*) and allow for the meaningful participation of the child (*A.L.* v *Spain* and *A.D.* v *Spain*). Examples in national case law, such as Dutch rulings assessing their interview policies prior to the Pact and German case law addressing visual inspections and interviews, have stressed the importance of well-reasoned conclusions that can be traced to the interview findings.

- Pursuant to Article 25(2) of the APR, **a medical examination is permissible only when less intrusive means have proven inconclusive**, and it must respect the applicant's dignity. The ECtHR, the CRC Committee and several national courts have expressed concerns about the invasive nature and reliability of imaging-based methods to estimate age through skeletal development. **Several Member States combine methods**, such as X-rays of the hand, clavicle and jaw. Applicants have the right to access all documents relevant to a medical examination, and reports must clearly indicate the **margin of error**, which should be **interpreted in favour of the applicant**.

- Applicants and their representatives must first **consent to any medical examination**. Informed consent requires explaining the procedure and its consequences, including

the age assessment method and the right to refuse, in a language that the child understands, as addressed for instance in *F.B. v Belgium* and German case law.

- The CRC Committee (*J.A.B. v Spain*) and the French Constitutional Council have warned against automatically classifying applicants as adults solely because of their refusal to undergo a medical test. The APR provides that such a **refusal may give rise to a rebuttable presumption of majority**.

- **When an applicant cannot be reliably determined to be an adult, they must be given the benefit of the doubt** and treated as a child, according to Article 25(2) of the APR. This principle also affects the assessment of evidence and may imply a more flexible standard of proof. Several national courts, including in the Netherlands and Belgium, have understood that the **burden of proof shifts to the authorities** once an applicant plausibly claims to be a minor.

- Suspected minors and applicants who **plausibly claim to be minors must be presumed to be children from the moment the authorities become aware of it**, insofar as it is not deemed unfounded or unreasonable, and throughout the age determination process. This principle is recognised as part of the right to respect for private life by the ECtHR (*Darboe and Camara v Italy*). The CRC Committee (for example in *A.L. v Spain* and *J.A.B. v Spain*) and several national courts (for instance in Malta, the Netherlands or Greece) have considered the presumption of minority to extend to a judicial review.

- A key procedural safeguard linked to the presumption of minority is the right to a representative (*Darboe and Camara v Italy*). A guardian must be appointed immediately, as early as the screening process, and must remain involved throughout the asylum procedure, including during registration, the procedure to determine the Member State responsible for examining an application, and the age assessment itself.

- **Representatives must be qualified and independent**, meaning free from any potential conflict of interest. The CRC Committee and jurisprudence in Germany (with regard to the procedure for age determination regulated by national law in Section 42f of Book VIII of the German Social Code) have warned against frameworks in which representatives are affiliated with the authority responsible for conducting age assessments or making decisions on custody.

- The ECtHR has emphasised the need for **effective remedies** in age assessment procedures (*Darboe and Camara v Italy*). The CRC Committee goes further, requiring direct appeals with an automatic suspensive effect (as in *S.E.M.A. v France*). However, a **common EU framework on appeals against age assessment findings does not exist**, and applicants must often challenge related proceedings, such as decisions on guardianship, reception placement or asylum. This may result in situations where an applicant is left without a clear path to challenge the age determination, an issue recently addressed by the Dutch Council of State.

- **Age assessments must be carried out swiftly**. A delay in initiating an age assessment 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. The ECtHR has typically associated undue delays with a lack of diligence on the part of the authorities (*Abdullahi Elmi and Aweys Abubakar v Malta*).

- The implementation of the Pact marks an important shift toward a more structured and uniform age assessment framework across the EU. This new framework significantly enhances the capacity of Member States to manage this important issue by ensuring that support measures are triggered swiftly and placing fundamental rights and the best interests of the child at the centre of convergence efforts on age assessment procedures. The European Union Agency for Asylum (EUAA) will play a central role in equipping Member States with the tools needed to implement the Pact efficiently and in full alignment with human rights standards.

1. Introduction

Children continue to arrive in Europe through mixed migration routes, at times unaccompanied and in need of international protection. In 2023, 43,000 unaccompanied children applied for international protection in EU+ countries, the highest number since 2016. In 2024 and 2025, the figure declined to 34,000 and 22,000, respectively, in line with the overall downward trend which was driven by a decline in applications from Afghan and Syrian minors. Nonetheless, the number of unaccompanied children seeking international protection remains higher than in the years immediately preceding the COVID-19 pandemic and poses considerable challenges for Member States.[1]

Asylum-seeking children, particularly those who are unaccompanied or separated from their families, are among the most vulnerable individuals in society.[2] Accordingly, they are protected by a multi-layered body of international,[3] EU[4] and national laws governing both child protection and asylum. Under this framework, EU+ countries are required to protect children's rights without discrimination, ensuring that those rights take precedence over considerations relating to migratory status.[5] Central to this protection system, across both child protection and asylum, is the principle of the best interests of the child – which operates simultaneously as a substantive right, an interpretative principle and a binding procedural rule.[6]

The effective application of these protections depends, however, on the identification of a person as a child. An erroneous classification may lead to serious violations of fundamental rights, including unlawful detention, placement in insecure and inappropriate reception facilities, denial of necessary care and support, and the examination of an asylum application without the procedural safeguards afforded to children.

It follows that countries have a duty to identify children as such as early as possible once they come into contact with authorities. Yet establishing a person's age is not always straightforward. Children in need of international protection frequently face evidentiary difficulties, may lack reliable documentation, and even where verification with authorities in the country of origin is feasible, such enquiries may expose them or their families to risk. They may also be uncertain about their exact age or provide inaccurate information for legitimate reasons, including misinformation, fear, distrust of authorities, trauma or a lack of maturity. These difficulties are compounded by the fact that, in practice, doubts about age often arise in cases involving older adolescents, who may be exposed to reduced levels of protection, treated as adults by default or left in an ambiguous migration status until they reach majority,[7] unless strong safeguards are attached to age determination processes.

Against this background, EU+ countries have relied over time on a variety of methods to determine age, guided by the interpretation of the European Court of Human Rights (ECtHR) and the Committee on the Rights of the Child (CRC Committee) of their respective Conventions, both of which have been ratified by all EU+ countries. Prior to the adoption of the Pact on Migration and Asylum (the Pact), EU asylum law contained only a fraction of the

age assessment standards which are now in place. Consequently, the Court of Justice of the European Union (CJEU) has had limited opportunities to address age assessments directly. Nonetheless, the obligation to treat the best interests of the child as a primary consideration, enshrined in Article 3(3) of the Treaty on European Union, Article 24(2) of the EU Charter and throughout EU secondary law, has long informed CJEU jurisprudence on child-related matters and is likely to guide case law on the current EU law provisions on age assessment.

Box 1. CJEU asylum case law concerning the best interests of the child

- The CJEU has consistently recognised the **best interests of the child as a fundamental right** with direct implications for procedures involving children (for instance in *MA, BT and DA*, C-648/11, 6 June 2013, paras 56-58; *LW*, C-91/20, 9 November 2021, para 55; and *XXXX*, C-483/20, 22 February 2022, para 36).
- In *MA, BT and DA* (C-648/11, 6 June 2013, paras 56-58), the CJEU held that, given the particular vulnerability of unaccompanied minors, **Dublin procedures should not be prolonged** more than strictly necessary.
- In *A and S* (C-550/16, 12 April 2018, para 64), the CJEU held that a **beneficiary of international protection** who reaches the age of majority, but was a minor when entering the Member State and applying for asylum, **must continue to be regarded as a minor for the purposes of family reunification**. This approach was subsequently reaffirmed in *CR, GF, TY* (C-560/20, 30 January 2024, para 51).
- In joined cases C-133-19, C-136/19 and C-137/19 (16 July 2020, para 47) concerning a family reunification request of a refugee whose children eventually reached majority by the time it was decided on, the CJEU held that the relevant date to consider the children's age was the date of submission of the family reunification application. In *XC* (C-279/20, 1 August 2022, paras 48-54) concerning a child who reached adulthood while his father's asylum application was pending and was therefore no longer a minor when the family reunification application was submitted, the CJEU clarified that the **relevant age was the child's age at the time of the parent's asylum application, provided that family reunification was requested within a reasonable period** after being granted international protection. While in *XC* the CJEU established 3 months as an indicative period, it later clarified in *YO and CT* (C-571/24, 8 October 2026, paras 41-45) that the reasonableness of the period depends on the circumstances of the case.
- In *TQ* (C-441/19, 14 January 2021, paras 60 and 68), the CJEU held that, before issuing a return decision for an unaccompanied minor, Member States must thoroughly assess the child's situation, taking their best interests into account, and **ensure that adequate reception facilities are available in the country of return**. It further held that countries cannot rely on a child's age alone to decide whether adequate reception facilities are available in the country of return.
- In *SE* (C-768/19, 9 September 2021, para 42) concerning a **child who reached adulthood during asylum proceedings** while included in the family group, the CJEU held that the **relevant age was the child's age at the time of the application for international protection**.
- In *K. and L.* (C-646/21, 22 October 2021, para 73), the CJEU recalled that the **best interests of the child**, enshrined in Articles 3 of the CRC and 24(2) of the Charter, must not only be **considered in the substantive assessment of applications** concerning children but must also **influence the decision-making process leading to that assessment, subject to specific procedural safeguards.**
- In *MD* (C-528/21, 27 April 2023, paras 95, 97 and 104), the CJEU held that Article 5 of the Return Directive, including its requirements to take due account of the **best interests of the child, family life, state of health, and to respect the principle of *non-refoulement*, is sufficiently precise and unconditional to have a direct effect**.

Although the above cases do not concern age assessment procedures specifically, they reflect several principles relevant to them. Authorities must structure and conduct procedures in a manner that safeguards the best interests of the child; procedures concerning children should be conducted swiftly; and delays in decision-making or other factors beyond a child's control must not prejudice the child's procedural position or rights. Lastly, it should be noted that Article 7 of the EU Charter (respect for private and family life) has the same meaning and scope as Article 8 of the ECHR, which is frequently cited in ECtHR case law concerning age assessments.[8]

The Pact codifies many of the principles and safeguards that had previously emerged through the jurisprudence of the ECtHR, the guidance of relevant UN treaty bodies and the case law of national courts. Under this framework, EU+ countries are required to establish mechanisms for the early identification of children and, in accordance with the principle of presumption of minority, to provide appropriate support and safeguards for applicants whose claims to minority are plausible while their age is being assessed. Implementing these requirements in practice involves coordinating child protection, reception and asylum authorities; providing access to age-appropriate accommodation and information, as well as ensuring qualified and independent representatives. States must also respect the requirements for informed consent and confidentiality, and use age assessment methods that are reliable, fair and timely. The Pact further clarifies the responsibilities of authorities and representatives and harmonises the structure of age assessment procedures across the EU.

Table 1. Provisions of the Pact relevant to applicants subject to an age assessment

Screening Regulation 2024/1356	• **Best interests** of the child are a primary consideration (Article 13). • Age-appropriate **information** must be provided (Article 11). • Right to a qualified **representative** during screening as soon as possible. A representative should not be responsible for more than 30 minors (Article 13).
Eurodac Regulation 2024/1358	• Procedures must align with the EU Charter, the ECHR (Article 13) and the CRC, with the **best interests** of the child treated as a primary consideration (Article 14). • The **minimum age** for taking biometric data is **6 years**. In case of doubt, the child must be considered under 6 (Article 14). • Minors must be provided with age-appropriate **information** (Article 42).
Asylum and Migration Management Regulation 2024/1351	• **Best interests** of the child are a primary consideration (Article 23). • Specific **information** for unaccompanied minors (Article 20). • Interviews conducted by **specialised staff** (Article 22). • Right to a qualified **representative** as soon as possible (provisional) and no later than 15 days from the making of the application (appointed) (Article 23). • **Transfer decisions** must include an **assessment of the best interests** of the child by qualified staff. The Member State of relocation must confirm that appropriate measures are in place to address the child's specific needs (Article 23).

	• **Responsibility follows legal family presence**, if in the child's best interests. If such a link does not exist, the Member State of first registration is responsible (Article 25).
Amended Reception Conditions Directive 2024/1346	• **Best interests** of the child are a primary consideration (Article 26). • Member States must **assess the reception needs** of vulnerable persons, such as children, as soon as possible and within 30 days of the application (Article 24-25). • Children who have suffered from armed conflicts or who are victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment must be granted **rehabilitation and mental health services** (Article 26). • Right to a qualified and independent **representative** as soon as possible (provisional) and no later than 15 days after making the application (appointed). A guardian must not be responsible for more than 30 minors (Article 27). • Guardians are responsible for providing **information** (Article 5). • Unaccompanied minors who apply for international protection must be placed in an **accommodation suitable for minors**, such as a foster family or reception centre with specific provisions. If in their best interests, those 16 years or older may be placed in a reception centre with adults. Siblings should be kept together (Article 27). • The **detention** of children must be a measure of last resort and may never take place in a prison or law enforcement facility. Unaccompanied minors may be detained only if it is in their best interests and in facilities adapted to their needs (Article 13).
Asylum Procedures Regulation 2024/1348	• **Best interests** of the child must be assessed by the asylum authority (Article 22). • Interviews and preparation of decisions related to minors must be handled by **specialised staff** (Article 22). • Right to a qualified and independent **representative** as soon as possible (provisional) and no later than 15 days from the making of the application (appointed). A representative must not oversee more than 30 minors and is distinct from the legal adviser (Article 23). • The guardian must provide **information and assistance** with the age assessment, Eurodac registration, determination of the responsible Member State and the asylum application, including the interview. The guardian may also receive notifications on the applicant's behalf (Articles 23, 33 and 36). • A **multidisciplinary age assessment** may be carried out only in case of doubt. It must weigh the applicant's statements and documents, which must be presumed genuine unless rebutted. The procedure may include a psychosocial assessment (Article 25). • A **medical age assessment** may be conducted only if the multidisciplinary assessment is inconclusive. It must be the least invasive possible, respect the applicant's dignity and be based on prior informed consent. Its results must be evaluated together with the multidisciplinary assessment. A refusal may lead to a rebuttable presumption of majority (Article 25). • Unaccompanied minors may be subject to **accelerated or border procedures**, or assessed under the **first country of asylum** or **safe third country** concepts, only under the requirements set out in Articles 21 (specific needs) and 42, 53, 58 or 59.

Under the Pact, age assessment follows a two-stage process, moving from the least to more intrusive methods. It begins with a multidisciplinary assessment *(Section 2)*, during which documentary evidence is examined if available *(Section 2.1)*, other indications of age are taken into account, such as age records from other Member States and interviews, and -if required- a psychosocial assessment is undertaken *(Section 2.2)*. Only when these methods are inconclusive to determine age may a Member State proceed to medical methods as a measure of last resort *(Section 3)*. This report also addresses case law on physical medical examinations *(Section 3.1)* and imaging-based methods *(Section 3.2)*.

Section 4 examines how evidence from the multidisciplinary assessment and the medical examination must be assessed together in order to allow for the most reliable result possible. It further analyses the allocation of the burden of proof *(Section 4.1)*, the benefit-of-the-doubt principle during the assessment of evidence *(Section 4.2)* and the standard of proof in age assessment procedures *(Section 4.3)*.

Section 5 focuses on the presumption of minority, which must be afforded to all applicants undergoing an age assessment and the safeguards surrounding the procedure, namely the right to a representative *(Section 5.1)*, informed consent *(Section 5.2)*, access to an effective remedy *(Section 5.3)*, and the requirement for assessments without undue delay *(Section 5.4)*.

The report concludes by identifying the common standards and key gaps emerging from the Pact, international human rights law and national practice for age assessments.

2. The multi-disciplinary age assessment

Age is an integral part of a child's identity and must therefore be confirmed during the identification process of an applicant who may be a minor. This is crucial, since recognition as a child determines the specific rights and protections to which an applicant is entitled in the asylum procedure, as well as in the broader context of child protection and other rights attached to childhood status. This initial verification involves the collection of basic personal information and any relevant documentation in order to assess whether the claimed age appears credible (EUAA's Practical Guide on Age Assessment, November 2025, p. 12). Where doubts about the claimed age arise, national authorities may need to resort to age assessment procedures.

Unlike the recast Asylum Procedures Directive (APD), which addressed age determination only indirectly within the broader guarantees for unaccompanied minors, the APR introduces a dedicated provision on age assessments in Article 25, directly applicable in all Member States from June 2026 without the need of transposition. For the first time in EU law, the APR makes clear that age determination must follow a two-step process and cannot be reduced to a simple medical examination.

As described in Recital 37 and regulated in Article 25(1) of the APR, the first step involves a multi-disciplinary assessment based on non-medical methods such as document analysis *(see Section 2.1)*, interviews, visual assessments and psychosocial assessments *(see Section 2.2)*. It must be carried out by professionals with expertise in child development, including psychologists, social workers or paediatricians. If this multi-disciplinary assessment proves inconclusive, Article 25(2) of the APR provides, as a second step, that medical examinations may be used as a measure of last resort *(see Section 3)*. The results of the medical examination and the multi-disciplinary assessment must then be considered together *(see Section 4)*.

The above legal configuration builds on the criteria already established by soft law instruments[9] and the case law examined in the following subsections, according to which:

- Age determination must follow a multi-disciplinary approach, combining different forms of assessment, such as documentary evidence, social interviews and psychosocial assessments, so that their cumulative weight can support more reliable decisions.
- Age assessment methods must follow a 'cascade approach', requiring preference to be given to the least intrusive measures, namely documentary evidence and recorded information, before considering social or psychological assessments and, only as a last resort, medical assessments.

Mixed-method approach to determine age, including available documentation, social and psychological assessments

A significant body of case law has long held that authorities must adopt a holistic and multidisciplinary approach to age assessments, combining different methods in order to obtain more reliable results. This requirement has been embedded in the ECtHR's jurisprudence since its landmark ruling in *Darboe and Camara v Italy* (21 July 2022, paras 47, 55, 132 and 155), where the court observed that this was already reflected in both EU asylum law and the Italian legal framework. The principle was more recently reaffirmed in *A.C.* v *France* (16 January 2025, paras 51-54, 168)[10] concerning age assessments in the context of the French child protection system rather than in the context of international protection.

In both cases, the ECtHR noted that the national frameworks required an initial verification based on identity and/or civil status documents, when available. When the documentation proved insufficient to establish minority swiftly, the procedure continued with an assessment carried out by a multidisciplinary team. In the Italian framework, this included a socio-medical assessment with interviews conducted by social workers focusing on previous life experiences relevant to the assessment, as well as psychological or neuropsychiatric evaluations in the presence of a cultural mediator and required that any medical methods follow the least invasive means possible. In the French child-protection framework, social assessments were carried out by professionals with relevant training or experience and were required to take due account of cultural and social factors. The ECtHR further noted in the latter decision that international standards prohibit physical examinations of sexual maturity and medical examinations should be conducted only as a last resort.

Similarly, the CRC Committee has long advocated a multidisciplinary approach to age assessments, requiring consideration not only of physical characteristics but also psychological maturity, available documentation and social history. It has emphasised that an initial interview during registration should be conducted "in an age-appropriate and gender-sensitive manner (…) by professionally qualified persons to collect biodata and social history to ascertain the identity of the child".[11] Therefore, in its jurisprudence, the CRC Committee has consistently rejected approaches that rely primarily or exclusively on medical examinations, emphasising the need for holistic, multidisciplinary evaluations of both physical and mental maturity. Instead, the committee holds that age determination should be based on "a comprehensive assessment of the child's physical and mental maturity, carried out by specialist paediatricians or other professionals capable of comparing different aspects of adolescence. Such an assessment should be prompt, conducted in a child-friendly and fair manner, considering gender and cultural aspects, and should include interviews with children and, where appropriate, accompanying adults, in a language the child understands" (see for example *A.L. v Spain*, 31 May 2019, para 12(4); *R.K. v Spain*, 18 September 2019, para 9(4); *A.D. v Spain*, 4 February 2020, para 10(10); *M.B. v Spain*, 28 September 2020, para 9(9); *C.O.C. v Spain*, 29 January 2021, para 8(9); and *R.Y.S. v Spain*, 4 February 2021, para 8(4)). Likewise, the committee recently reaffirmed the need for a "thorough and culturally-sensitive age assessment" in *Jas.K.B., C.K.B., M.S.B. and J.K.B. v Czech Republic* (14 September 2026, para 9(7)) concerning a detained Afghan family whose dates of birth had been recorded by approximation, without further verification of the age of one daughter, who was considered to be 18.

The cascade approach from the least to more intrusive methods

The order in which the different methods of age assessment, for example visual assessments, document analysis, interviews, psychological assessments and medical assessments as a measure of last resort, are applied matters, as seen in the examples of case law. The jurisprudence shows that this order must progress from the least to more intrusive methods, a principle now embedded in Article 25 of the APR, which requires a preliminary verification based on the applicant's initial statements, available documentary evidence or other relevant indications. When this is inconclusive, the authorities may carry out a two-step process, beginning with a multidisciplinary assessment, including a psychosocial assessment, and resorting to medical methods only thereafter.

This progression from the least to more intrusive procedures is referred to as the 'cascade approach' in the EUAA Practical Guide on Age Assessment (November 2025, pp. 51-52) and relates to the principle of minimum intervention required to better uphold the best interests of the child (EUAA Practical guide on the best interests of the child in the framework of international protection, March 2026, pp. 82-83). It was particularly underscored by the ECtHR in *F.B.* v *Belgium* (6 March 2025, paras 42-44), in which the court examined the Belgian referral policy for medical examinations in the context of age assessments and held that the principle of proportionality requires authorities to exhaust less intrusive methods before progressing to more intrusive ones. Specifically, the court found that the authorities had breached Article 8 of the ECHR by immediately carrying out radiological examinations, which determined the applicant to be over 18 years old, despite the requirement that such tests be used only as a measure of last resort due to their intrusive nature.

The ECtHR further noted that it was only after the medical assessment had been carried out that the authorities conducted an in-depth interview with a specially-trained guardianship officer, during which the applicant could have received adequate information, submitted additional documentation and clarified her situation through less invasive means. In doing so, the court highlighted that the proper sequencing of age assessment methods is intrinsically linked to the procedural safeguards governing the age determination process. While the Pact was not yet applicable at the time, it is worth noting that the ECtHR referred to Article 25 of the APR in the section of the judgment setting out the relevant EU legal framework.

Following the ECtHR's finding that the Belgian decision-making process in age determination had been flawed, the Belgian Council for Alien Law Litigation (CALL) upheld appeals, for instance when decisions terminating child custody or deciding on Dublin transfers did not meet the requirements set out by *F.B.* v *Belgium* when other means of age verification, such as available documentation, had not been duly considered (see judgments from 18 April 2025 and 29 April 2025). The Belgian Council of State likewise emphasised (27 May 2025) the importance of exploring less intrusive methods for age assessments, noting in particular that an applicant's failure to produce documentary evidence in support of their statements did not relieve the authorities of their obligation to consider less intrusive methods before resorting to medical examinations.

Likewise, the Danish Refugee Appeals Board's Coordination Committee considered the ECtHR's judgment in *F.B.* v *Belgium*, found that there was a need to revise its age assessment practice, and subsequently remanded 11 cases to the Danish Immigration Service (DIS) for reconsideration. Going forward, the committee decided that age assessments should follow a three-stage process, moving from less to more intrusive methods: an initial interview by the asylum authority, conducted by an officer with specialised training and expertise in interviewing children; an age assessment conducted by a child psychologist or another appropriately qualified professional; and medical examinations.[12]

Other Member States also follow a staggered approach. For instance, the German Higher Administrative Courts of Bavaria (5 April 2017) and Bremen (4 June 2018) have examined the obligation under Section 42f of Book VIII of the Social Code to assess minority first on the basis of identity documents and, in their absence, on the basis of the applicant's statements, followed by a qualified visual assessment and interview, with medical age assessment methods used only as a measure of last resort.

Similarly, the Italian Supreme Court of Cassation (8 October 2025) provided further insight into the sequencing of the Italian multi-disciplinary framework that had been examined by the ECtHR in the *Darboe and Camara* v *Italy* judgment, recalling that it requires a gradual approach through which age should primarily be verified through identity documents, and only when well-founded doubts persist may a socio-medical assessment be carried out. On this note, the Austrian Supreme Administrative Court (28 March 2017) has likewise held that medical examinations are not required when adulthood or minority can be recognised without specialised expertise.

The requirement of a multidisciplinary approach to age assessments has been incorporated into international standards through soft law instruments and the jurisprudence of the ECtHR and the CRC Committee. It is now codified in the Pact, which clarifies requirements that were not previously explicit in EU law, such as the need to consider available documents, which must be presumed genuine unless there is evidence to the contrary *(see Section 2.1)*; continuing with methods such as visual assessments, age assessment interviews and psychosocial assessments *(see Section 2.2)*; and treating medical examinations as a measure of last resort *(Section 3)* which, as established in Recital 37 of the APR, must progress from the least to more intrusive methods.

As these layers accumulate, the growing complexity of the age assessment process may increasingly sit in tension with the strict timelines for processing asylum applications, particularly at the border, raising questions about how such requirements can be reconciled in practice. Against this backdrop, the Pact may be seen as laying the groundwork for common EU standards on age assessments, an area that has not yet been addressed in the case law of the Court of Justice of the European Union (CJEU) but will likely be in the future.

2.1. Assessment of documentary evidence

Case law related to age assessments underscores the pre-eminence of documentary evidence in age determination, with recurring issues centred around the evidentiary value attached to documents and the need to take them into consideration before resorting to more intrusive methods. This approach is now reflected in Article 25(1) of the APR, which establishes a presumption of authenticity of documentary evidence by providing that documents submitted for the purposes of an age assessment are to be presumed genuine unless proven otherwise.

Taken as a whole, the jurisprudence related to age assessments of applicants for international protection indicates that:

- In accordance with the principle of progressing from the least to more intrusive age verification methods, available documentary evidence must be considered first (see the previous sub-section).
- A wide range of documents, and not only biometric identity documents, must be taken into account and presumed genuine for the purpose of an age assessment (e.g. the broader category of civil status documentation and even copies of documents).
- This presumption of authenticity is rebuttable by means of substantive and specific challenges to the content of the documents. Statements on the general reliability of documents issued in a given country have typically been regarded as insufficient, as have formal objections such as the absence of a translation or legalisation.
- The assessment of evidence rests largely with national authorities, which may resort to various methods like expert reports or verification of the documents with the issuing authorities. This verification may only be conducted when it does not pose a risk to the applicant.
- Article 25(1) of the APR provides that, in addition to the applicant's statements and documentation, authorities may take into account other relevant indications, such as records contained in European large-scale IT databases. Dutch case law has assessed these indications in accordance with national evidentiary rules.

2.1.1. Presumption of authenticity for a wide range of documents

The presumption of authenticity of documents in age assessment procedures rests on soft law and jurisprudence recognising that applicants for international protection, especially minors, often face difficulties in providing evidence. Various ECtHR judgments have affirmed that applicants' statements and supporting documents must be afforded the benefit of the doubt. The court's ruling in *Mugenzi v France* (10 October 2014, paras 47 and 51-62) is of particular interest because the ECtHR adopted a reasoning akin to the presumption of authenticity of documents in age assessments by drawing on the evidentiary advantage under Article 11 of the Family Reunification Directive, which – unlike the APR – is not

formulated as a strict presumption ("where a refugee cannot provide official documentary evidence of the family relationship, the Member States shall take into account other evidence").[13]

The case concerned the family reunification of a Rwandan refugee with his wife and children, who lacked identity documents. The refugee submitted various civil status documents, including birth certificates, school certificates, photographs and baptism certificates, to support the minority of his eldest two sons. These documents were disregarded following an oral cavity examination conducted without radiographic imaging by the French embassy in Kenya. The ECtHR found that the authorities had not complied with their obligations under EU law and the government "did not credibly establish that the applicant's allegations concerning the children's age were unfounded", in breach of Article 8 of the ECHR.

Notably, the same presumption of authenticity now codified in the APR appears in the joint General Comment issued in 2017 by the CRC Committee and the Committee on the Protection of the Rights of All Migrant Workers.[14] Accordingly, the CRC Committee's jurisprudence has consistently affirmed that documents submitted by applicants claiming to be minors, even when they are not biometric identity documents, must be accepted at face value unless their authenticity is challenged by the authorities. In several cases, including *R.K. v Spain* (18 September 2019, para 9(10)), *A.D. v Spain* (4 February 2020, paras 10(10), 15(15) and 10(16)) and *M.B. v Spain* (28 September 2020, paras 9(9) and 9(15)), the CRC Committee found that the authorities had breached Articles 8 and 12 of the CRC by dismissing applicants' birth certificates attesting to their age on the ground that they were not biometric identity documents, without formally assessing their content or challenging their authenticity. The committee held in all these cases that the applicants' identities had been unduly altered through the assignment of a different age and their right to be heard during the proceedings had not been respected.

The CRC Committee reached the same conclusions in *J.A.B. v Spain* (31 May 2019, para 13(5)), where none of the documents submitted by the applicant, including the full birth certificate, consular identity card, consular registration certificate and passport application receipt, were considered valid prior to the age determination decision. In *R.Y.S. v Spain* (4 February 2021, para 8(11)), in which the applicant admitted using and later destroying a false passport to enter the country, the committee likewise found violations of Articles 8 and 12 of the CRC due to the authorities' failure to assign any evidentiary value to the applicant's vaccination booklet, school card and school records which were submitted in support of her claim of minority.

For their part, national jurisdictions, including courts in Czechia and France, have also accepted the *prima facie* validity of documents in age assessment cases, even when the documents were copies or submitted at a later stage, as illustrated by a Czech Constitutional Court judgment delivered in July 2021. In that case, the Czech Constitutional Court overturned the decision determining that a detained Iraqi applicant was an adult based on medical assessments. Although this was not the central issue in the proceedings, the Constitutional Court observed that the Czech Supreme Administrative Court had incorrectly dismissed the applicant's copies of his birth certificate and identity document as "low-quality photocopies" and unverifiable. Referring to the CRC Committee's views in *A.L. v Spain* (31 May 2019, paras 12(4) and 12(1)), where authorities had likewise erroneously disregarded a

copy of the applicant's birth certificate, the Constitutional Court reviewed the translation of the copies filed by the applicant and found them mostly legible, with only minor uncertainties regarding the exact hour and day of birth. The court found that the copies were neither redundant, irrelevant nor lacking in probative value and, taking into account the difficulties associated with detention and obtaining documents from a conflict zone, held that accepting them as evidence would better uphold procedural fairness.

As seen in the ECtHR's ruling in *A.C.* v *France* (16 January 2025, paras 33 and 215)[15] and a January 2022 ruling of the French Court of Cassation, French courts have similarly applied a presumption of authenticity to civil status documents in age assessment proceedings, based on Article 47 of the French Civil Code, which assumes such documents to be authentic unless there is clear evidence that they are irregular, falsified or factually inaccurate. In both cases, the documents at issue were Guinean *jugements supplétifs* (judicial declarations of birth), as well as, in the first case, a criminal record extract, and in the second, an extract from the civil registry.

The above case law shows that the presumption of authenticity extends well beyond biometric identity documents, such as passports and identity cards, to the broader category of civil status documentation commonly held by children and families, including birth certificates, school certificates, photographs, baptism certificates, consular identity cards, consular registration certificates, passport application receipts, criminal record extracts, civil register extracts, judicial declarations of birth and, in some instances, even copies of birth certificates or identity documents. Reflecting this standard, the recent EUAA Practical Guide on Age Assessment (November 2025, pp. 12, 53, 87) highlights that authorities are required to exhaust all possibilities when assessing documentation and to consider a broad range of evidence beyond identity documents. The guide includes UNHCR travel documents, religious or civil certificates, family vaccination cards or medical records, time-stamped photographs, dated social media posts, statements or documents provided by family members or relatives, and any other means of proof deemed valid.

2.1.2. Rebutting the presumption of authenticity through substantive challenges

The ECtHR has often recalled that the assessment of civil status documents is a delicate matter, for which national authorities are generally better placed than international human rights bodies; therefore a margin of appreciation must be given (see *Mugenzi* v *France*, 10 October 2014, paras 47, 51-62; *A.C.* v *France*,[16] 16 January 2025, para 157; and *F.B.* v *Belgium*, 6 March 2025, para 72). This indicates that the criteria for challenging the authenticity of documents submitted by asylum applicants claiming to be minors have largely been developed at the domestic level, where courts have often required that such challenges be substantive, meaning that they must address the specific shortcomings of the documents under analysis and be based on material rather than purely formal considerations.

First, the requirement of specificity entails that any such challenge must identify which concrete elements support the conclusion that the examined documents are not authentic or accurate. Therefore, general assertions about the unreliability of issuing authorities or widespread documentary fraud in the country of origin have been typically regarded as insufficient.

This is exemplified in case law involving the use of expert reports to assess documents, including from the Danish Refugee Appeals Board (1 November 2025), which gave decisive weight to a passport screening by the National ID Centre; the Dutch Court of the Hague seated in Middelburg (21 January 2021) disregarding a family booklet based on an expert report pointing to the fact that the legalisation of the document had been falsified; and French and German case law.

Notably, in *A.C.* v *France* (16 January 2025, paras 33 and 215),[17] a case concerning a non-asylum-seeking Guinean applicant, the ECtHR endorsed the French national practice of presuming the authenticity of civil status documents submitted as proof of age and requiring authorities to challenge them specifically rather than merely questioning their general reliability. Although in the case the ECtHR found a violation of Article 8 of the Convention due to the authority's failure to provide adequate information on the age assessment and the decisions concerning childcare *(see Section 5.2)*, it held that the applicant had been afforded an effective remedy to challenge the decisions. This was partly because a domestic court ultimately upheld the applicant's appeal on the basis of his civil status documentation, finding that the expert report questioning their validity had not identified any falsification but had instead improperly questioned the documents' validity because they did not contain photographs identifying their holder and because of the general problem of widespread documentary fraud in Guinea.

In the same vein, in *O.A.* v *Denmark* (7 November 2017, paras 2(9), 8(8), 8(11) and 8(12)), the UN Human Rights Committee noted that Danish authorities had disregarded a Syrian applicant's family book and birth certificate on the basis of inconsistencies and background information indicating that, after 4 years of war, the civil registry in Syria was no longer functioning. The committee found that the domestic authorities had not undertaken "any act to verify the documents", among other considerations leading to the conclusion that the handling of the case violated Articles 7 and 24 of the International Covenant on Civil and Political Rights (ICCPR).

Also addressing Syrian documents, the Higher Administrative Court of Rhineland-Palatinate (26 January 2024) questioned the reliability of Syrian civil, family and birth records by specifically pointing out that a birth had been registered 15 years after it occurred, after the applicant had left Syria and that this was inconsistent with customary registration practices and the family's earlier registration of younger siblings. For its part, the Higher Administrative Court of Bremen (27 June 2024) did not accord probative value to the birth certificate of a Ugandan applicant claiming minority, noting that her stated place of birth differed from that indicated in the certificate and adding that the certificate could not benefit from the presumption of authenticity, given the unreliability of the Ugandan civil registration system.

Second, challenges must go beyond purely formal objections, such as the absence of a translation or legalisation, which courts and international bodies – including the CRC Committee or the French Court of Cassation – have considered immaterial to the probative value of documentary evidence in the context of an age assessment. In this respect, the French Court of Cassation ruled that two reports by the Document Fraud and Identity Division (DEFDI) based on the lack of legalisation of submitted civil status documents were insufficient to rebut the presumption of authenticity. The applicant, whose majority had been

established following a bone examination, had submitted a *jugement supplétif* (judicial declaration of birth), a civil register extract and, subsequently, a passport. The Court of Appeal dismissed the documentation based on the DEFDI reports, which initially relied on the absence of any legalisation of the civil status documents and later on the lack of double legalisation, the presence of a second wet stamp mark on the tax stamp suggesting that it had been reused, and the fact that the passport had been issued on the basis of the contested documents. However, the Court of Cassation held that the formal objections from the DEFDI were insufficient to rebut the presumption of authenticity of civil status documents pursuant to Article 47 of the Civil Code, as they did not demonstrate that the document itself was fraudulent or factually inaccurate.

Similarly, in *U.A.* v *France* (5 July 2024, para 8(5)),[18] the CRC Committee examined the case of a non-asylum-seeking Pakistani national who had been deemed an adult following a summary age assessment based largely on physical appearance, during which his original birth certificate was also disregarded on formal grounds, including a lack of translation and legalisation. On appeal, the applicant submitted a translated birth certificate, an embassy-issued extract, a youth identity card and copies of his parents' identity documents, none of which were given probative value due to the absence of legalisation. The committee did not find the lack of a translation or legalisation sufficient to justify dismissing the documents and recalled that States may not disregard original, official identity documents unless their validity has been formally contested, finding violations of Articles 3, 8 and 12 of the CRC.

2.1.3. Conditions to verify documents through an issuing authority or diplomatic channels

The presumption of authenticity of documentary evidence in age assessments may be rebutted through various means of proof, such as the commissioning of expert reports or, as recently recalled by the Italian Supreme Court of Cassation (8 October 2025), verification with the issuing authority or through diplomatic or consular channels.

Crucially, the CRC Committee's jurisprudence suggests that the verification is permissible only with the applicant's consent and if it does not expose them to risk. The CRC Committee has consistently held that documents submitted for the purpose of an age assessment must be treated as genuine unless proven otherwise. It has therefore found violations of Article 8 of the CRC when authorities failed to examine the validity of the documents, including by not contacting the issuing authority, even in cases involving applicants for international protection who had requested the verification (see *R.K.* v *Spain*, 18 September 2019, para 9(10); *A.D.* v *Spain*, 4 February 2020, para 10(17); and *M.B.* v *Spain*, 28 September 2020, para 9(15)).

At the same time, in cases such as *S.M.A.* v *Spain* (28 September 2020, para 7(15))[19] and *C.O.C.* v *Spain* (29 January 2021, para 8(14)), the committee faulted authorities for failing to verify documents when such contact would not have exposed the applicants to danger precisely because they had not requested international protection. In addition, in *S.E.M.A.* v *France* (6 March 2023, para 7(15),[20] the committee further reinforced that verification is conditional to the applicant's consent.

At the national level, a Slovenian Administrative Court ruling (16 October 2020) illustrates the importance of evaluating information obtained through diplomatic channels alongside other evidence, thus ensuring that presumptions of authenticity remain rebuttable. The case

concerned an Afghan applicant who had entered the EU with the help of a smuggler who had arranged for a passport to be issued using false information, including the applicant's date of birth. The court found that the Slovenian authorities had unduly relied on a copy of the passport obtained through the Italian embassy in Afghanistan, which had issued a visa on Slovenia's behalf for attendance at a non-existent sporting event, while dismissing the applicant's *Tazkira* based on general concerns about the reliability of such documents. Although it ultimately upheld their decision to reject refugee status and grant subsidiary protection, the court noted that the authorities had failed to carry out an expert examination of the passport signature and a proper age assessment, as requested by the applicant.

Taken together, this jurisprudence indicates that authorities may verify documents with the issuing authority or through diplomatic channels in cases involving international protection, but only with the applicant's consent and if it does not expose them to risk.

2.1.4. Evidentiary weight of age registrations carried out by other EU+ countries

Article 25(1) of the APR establishes that authorities may undertake an age assessment when there are doubts about an applicant's minority, based on their statements, available documentary evidence or other relevant indications. In practice, Member States consult age information recorded by other EU+ countries in European large-scale IT databases, such as Eurodac,[21] and therefore foreign age records may constitute one such relevant indication. This practice is further reinforced by the Pact, which has introduced the possibility for authorities to recognise age assessment decisions taken by another Member State on the basis of the principle of mutual trust, pursuant to Article 25(7) of the APR.

However, case law shows that previous age registrations often reflect self-reported dates of birth or information based on documents rather than the outcome of a formal age assessment. It also shows that minors may misrepresent their age for various reasons, including a fear of detention, the wish to avoid separation from adult travel companions, situations in which age information is provided by others rather than by the child and even incorrect entries made by authorities.

Although Dutch case law initially relied more heavily on such information, it has recently shifted toward considering it only insofar as it complies with domestic evidentiary standards. In its judgment of 9 October 2024, the Dutch Council of State held that age registrations from other EU+ Member States may be taken into account but cannot be automatically relied upon. Referring to the presumption of minority recognised by the ECtHR in *Darboe and Camara v Italy*, the Council of State emphasised that EU law neither prescribes methods or safeguards for age assessments nor regulates the probative value of foreign age records. Authorities must therefore assess such registrations in accordance with national evidentiary rules and applicable EU law. When doubt persists, applicants claiming to be minors must be treated as such, and authorities must conduct further investigations, possibly in cooperation with other Member States, and must justify the weight assigned to any Eurodac hit. This requires authorities to inquire into the source of foreign registrations, including whether they were based on documents, medical assessments or the applicant's statements, and to assess the credibility of any inconsistencies, since all relevant facts and circumstances must be considered when evaluating a claim of minority.

In the case, a Malian applicant submitted an ID card and birth certificate showing minority. However, checks revealed different dates of birth in Belgium, Italy and Switzerland, and a Belgian bone test indicated adulthood. The Council of State found that the applicant had not adequately explained these discrepancies, casting serious doubt on the authenticity of the submitted documents. It held that, although mutual trust does not apply automatically, the evidence available, including the Belgian age assessment, allowed the authorities to rebut the presumption of minority and conclude the applicant was an adult.

This position has been further developed in subsequent Council of State case law: in August 2025, the council quashed a finding of majority of an Eritrean applicant who had been registered as an adult in Italy because the minister had failed to explain how the Italian authorities had determined the date of birth. The council also noted that the applicant's explanation that he had claimed to be 23 in Italy to remain with adult companions had been disregarded without any reasoning. Likewise, in October 2025, the Dutch Council of State overturned a declaration of majority based on a Swiss registration due to the lack of information on how the applicant's age had been determined. The council also upheld a Guinean applicant's claim to minority because authorities were unable to clarify the weight given to a prior age assessment in Spain, noting the applicant's explanation that the Spanish registration had been based on incorrect information provided by her former guardian. Finally, in November 2025, the council annulled a decision declaring an Eritrean applicant to be an adult on the basis of a previous registration in Italy. Although the applicant had submitted a photocopy of her birth certificate and other documents, they were rejected as unverifiable. The council held that their evidentiary value should nevertheless have been assessed and further noted that the minister had failed to explain how the Italian authorities had determined the date of birth that was subsequently relied upon in the Dutch age assessment.

The Pact has codified standards which were previously developed in international and domestic case law, thus a broad range of documentary evidence, well beyond biometric identity documents, must be considered from the outset of an age assessment procedure. Submitted documents must be presumed to be genuine. While this presumption remains rebuttable, challenges to documentary evidence must be substantive, that is, specific and grounded in material considerations relating to the documents themselves, rather than in general assumptions about documentary fraud or purely formal deficiencies, such as the absence of a translation or legalisation.

National authorities retain a margin of appreciation in the assessment of evidence, but the case law makes clear that this discretion is constrained by procedural safeguards requiring a genuine examination of the documents, including verification with the issuing authority. In the context of international protection, however, such verification may only be undertaken with the applicant's consent and if it does not expose them to risk. As these standards are applied in practice, document assessment may be time-consuming, creating potential frictions with application-processing timelines and the obligation to avoid undue delays.

2.2. Age assessment interviews and psychosocial assessments

The APR does not exhaustively regulate the methods to be used within the multidisciplinary assessment, leaving this to the procedural autonomy of Member States. Recital 37 of the APR states that a multidisciplinary assessment may include an analysis of documentation, visual assessments, interviews and psychosocial assessments, and specifies that it should take into account physical, psychological, developmental, environmental and cultural factors, which may be difficult to assess on the basis of documentation or physical appearance alone. It follows that interviews are an essential element for an age assessment and must precede more invasive methods.

For its part, ECtHR case law and the views adopted by the CRC Committee consistently hold that applicants undergoing an age assessment must have an opportunity to explain their individual circumstances, provide and request clarifications, express their views and, consequently, attach particular importance to interviews in the context of an age assessment. The case law examined has clarified and developed the standards for interviews:

- Interviews are a mandatory component of an age assessment, with their omission by authorities possibly leading to a violation of the rights of the child. However, the UN CRC Committee has also noted that children should not be interviewed more often than necessary, particularly when discussing potentially traumatic events.
- Interviews must take place in proper sequence, as a first step before more intrusive methods, and with regular interviews about life events preceding more in-depth psychosocial assessments.
- Though not explicitly regulated, the manner in which interviews take place is relevant, as the lack of substantive quality may lead to violations of procedural guarantees. Interviews must examine the situation of the applicant, giving the opportunity to meaningfully react to any doubts, and must be carried out by qualified staff in a language understood by the applicant, with representation and interpretation services.
- Finally, German case law and jurisprudence examining Dutch interview practices prior to the implementation of the Pact provide examples of requirements for interview-based assessments that may contribute to more effective judicial review.

2.2.1. Interviews are not optional in an age assessment

A fundamental point established across age assessment case law is that interviews are an essential, mandatory component, not an addition at the discretion of the authority. This specific point was raised by third-party interveners before the ECtHR in *F.B. v Belgium* (6 March 2025), who criticised the Belgian authorities for their systematic and immediate use of bone age tests to the detriment of identity documents and other methods, including interviews, which are more respectful of the best interests of the child and which were

provided for by Belgian law. The ECtHR repeatedly emphasised that, given their invasive nature, medical examinations should only be carried out as a last resort if other means of resolving doubt about the person's age have not yielded conclusive results (*F.B. v Belgium*, 6 March 2025, para 92). Significantly, for a measure such as a medical examination to be considered proportionate and necessary in a democratic society under Article 8 of the European Convention, the test used by the ECtHR mandates a national authority to rule out the existence of a less-serious alternative that achieves the same objective. It thus follows that interviews, which are a less serious alternative, are not optional for authorities.

Similarly, the CRC Committee recognised that interviews are essential for age determination[22] and highlighted that children should not be interviewed more often than necessary, particularly when discussing potentially traumatic events.[23] The committee found violations of Articles 3 and 12 of the CRC precisely because the applicants had been subjected solely to radiological examinations, with no interview forming part of the age assessment (*A.L. v Spain*, 31 May 2019, para 12(4) and *A.D. v Spain*, 4 February 2020, paras 10(10) and 10(11)).

While an interview is used to reconstruct a chronological sequence of life events to support an estimation of age, if the interview is not sufficiently informative and conclusive, a psychosocial assessment should follow to explore the individual's life experiences, psychological and emotional maturity, development and behaviour.[24] The failure to carry out psychosocial assessments may result in a substantive human rights violation, and not merely a procedural irregularity, as the ECtHR held in *N.N. and others v Greece* (19 December 2024, paras 2-12). In the case, authorities failed to carry out psychosocial evaluations which are required under Greek law, with the result that the applicants were not identified as children and were not placed in appropriate reception conditions, in violation of Article 3 of the Convention.

The CJEU has not directly interpreted provisions concerning psychological assessments for the purposes of age verification, but its case law on the use of such tests to assess credibility in LGBTIQ claims is relevant as it reveals that the court considers psychological testing to be an intrusive method. Its use must be proportionate to the interference with the right to private life under Article 7 of the EU Charter, particularly given that, in asylum procedures, consent to evidentiary methods may not be genuinely free and requires particular attention in child-related cases (case C-473/16, 25 January 2018, paras 53 to 59).

2.2.2. Interviews must be sufficiently in-depth

Case law related to international protection has addressed how interviews must be conducted during an age assessment, more specifically looking at the depth of the assessment, language accessibility, the qualifications of the interviewer, and the presence of interpreters and representatives. The case law underscores that even when an interview formally takes place, an inadequate way of carrying it out may entail a violation.

A significant principle which can be drawn from case law is that interviews must be carried out in a meaningful and substantive way to give the minor a chance to react to any doubts expressed by the interviewer and to submit documents and other evidence supporting their statements. The interview is devoid of substance if the process is merely a routine marking of

a form, without input required from the applicant, and if the officer immediately directs the applicant to undergo a medical examination (see *F.B. v Belgium*, 6 March 2025, paras 82-83). The CRC Committee has grounded this principle in the child's right to be heard under Article 12 of the CRC, specifically to be heard in a language the child understands, in a child-friendly, gender-sensitive and culturally-appropriate manner (*A.L. v Spain*, 31 May 2019, para 12(4) and *A.D. v Spain*, 4 February 2020, paras 10(10) and 10(11)).

Furthermore, the ECtHR has stressed the importance of involving staff with expertise in communicating with children early on and providing proper representation, so that an applicant may participate meaningfully in the process (*Darboe and Camara v Italy* and *F.B. v Belgium*). It also follows from the court's reasoning in *F.B. v Belgium* that there is an obligation for the interviewer to go beyond fact-gathering and ensure informed participation for the applicant, as an earlier social interview can ensure that the applicant is properly informed of their rights. Although not in the asylum context, the CRC Committee also confirmed the importance of a thorough social interview at an early stage, including proper interpretation and representation (*S.E.M.A. v France,* 6 March 2023, para 8(7)).[25]

2.2.3. National requirements for age assessment interviews and visual inspections

Two lines of national case law stand out when referring to age assessment interviews and visual inspections. Both Dutch and German jurisprudence have given particular weight to the need for independent, well-reasoned conclusions following an age assessment interview, with German case law stressing the child's right to meaningful participation in the process and the limited reliability of these methods in cases close to the age of majority.

Under Section 42(f) of Book VIII of the German Social Code, an applicant's claim to minority must first be assessed through documents and the applicant's statements. When this is insufficient, the law requires officers, typically from the Youth Welfare Office *(Jugendamt)*, to conduct a visual assessment and an interview, where necessary with the assistance of an interpreter. If the assessment remains inconclusive, that is, if it cannot be excluded that medical methods may indicate minority, a medical age assessment must be conducted, particularly when the estimated age falls within the typical 1- or 2-year margin of error above the threshold of 18 years (Higher Administrative Court of Bavaria, 5 April 2017).

German case law suggests that this age assessment interview can be carried out when the applicant's statements and documents do not conclusively establish minority, as the Higher Administrative Court of Rhineland-Palatinate found (26 January 2024) in a case where an applicant produced only a photograph of an extract from the civil register. Interviews must follow the 'four-eyes principle', meaning that two officers are responsible for the interview. The officers must be qualified by having sufficient expertise in the area, without requiring a specific academic background such as that of a pedagogue or a social worker (Higher Administrative Court of Bremen, 27 June 2024). Several Higher Administrative Courts, such as in Bavaria (5 April 2017) and Bremen (4 June 2018), have stressed that applicants must be provided with an officer's doubts about their age claim and allowed to clarify any points. They have also highlighted that the individual steps and the underlying reasoning of the report following the visual assessment and interview must be documented in a transparent, traceable manner, enabling a review of the conclusions.

These rulings have also established that interviews and visual assessments are only able to conclude majority in obvious cases and, for instance, the Bavarian court dismissed certain conclusions based on external appearance (voice, body hair, facial features) or demeanour (confidence, demanding behaviour) as insufficiently conclusive, noting that the report did not explain why these could not show up in mature minors. The court also noted that in many countries of the southern hemisphere, a person's date of birth may not carry particular significance and may not be formally registered and, consequently, inconsistencies in an applicant's statements about their age cannot automatically be interpreted to their detriment.

For its part, Dutch case law has analysed the Netherlands' interview policy prior to the Pact, where instructions required two age assessment interviews to be carried out independently by staff of the Aliens Police Identification and Human Trafficking Department (AVIM) and the Immigration and Naturalisation Service (IND) (District Court of The Hague seated in Rotterdam, 20 November 2019). AVIM interviews were carried out by uniformed, armed officers as part of identification procedures, and they focused on identity, nationality, travel route, fingerprints, documents, and public order and security concerns, whereas IND interviews were carried out during registration for unaccompanied minors aged 12 or older, and they addressed identity, nationality, origin, religion, ethnicity, travel history and documentation. Reports drawn from both interviews carried equal weight and were both required for a complete age assessment. Thus, if either one was flawed, the Minister for Asylum and Migration could not classify the applicant as an adult. Under this policy, input from both the AVIM and the IND was required, and the officers involved in the assessment had to independently evaluate the applicant's age and arrive at the same conclusion for their report to be conclusive (Council of State, 9 May 2019 and Council of State, 20 August 2025).

The Dutch Aliens Circular was amended following the entry into application of the Pact and now requires a single age assessment interview, carried out by IND. Based on the circular, IND's Work Instruction 2026/15 notes that: the initial interview is not part of the multi-disciplinary assessment, which can be conducted later if needed; the interview's findings must be based on external and physical characteristics, behaviour and statements of the applicant; and the conversation concerns age-related topics, including documents, education, employment, leisure and the age of relatives. It further requires that applicants are given the opportunity to respond to any doubts or contradictions, and conclusions in the report must be clearly linked to the observations and findings.[26] This latter requirement, also reflected in the German case law discussed above, is well established in recent Dutch Council of State case law concerning the former two-interview policy. The council has consistently demanded that the reasoning underlying both the AVIM and the IND reports be clearly explained, by specifying which findings support the conclusions reached about minority or majority and how, thus ensuring more transparency and contributing to more effective judicial review (see judgments of 13 October 2025, 23 October 2025 and 17 November 2025).

Interviews and psychosocial assessments are an essential step in ensuring that applicants who may be children are properly identified. However, the increased reliance on such methods under the Pact poses challenges, as authorities that previously did not utilise them may need to invest in specialised resources.

Moreover, the evidentiary weight of psychosocial assessments remains insufficiently defined (see Norwegian Court of Appeal, 29 April 2019), and their use may be affected by factors such as trauma, which can require additional time to assess and may therefore conflict with the requirement that age be verified promptly.

In sum, these methods are not uniformly standardised across EU+ countries and may require harmonisation, particularly if common standards for mutual recognition are to be established.

3. Medical examinations

When a multi-disciplinary age assessment *(see Section 2)* proves to be insufficient to resolve doubts about an applicant's minority, Article 25(2) of the APR provides that medical examinations may be used as a measure of last resort. Article 25(3) further requires that medical age assessment methods be the least invasive possible, carried out with full respect for the individual's dignity by qualified medical professionals and subject to the applicant's informed consent.

Medical methods include radiation-free techniques, such as dental observations, physical development assessments or magnetic resonance imaging (MRI) of the hand, wrist or knee. Assessments involving ionising radiation include radiographies of the hand, wrist or clavicle, dental X-rays, and computed tomography (see the EASO 2018 Practical Guide on Age Assessment, pp. 52-59 for an overview of different age assessment methods). The EUAA 2025 Practical Guide on Age Assessment (pp. 57-59) emphasises the importance of using the least-intrusive methods, recalling that assessments involving nudity and sexual maturity examinations are highly intrusive and should be avoided as they conflict with the rights to dignity, integrity and privacy. It further notes that X-ray examinations are physically intrusive due to their use of ionising radiation, which may be harmful. This concern is reflected in the Euratom Basic Safety Standards Directive (Directive 2013/59/Euratom) which, like all directives, must be transposed into national law, thus ensuring that the use of ionising radiation is subject to an appropriate legal and regulatory framework.[27]

Article 22 of the Euratom Directive requires that all practices involving the deliberate exposure of individuals to ionising radiation for non-medical imaging purposes, such as radiological age assessments, be justified in advance, taking into account the specific aims of the procedure and the characteristics of the individual to be examined; that protocols and criteria for implementation be established by competent authorities and medical bodies; and that such procedures generally be subject to the informed consent of the person, which is also required under Article 25(4) and (5) of the APR.

Despite their use, medical age assessments remain controversial, as there is no broad, international consensus among medical professionals about their accuracy. Soft law instruments[28] often emphasise that existing scientific techniques can only provide estimates of biological age rather than precise determinations of chronological age and always involve a margin of error. Pursuant to Article 25(2) of the APR, uncertainty may be expressed as an age range, which must be interpreted in favour of the child. Accordingly, Article 25(3) of the APR reflects a longstanding position in legal doctrine that medical evaluations should never serve as the sole criterion to establish a person's age, requiring instead that medical examinations be considered together with a multidisciplinary assessment, "thereby allowing for the most reliable result possible".

The following subsections review international and domestic case law concerning medical age assessment methods, from physical examinations to dental X-rays and medical techniques for assessing bone age, like the Greulich and Pyle Atlas (G&P) and the Tanner-

Whitehouse 3 scoring method (TW3), as well as related aspects such as the jurisprudential treatment of the margin of error. The examined jurisprudence holds that:

- Medical methods must be used only as a measure of last resort and are subject to the applicant's informed consent, a point clearly articulated by the ECtHR in *F.B. v Belgium* (6 March 2025, paras 89-94; also see the cascade approach and *Section 5.2*).
- Physical examinations are generally considered unreliable as a standalone method. In particular, examinations assessing sexual maturity must be avoided.
- Because imaging-based methods lack precision, a combination of different methods is recommended, and their results must state a margin of error and be evaluated in conjunction with other evidence.

3.1. Use of physical examinations and prohibition of sexual maturity examinations

Physical examinations are among the methods used by medical professionals to ascertain an applicant's age, although they have long been regarded as both intrusive and unsuitable for determining age on their own, except in the most obvious cases. Courts have provided some rationale for the use of physical medical examinations, while also recognising the limits to such examinations, including the requirement, codified in the APR, to respect the dignity of the child, with particular emphasis on the prohibition of sexual maturity examinations.

Scientific literature cited in jurisprudence recognises the role of an assessment by a medical professional prior to resorting to radiological methods. One of the most prominent examples is the 2008 *Updated Recommendations for Age Estimation in Living Persons in Criminal Proceedings*, issued by the Working Group for Forensic Age Assessments of the German Society for Legal Medicine (AGFAD), which has been cited by courts in Austria, Germany and Switzerland.[29] The recommendations advise conducting a physical examination, including the recording of anthropometric measurements such as body height and weight, body build and possible developmental disorders relevant to age, prior to any methods involving ionising radiation. This was clearly explained by the Swiss Federal Administrative Court in a landmark case decided in August 2018, in which the court held that physical examinations are not, in themselves, suitable to determine whether a person is a minor or an adult but that, when combined with a targeted medical history, they may provide indications of anomalies in physical development that could lead to irregularities in age estimation.

Non-radiographic dental examinations are another kind of physical examination method that has likewise been regarded as unreliable in ECtHR case law. For instance, in *Mugenzi v France* (10 October 2014, paras 29-33 and 58), the ECtHR questioned the evidentiary value of a simple oral cavity examination, noting that there was no indication that it had been complemented by radiological testing. The court held that, in the absence of a dental X-ray, a visual examination alone cannot provide even an approximate indication of age and was

therefore insufficient to undermine the credibility of the documentary evidence submitted by the applicant.

Relatedly, physical checks have at times included examinations of the applicants' primary and secondary sexual characteristics, a practice that the UN CRC Committee has affirmed "must never be performed on children". This was the case in *R.Y.S. v Spain* (4 February 2021, paras 8(8) and 8(16)), where a 16-year-old girl who had fled Cameroon after experiencing sexual abuse in her family environment was required to undergo a sexual maturity assessment. The committee observed that the physical examination was invasive and unnecessary, as girls generally reach full sexual maturity by the age claimed by the applicant. According to the committee, such tests "violate a child's dignity, privacy and bodily integrity and should be prohibited", constituting an unlawful interference in her private life and a violation of her rights to privacy and dignity under Article 16 of the CRC.

Consequently, national legal frameworks in the EU are increasingly moving towards excluding sexual maturity examinations from age assessment procedures. This is reflected, for instance, in Spain's legislative reforms following the above-mentioned views of the CRC Committee;[30] Article 388 of the French Civil Code which, as recalled by the Court of Cassation, prohibits examinations of pubertal development and primary and secondary sexual characteristics; and the previously cited AGFAD recommendations, which note that genital inspection is not permissible in age assessments conducted by the Youth Welfare Offices (*Jugendamt*) on the basis of Section 42f of Book VIII of the German Social Code.

3.2. Imaging-based methods for age assessments

Case law shows that Member States have frequently relied on methods that assess skeletal and dental development to determine age. Although some imaging-based methods, such as magnetic resonance imaging (MRI) and ultrasound, do not involve ionising radiation, the most frequently used techniques are X-rays of the hand and wrist, computed tomography (CT) of the clavicles and orthopantomography (panoramic dental X-rays), all of which use radiation. These methods are typically interpreted by comparison with reference standards, such as the G&P Atlas or the TW3 scoring system. These standards were designed to assess biological development rather than chronological age and are based on studies of reference populations, making their results subject to statistical variation (EUAA, Practical Guide on Age Assessment, 2025, pp. 102-103). Consequently, these methods can provide only approximate estimates of biological age, with an associated margin of error that must be clearly stated. Courts and human rights bodies have also emphasised that medical age assessment methods constitute only one of several factors to be considered in an overall age determination and should be used only as a last resort (see the cascade approach).

Scientific literature referred to in case law, including the AGFAD recommendations on age assessment cited in *Section 3.1* calls for a combination of different imaging-based methods to improve the reliability of conclusions and identify developmental disorders relevant to age. AGFAD recommendations provide for a preliminary physical examination followed, when necessary, by an X-ray examination of the left hand and wrist, a dental examination, including an X-ray examination of the dentition, and an additional examination of the clavicles by

conventional radiography or CT. Reference standards commonly used for hand and wrist X-rays include the G&P Atlas and the TW3 scoring system, while dental X-rays are often assessed using Demirjian's scoring system, which measures dental maturity based on the developmental stages of the teeth.

The AGFAD recommendations further require reference studies to have adequate sample sizes, appropriate sex and age distributions, verified ages of participants, clearly defined characteristics and accurately described methodologies. Moreover, practitioners should consider applicants' genetic and geographical backgrounds, socioeconomic circumstances and health status when comparing their results with those of the reference population, as these factors may affect development. Such circumstances should be clearly addressed in medical age assessment reports.

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.

3.2.2. Imprecision, margins of error and factors affecting age assessment results

For its part, the CRC Committee has repeatedly warned against exclusive reliance on methods such as bone and dental examinations, which can be inaccurate, have wide margins of error and may be traumatic or trigger unnecessary legal processes. It has consistently considered X-ray evidence, particularly when based on the G&P Atlas, to be imprecise. In *A.L. v Spain* (31 May 2019, paras 12(4), 12(5) and 12(6)) and *A.D. v Spain* (4 February 2020, paras 10(11) and 10(12)), the committee noted that the applicants had undergone only an X-ray of the left hand. Using the G&P Atlas, their bone ages were assessed as over 19 years and between 18-19 years, respectively, without any margin of error being specified.

In *R.K. v Spain* (18 September 2019, paras 9(5) and 9(6)) and *C.O.C. v Spain* (29 January 2021, paras 8(10) and 8(11)), applicants held in migrant detention underwent wrist X-rays which were assessed using the G&P Atlas and panoramic dental X-rays, again without a specified margin of error. In *S.M.A. v Spain* (28 September 2020, paras 7(9) and 7(10)), the applicant underwent a triple bone test (wrist, clavicle and dental X-ray examinations). In these cases, the committee found violations of Articles 3 and 12 of the Convention on the Rights of the Child because the procedures lacked sufficient safeguards, failed to respect the best interests of the child and were unsuitable as the sole method of determining chronological age.

At the national level, several courts, including the French Constitutional Council (21 March 2019), the French Court of Cassation (12 January 2022), the Swiss Federal Administrative Court (4 March 2019), Norwegian courts and the Czech Constitutional Court, have addressed the imprecision of medical age assessment methods. In line with international human rights case law, national courts have required a margin of error to be clearly stated, insisted on comprehensive assessments of all available evidence and have often applied the benefit of the doubt when results conflict *(see Section 4)*.

Norwegian courts have long recognised the methodological limitations of imaging-based methods because of the natural variation in skeletal and dental development. In proceedings concerning five undocumented Afghan applicants claiming to be minors, the Oslo District

Court (30 November 2017) took into account these limitations as noted by the Norwegian Paediatric Association, in particular concerning the G&P Atlas. On appeal, the Court of Appeal (29 April 2019) further acknowledged that the G&P Atlas had been developed in the 1930s using a sample of white, middle-class children from Ohio, which was not representative of the population of young asylum seekers. It also observed that the atlas had been designed to assess skeletal maturity in children of known age to predict growth potential, rather than to estimate chronological age. Nevertheless, the Court of Appeal quashed the lower court's ruling and upheld the age classifications based on the statistical tool "BioAlder", emphasising that the assessments did not rely solely on the G&P Atlas and Demirjian's stages of third-molar development. Rather, these methods were used to establish developmental stages, which were then interpreted through "BioAlder", regularly updated against reference data linking developmental stages to known chronological ages and incorporating safety margins. This decision was later confirmed by the Supreme Court (12 December 2019).

For its part, the Czech Constitutional Court (7 July 2021) ruled on procedural guarantees surrounding an age assessment in which both the G&P Atlas and the TW3 method were used. As in *Darboe and Camara v Italy*, the G&P method estimated the applicant's age at 18, while the TW3 method estimated 16. Despite this discrepancy, the examining doctor relied on the G&P result, arguing that the TW3 method was unsuitable since it could only estimate up to a maximum of 16.5 years. The Constitutional Court referred to the EUAA's Judicial Analysis on Vulnerability (pp. 51-55), the case law of the Supreme Administrative Court and the CRC Committee General Comments,[31] emphasising the limited accuracy of bone age testing, particularly when applied to individuals from non-European backgrounds. Making a point similar to that made in the Norwegian rulings, it recalled that these methods rely on comparative data, which must be interpreted considering the subject's socioeconomic and geographical origins. In this case, despite the Czech Supreme Administrative Court consistently stressing the low informative value of these methods, it gave greater weight to the G&P estimate, contradicting its own case law, which had previously favoured the TW3 method for being more accurate. Finding that the age assessment had not been conducted with adequate guarantees, the Constitutional Court partially upheld the applicant's appeal.

The importance of considering genetic and geographical backgrounds, as well as developmental factors that may affect age assessment results, also appears in Austrian, German and Swiss case law, which have highlighted the value of combining imaging-based methods to reduce variability, as further discussed below.

3.2.3. Use of combined imaging-based methods

Case law shows that several jurisdictions rely on a combination of imaging-based methods, typically involving an X-ray examination of the hand or wrist, a panoramic X-ray of the dentition and an additional examination of the collarbone. This approach reflects scientific recommendations, including those of AGFAD, and has been considered by courts in Austria, Germany and Switzerland to mitigate the risk of inaccurate age estimates.

A detailed explanation appears in an August 2018 judgment of the Swiss Federal Administrative Court (FAC) concerning a Guinean applicant who contested the results of a triple bone test, citing discrepancies between the skeletal and dental findings and arguing

that the assessment had not followed the AGFAD recommendations. FAC commissioned three independent expert reports and upheld the conclusion that the applicant was an adult. FAC found that Swiss forensic medicine institutes combine physical examinations and three imaging-based methods, of which only clavicular skeletal analysis and examination of dental development are suitable for determining whether a person is a minor or an adult. Hand and wrist X-rays are not conclusive about whether an applicant has reached the age of majority, but they involve significantly lower radiation exposure and are used to determine whether further examinations are necessary.

From the expert reports, FAC further concluded that the relevant metric is the combined results of the clavicle/skeletal analysis and dental examination. If both methods indicate a minimum age above 18, this constitutes a strong indication of adulthood. If only one does, the strength of the indication depends on whether the estimated age ranges overlap and, where they do not, whether a plausible medical explanation accounts for the discrepancy. If both minimum ages remain below 18, the assessment cannot reliably establish whether the person is a minor or an adult, even if the estimated maximum age exceeds 18. Based on this, FAC held that the age assessment had adequately addressed the discrepancies between the tests, noting that studies suggested that wisdom-tooth mineralisation may occur approximately one year earlier in African populations, while the applicant's self-reported malnutrition in Cameroon could explain a slower skeletal development.

In Germany, the Higher Administrative Court of Bremen has also addressed concerns about radiation exposure and the reliability of age assessment results in a ruling of June 2018, confirmed by another ruling delivered by the same court on the same date. In both cases, the assessments consisted solely of a panoramic radiograph of the applicant's dentition, with no further medical examinations performed in order to limit the applicant's exposure to radiation. The court nevertheless held that, given the significant implications of classifying applicants as adults or as children, a lower standard of certainty was not justified when greater certainty could be achieved by following the three-stage procedure recommended by AGFAD.

The court likewise referred to scientific studies indicating that skeletal maturation correlates with the socioeconomic circumstances of the population examined and that people of African descent may exhibit accelerated wisdom tooth development, increasing the risk of incorrect classification as adults when relying solely on panoramic dental radiographs. The Bremen court further stressed the importance of the minimum-age concept, under which the youngest age at which a particular characteristic occurs in the reference population of a study is used as the basis for the estimate, in order to reduce the risk of incorrectly classifying a minor as an adult. In both rulings the court found that the assessment did not meet the required standard and upheld the applicants' appeals.

Swiss and Austrian case law, like German case law, illustrates how medical age assessments may be afforded less weight or disregarded when they fail to meet reliability standards, including when an applicant's individual characteristics prevent a combined-method examination. In a ruling delivered in December 2025, the Swiss FAC considered the case of an undocumented Algerian national who underwent an X-ray examination of the left hand and a CT scan of the sternoclavicular joints but no dental orthopantomography due to the absence of developing teeth and third molars. The assessment estimated an average age of

19 years and a minimum age of 16.4 years. Although the court acknowledged that the expert report relied on incomplete statistical data because the dental examination was missing, it ultimately dismissed the appeal based on an overall assessment of the evidence. In particular, it considered the applicant's use of a false identity and nationality, his failure to provide identity documents that he had indicated could be obtained, and the vagueness and inconsistencies in his account of timelines. It concluded that his claimed date of birth was not more plausible than the fictitious date retained by the State Secretariat for Migration.

For its part, Austrian legislation provides for 'multifactorial' age assessments combining three types of medical examination: physical, dental and radiological. The practical implications of this requirement are illustrated by a November 2017 decision of the Austrian Federal Administrative Court concerning an Afghan applicant whose physical development was likely affected by medical conditions, including a form of polyarthritis. The medical practitioners had declined to perform X-rays of the carpal bones of the hand and the collarbones, considering them unsuitable in view of the applicant's short stature, and had assessed his age solely on the basis of a dental X-ray. The expert report itself acknowledged that this approach did not comply with AGFAD recommendations, prompting the court to disregard its findings. In the absence of other evidence, the court applied the benefit of the doubt in the applicant's favour and determined his age on the basis of his own statements.

Taken together, the case law reflects a noticeable trend towards greater caution in the use of medical examinations for age assessments. It is established under Article 25(3) of the APR that these procedures must respect the dignity of the child, and examinations involving nudity or genital inspection are strongly discouraged, with the CRC Committee and, for instance, current French and Spanish national legal frameworks and German practice explicitly ruling them out. Courts and international bodies have also consistently emphasised the invasive nature of tests involving ionising radiation, particularly when conducted for non-medical purposes such as age assessment, as recently underlined by the ECtHR in *F.B. v Belgium*.

Across the jurisprudence, courts have raised concerns about the reliability of medical age assessments, emphasised the importance of combining different imaging-based methods, and stressed the need to clearly specify margins of error. Article 25(2) of the APR expressly provides that when the results of a medical age assessment are inconclusive or "include an age range below 18 years", the applicant must be treated as a minor *(see Section 4)*.

Finally, medical examinations are increasingly regarded as a subsidiary or last-resort measure, to be used only when less-intrusive methods are insufficient to establish age and never as a substitute for a careful, contextual assessment of all evidence available. This approach is likewise reflected in the Pact, with the APR establishing a two-step procedure under which medical examinations may only be carried out following an inconclusive multidisciplinary age assessment and requiring that the results of the medical examination be considered together with the findings of the assessment. An important question to be clarified in guidance documents or through domestic and European case law interpreting the APR is the threshold at which a multidisciplinary assessment may be considered insufficiently conclusive to allow

recourse to medical methods. Some guidance in this regard may be drawn from national case law, including German jurisprudence, concerning visual examinations and age assessment interviews, which suggests that the threshold is reached when it cannot be excluded that a medical examination would find the applicant to be a minor.

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.

4.1. Shifting the burden of proof to the authorities when minority is challenged, even in cases of late disclosure

International human rights bodies have consistently emphasised that the burden of proof cannot rest exclusively on applicants, with the ECtHR underscoring the authority's duty to verify claims of minority when they are neither unfounded nor unreasonable. This has also been reflected at the national level, for example in decisions of Dutch and Belgian courts. Likewise, citing standards established by both the UN CRC Committee and the Committee of Ministers of the Council of Europe,[34] the EUAA Practical Guide on Age Assessment (November 2025, p. 22) further highlights that the burden of proof to rebut the presumption of minority *(see Section 5)* lies with the authorities.

The ECtHR has consistently held, on the one hand, that applicants are required to substantiate their claims to minority and may be called upon to explain inconsistencies in their statements or respond to objections about the authenticity of documents when their submissions give rise to serious doubts (see *Mugenzi* v *France*, 10 October 2014, para 47; *A.C.* v *France*, 16 January 2025, para 157;[35] and *F.B.* v *Belgium*, 6 March 2025, para 72). On the other hand, the ECtHR has emphasised that authorities are under a positive obligation to verify claims of minority.

In *Darboe and Camara* v *Italy* (21 July 2022, paras 79 and 131) the court referred to the EU Council Resolution on unaccompanied minors who are nationals of third countries,[36] cited in the part of the judgment outlining the EU legal framework. The resolution provides that an asylum seeker claiming to be a minor must, in principle, submit evidence of age, but when such evidence is unavailable or serious doubt persists, States may carry out an age assessment.

Central to this sub-section, the ECtHR did not focus on whether the applicant was in fact a minor upon arrival in Italy or whether he had produced documentation. Instead, it analysed

whether the authorities took steps to verify his claim insofar as it was not unfounded or unreasonable, in this case through a medical age assessment, and whether this verification was accompanied by adequate procedural safeguards. The court concluded that it was not, in breach of Articles 3, 8 and 13 of the Convention.

The ECtHR has also held authorities accountable for not verifying claims to minority when applicants initially misrepresented their age, as illustrated by *M.H. and S.B. v Hungary* (22 February 2024, para 79). In that case, the court found that the State had violated the Convention by presuming that the applicants were adults solely on the basis of their initial declaration of age and by placing on them the burden of proving otherwise. The court noted that for detained asylum seekers, especially children, obtaining evidence of age can be challenging or even impossible. It held that the authority's refusal to verify the late disclosure of minority effectively shifted the burden of proof onto the applicants, from that point onwards rendering their detention arbitrary and in breach of Article 5(1) of the ECHR.

Similarly, in *O.A. v Denmark* (7 November 2017), the CCPR held that Denmark was required under Articles 7 and 24 of the ICCPR to re-examine a Syrian applicant's minority claim and suspend his deportation to Greece pending the review, even though he had initially misrepresented his age before the Greek authorities out of a fear of detention and later repeated the misrepresentation in Denmark. During the appeal proceedings in his asylum case, the applicant revealed to be a minor for the first time and submitted a birth certificate and a family book. The committee emphasised that authorities must properly examine minority claims, taking into account that children may lack maturity and may provide inaccurate information about their identity because of fear or misinformation.

Likewise, the CRC Committee has repeatedly emphasised that the burden of proof does not rest solely with applicants, given the structural imbalance in access to evidence between them and the State during age determination processes (see *C.O.C. v Spain*, 29 January 2021, para 8(2); *A.L. v Spain*, 31 May 2019, para 11(2); *R.K. v Spain*, 18 September 2019, para 8(2); *A.D. v Spain*, 4 February 2020, para 10(2); *M.B. v Spain*, 28 September 2020, para 9(2); and *A.M. v Switzerland*, 21 May 2024, para 4(5)). In all these cases, the committee found that the respective authorities, which disregarded the applicants' evidence without verifying it, breached Articles 3 (best interests of the child), 8 (right to preserve the child's identity) and 12 (right to be heard) of the CRC.

The CRC Committee's views in *R.Y.S. v Spain* (4 February 2021, para 8(11)) further highlight that child applicants for international protection may face particular difficulties in obtaining evidence, including official documents. Authorities must therefore accordingly consider all available evidence, while taking into account the risks that verifying such evidence or seeking additional proof would pose to the applicants. As in the above cases, the committee found violations of Articles 3, 8 and 12 of the CRC, as well as Articles 16, 20, 22(1), 27 and 39 of the same Convention, noting the authority's disregard for the applicant's well-founded fear of contacting her family in Cameroon, arising from sexual abuse by her father. It likewise noted that the authorities had failed to give weight to the documents submitted by the applicant, yet faulted her for not obtaining a passport to substantiate her age.

These standards have informed the development of national jurisprudence, including in Belgium and the Netherlands, where courts have recognised the authority's obligation to verify claims of minority by undertaking evidentiary measures of their own motion. Drawing on *Darboe and Camara v Italy*, the Dutch Council of State ruled in October 2024 that, while under national law the burden of proof for age and identity lies with the applicant, the unique challenges asylum seekers face in submitting evidence, together with the duty to cooperate under Article 4(1) of the recast QD, mean that the burden is shared with the authorities. Thus, when an applicant claims to be a minor, the presumption of minority applies initially, placing the onus on the minister to rebut it through further investigation if necessary. The council further emphasised that this process must prioritise the best interests of the child, in line with Article 24 of the EU Charter and Article 3 of the CRC, and grant applicants the benefit of the doubt when evidence is scarce. This standard-setting judgment was later confirmed in other Council of State rulings held in October and November 2025.

In the same vein, in its recent ruling *A.M. v Belgian State* (27 May 2025) which followed the ECtHR landmark ruling in *F.B. v Belgium*, the Belgian Council of State established that, when an applicant cannot provide evidence of age, the authorities have an obligation to ascertain it of their own motion using the least-invasive means available. In this judgment, the council reviewed the referral of an undocumented applicant to a medical age assessment and concluded that the authorities were obliged to consider whether the applicant's age could have been verified by less intrusive means than a bone test, which was not done in this case, in breach of Article 8 of the ECHR.

4.2. Evidence submitted by applicants considered as a whole and afforded the benefit of the doubt

Soft law instruments and courts have often addressed the reliability of applicants' documents, which must be presumed genuine for the purposes of age assessment *(see Section 2.1)*, as well as the credibility of their statements *(see Section 2.2)*. The European Council on Refugees and Exiles (ECRE), for instance, recommends that national authorities refrain from relying on inconsistencies or contradictions in a child's account to the detriment of their rights, unless there are obvious and serious reasons for doing so.[37] This is illustrated in the case law of the ECtHR, which has consistently affirmed that both applicants' statements and documents must be afforded the benefit of the doubt (see *Mugenzi v France*, 10 October 2014, para 47). National courts have adopted similar reasonings. For example, the Higher Administrative Courts of Bavaria (5 April 2017) and Rhineland-Palatinate (26 January 2024) observed that some cultures attach little significance to the date of birth and may not formally register it, and therefore held that inconsistencies arising from these circumstances should not automatically be interpreted against applicants.

Medical age assessment methods have also been addressed by courts and international human rights bodies *(see Section 3)*, with the CRC Committee repeatedly noting that such techniques can provide only approximate estimates of biological age and therefore are not suitable as the sole method to assess chronological age (see for example *A.L. v Spain*, 31 May 2019, para 12(6); *R.K. v Spain*, 18 September 2019, para 9(6); *A.D. v Spain*, 4 February 2020,

para 10(12); *C.O.C. v Spain*, 29 January 2021, para 8(11); and *R.Y.S. v Spain*, 4 February 2021, para 8(6)). Similarly, UNICEF[38] has issued guidance recalling that these examinations must indicate a margin of error, which must be interpreted in favour of the applicant, a requirement now codified in Article 25(2) of the APR.

Several national jurisdictions, including Austrian, Swiss, Belgian, Czech and French courts, have coupled the above evidentiary benefit with the obligation to consider all available evidence as a whole, which is now stipulated in Article 25(3) of the APR. In this regard, the Austrian Federal Administrative Court (28 November 2017) found the medical age assessment to be flawed and disregarded its findings. In the absence of other evidence, the court applied the benefit of the doubt and accepted the applicant's stated date of birth. Similarly, the Swiss Federal Administrative Court (4 March 2019) held that decisive weight had been unreasonably assigned to a bone test based on the G&P Atlas, despite scientific literature attributing a wide margin of error and therefore low probative value to the method. The court further found that the assessment arbitrarily disregarded the Eritrean applicant's statements, baptism certificate and student card, and that an overall assessment of the evidence was not conducted, including the reasons for the absence of identity documents.

When evidence yields conflicting findings of minority and majority, courts have often applied the benefit of the doubt and resolved in favour of minority. For instance, the Belgian Council of State (9 December 2019) annulled a decision declaring an undocumented Guinean applicant to be an adult on the basis of a triple bone test of the clavicle, hand/wrist and dental X-ray, because the latter included an age range extending below 18 years. The court held that the medical report failed to justify why the clavicle result had been preferred over other indicators that did not definitively rule out minority.

Similarly, in 2021 the Czech Constitutional Court overturned a Supreme Court ruling concerning a radiological age assessment which, when applying the G&P Atlas method, indicated majority, while the TW3 method indicated minority. The applicant's claim to minority had been contested on the basis of the G&P results, while the TW3 findings were unduly disregarded on the grounds that the discrepancy between his claimed age and the G&P results was excessive. Citing UN CRC Committee General Comment No 6 and Resolution 1810 of the Parliamentary Assembly of the Council of Europe,[39] the court held that the applicant must be given the benefit of the doubt and noted that the discrepancy between his claimed age and the assessment result was 2 years, which was insufficient to cast doubt on his claim. In addition, the court noted that the applicant had submitted copies of documents that had been disregarded and had not been given an opportunity to clarify the discrepancies, reiterating that children may provide inconsistent information due to immaturity or trauma.

As in the two preceding cases, French case law has likewise established that all evidence relevant to age assessments, and not only medical methods, must be considered. In March 2019, the French Constitutional Council examined Article 388 of the Civil Code, which stipulates that radiological bone tests may be carried out only with the applicant's consent, in the absence of valid identity documents and when the claimed age is not plausible; their conclusions must include a margin of error; and applicants must be afforded the benefit of the doubt. The council noted that all available evidence, such as social assessments or interviews

conducted by child protection services, must be taken into account and medical conclusions cannot constitute the sole basis for determining age.

Accordingly, in January 2022 the French Court of Cassation quashed a decision declaring the applicant to be an adult on the basis of radiological results alone, without giving due weight to other evidence or applying the benefit-of-the-doubt principle. While the applicant's civil status documents indicated minority and a social assessment suggested that he appeared to be 16-17 years old, the radiological examinations concluded an age range of 18-20 years. This, together with the fact that the bone test did not indicate a margin of error in its conclusions but only in the body of the report, led the court to find a violation of Article 388 of the Civil Code and to annul the decision. The Court of Cassation found that, by giving primacy to the medical examination over other means of proof, the authorities had failed to afford the benefit of the doubt to the applicant and upheld his appeal.

4.3. Standard of proof

It follows from the above case law that the obligation to establish minority when authorities have doubts about an applicant being a child, pursuant to Article 25(2) of the APR, may give rise to a lower standard of proof, although this issue has not often been explicitly discussed in age assessment case law (for information on standards of proof, see EUAA's Practical Guide on Evidence and Risk Assessment, January 2024, pp. 109-111).

As judicial review does not happen in a vacuum and there is no common approach to appealing age determination decisions *(see Section 5.3.3),* the standard applied by courts may vary across contexts: the safeguards and standards of proof considered when reviewing the consequences of an age assessment may differ depending on whether the proceedings concern detention, international protection or the plausibility of a date of birth recorded in a database. For instance, rulings delivered by the Swiss Federal Administrative Court in August 2018 and December 2025 arguably suggest the application of a balance-of-probabilities standard, under which a factual proposition must be more likely than not to be true in disputes concerning entries in the Swiss Central Migration Information System (*Zentrales Migrationsinformationssystem* (ZEMIS) in German; *Système d'Information Central sur la Migration* (SYMIC) in French; and *Sistema d'Informazione Centrale sulla Migrazione* (SIMIC) in Italian).

The standard of proof applicable to age assessments themselves was distinctly discussed in Norwegian case law in a case where a group of five undocumented Afghan applicants were initially classified as adults by the Directorate of Immigration (UDI) solely on the basis of medical examinations. During the administrative proceedings, three applicants were detained with a view to deportation and two of them were returned to Afghanistan. The applicants challenged their age assessments separately before the Immigration Appeals Board (UNE) and jointly before the Oslo District Court (30 November 2017), which upheld their appeals, a ruling which was subsequently set aside by the Norwegian Court of Appeal (29 April 2019) and the Norwegian Supreme Court (12 December 2019).

The District Court recalled that the general rule in civil proceedings in Norway is the balance of probabilities/preponderance of the evidence standard. It noted that a lower threshold applied in international protection proceedings, because the consequences of wrongly rejecting an application were far worse than those of wrongly accepting it, thereby justifying the application of the benefit of the doubt. Although Norwegian law contained no specific provision governing the standard of proof in age assessments, the District Court held that the lower threshold should also apply in this context, having regard for the best interests of the child, the vulnerability of minor applicants, and the potentially severe consequences of an erroneous age determination.

However, the above ruling was later set aside by the Court of Appeal, which maintained that, although an incorrect age determination may deprive an applicant of rights accorded to children, it would not have the "catastrophic consequences" of an incorrect refusal of international protection. Interestingly, the Court of Appeal held that the lower standard of proof may be justified when age is directly linked to the grounds for asylum or the need for protection but does not necessarily apply when age is relevant solely to establish identity. The Court of Appeal further noted that a lowered threshold was not supported by the Immigration Act, nor could it be inferred from the CRC, which contains no provisions governing the standard of proof, or necessarily from the benefit-of-the-doubt principle referred to in paragraph 31(a)[1] of the CRC Committee's General Comment No 6.[40] It held that, while this principle could indeed imply a lower standard of proof, it could also merely require that applicants be treated as children when the evidence leaves genuine uncertainty, without requiring authorities to depart from the conclusion most likely supported by the evidence. Holding that the CRC Committee's General Comments are not generally binding on Norway under international law, the court found it unnecessary to endorse either interpretation.

The Court of Appeal's ruling was upheld by the Supreme Court, which reasoned that the abovementioned paragraph in General Comment No 6 falls under the heading "Initial assessment and measures" and thus concerns only the preliminary stage of the procedure, while noting that Norwegian law already required applicants to be presumed minors during that phase (see "triggering the presumption of minority" in *Section 5*). It therefore concluded that neither the General Comment nor the obligation to uphold the best interests of the child under Article 104 of the Norwegian Constitution and Article 3 of the CRC supported applying either a lower or a higher standard of proof during the age assessment itself.

It is worth noting that, although Norway is not bound by either the APD or the APR, and the Supreme Court therefore did not examine those instruments, the benefit-of-the-doubt rule under Article 25(2) of the APR closely resembles that set out in paragraph 31(a) *in fine* of General Comment No 6. The APR provision, however, unequivocally applies to the outcome

[1] "Prioritised identification of a child as separated or unaccompanied immediately upon arrival at ports of entry or as soon as their presence in the country becomes known to the authorities (Article 8). Such identification measures include age assessments and should not only take into account the physical appearance of the individual, but also his or her psychological maturity. Moreover, the assessment must be conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity; and, in the event of remaining uncertainty, should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, she or he should be treated as such" (underlining added).

of the age assessment and may reasonably be interpreted as requiring a lower threshold than the preponderance of the evidence standard when determining whether a person is a minor.

Similarly, Article 25(2) of the APR stipulates that when a medical age assessment produces an estimated age range, Member States must select the lowest possible age within that range, an approach that was already applied before the Pact by several EU+ jurisdictions, including Belgium, Cyprus, Denmark, Germany, Greece, Finland, Slovakia and Slovenia (see EUAA's report Age Assessment Practices in EU+ Countries: A baseline for Pact implementation, March 2026, p. 18). This provision may, in practice, result in a standard of proof approaching the 'mere possibility' threshold. For instance, in April 2017 the Bavarian Higher Administrative Court held, with reference to the benefit of the doubt under Article 25 of the recast APD, that the lowest possible age should be assumed and that a person should be treated as a minor unless adulthood could be established with certainty. In the same vein, the Belgian Council of State (9 December 2019) annulled an age assessment on the basis that the authorities had not explained the precedence given to a clavicle X-ray that concluded that the applicant was 26.7 years old, with a standard deviation of ±2.6 years, while another test, that of the hand and wrist, which the expert report does not indicate would be less conclusive, did not exclude the possibility that the applicant could still be a minor. These criteria have continued to guide Belgian case law; for example, in July 2023 the CALL held that, when medical tests leave doubt as to an applicant's minority, the lower age must be assumed.

Taken together, the above case law points towards a lower evidentiary threshold for establishing minority under Article 25(2) of the APR, which, in several EU+ jurisdictions, may be close to the 'mere possibility' standard.

4.4. Benefit-of-the-doubt principle beyond age determination, including in family reunification procedures

Age determination affects many aspects of a child's legal status, and therefore the benefit-of-the-doubt principle applies across contexts. For instance, in the family reunification procedure for beneficiaries of international protection, the CJEU has held in cases C-550/16 (12 April 2018) and C-560/20 (30 January 2024) that the relevant cut-off date for the age of beneficiaries who reached the age of majority during the asylum procedure is the date on which the application for international protection was submitted.

National courts such as the International Protection Administrative Court of Cyprus in *S.A. v Republic of Cyprus* (7 July 2022) have applied the benefit of the doubt to the applicant's age at that date. The court found that the authorities had determined the applicant's age by referring to the date of the medical examination rather than the date of the asylum application. The age assessment estimated the applicant's age at 19.2 years, with a standard deviation of ±1.2 years, placing the lowest possible age at 18. Since the asylum application had been lodged 2 months earlier, the applicant may have been a minor back then. Applying the benefit of the doubt, the court held that the authorities should have referred to the applicant's age at the time of the asylum application and not at the time of the medical examinations for family reunification purposes.

The benefit-of-the-doubt principle operates at different levels in the context of age assessments. On the one hand, it requires that applicants' statements be taken into account and any inconsistencies be assessed in light of the fact that children may be unable to provide a coherent or complete account for a variety of legitimate reasons, and such inconsistencies should not automatically be held against them. While the ECtHR affords applicants' statements and documentation the benefit of the doubt, the CRC Committee has long held that their documents be considered to be genuine unless proven otherwise, and all evidence be considered as a whole, all of which the Pact has now incorporated into EU law. When authorities challenge an applicant's claimed age, they must substantiate that challenge through an age assessment procedure, effectively bearing the burden of rebuttal.

On the other hand, when the evidence yields competing indications of minority and majority, the benefit-of-the-doubt principle requires that uncertainty be resolved in favour of minority. Article 25(2) of the APR codifies this approach by providing that, when an age assessment is inconclusive or produces an age range extending below 18, the applicant must be treated as a child. In practice, several national jurisdictions have already applied this logic when the possibility that the applicant was a minor could not be excluded, thereby suggesting that the operative standard for establishing minority is lower than the preponderance of the evidence standard and may approach the threshold of 'mere possibility'.

A lower standard of proof (or, put differently, a higher standard for authorities bearing the burden of proof after questioning an applicant's claim to minority) may also follow from a State's obligation to uphold the best interests of the child. This principle has a threefold nature.[41] First, as a substantive right, it draws attention to the fact that classification as an adult often brings serious downstream consequences which must be considered in advance and as a whole. These may include the termination of guardianship; changes to reception arrangements, access to education and several other rights; safeguards in asylum and broader migration law procedures, family tracing and reunification; and even exposure to detention and *refoulement*. Second, as a fundamental interpretative legal principle, it requires that, when different interpretations of the applicable legal framework are possible, including with regard to the standard of proof, the interpretation that most effectively serves the child's best interests should be preferred. And third, as a rule of procedure, authorities must put in place strict procedural safeguards, and decision-makers have a duty to err on the side of caution.

5. Presumption of minority and procedural safeguards during age assessments

The previous sections have examined the international and EU law provisions governing evidentiary activities carried out during an age assessment, as well as the relevant case law interpreting them. While applicants are the subject of the process, when the competent authority challenges their claim to minority, the same authority often becomes responsible both for conducting the evidentiary process and deciding its outcome. Given the far-reaching implications of such decisions for inherently vulnerable individuals,[42] procedural fairness requires the process to be structured around strong safeguards.

The first such guarantee is the presumption of minority, which is grounded in the principle of the best interests of the child and the authority's obligation to do no harm. It means that, when there are reasons to believe that an applicant may be a child or when an individual plausibly claims to be a child, they must be treated as such unless and until evidence proves otherwise.[43] This principle is expressly recognised in Article 13(2) of the Anti-Trafficking Directive[44] and can also be inferred from the benefit-of-the-doubt rule in Article 25(2) of the APR, which requires applicants to be treated as minors when an age assessment remains inconclusive *(see Section 4)*. Since an age assessment is initiated precisely because the applicant's minority is uncertain, the protection afforded by the benefit of the doubt should extend to the period during which that uncertainty remains unresolved. Otherwise, applicants would be denied that protection while the very procedure intended to determine their age is still ongoing.[45]

This section first outlines the scope and procedural safeguards associated with the presumption of minority, and examines when courts consider that the presumption is triggered and when it comes to an end. Following subsections address these protections in detail, namely with regard to the appointment of a representative or guardian *(see Section 5.1)*, the right to informed consent *(see Section 5.2)*, the right to an effective remedy *(see Section 5.3)*, and the obligation of authorities to assess age without undue delay *(see Section 5.4)*.

Regarding the presumption of minority itself, courts and international bodies have held that:

- An applicant must be treated as a child from the moment authority has grounds to suspect that they may not be an adult. The ECtHR has not required applicants to substantiate their claims at this stage, as long as they are not "unfounded or unreasonable". Instead, the court has considered it the authority's duty to verify the claims and has held that they cannot disregard claims of minority on the basis that they were raised late.

- The UN CRC Committee and several national courts have held that the presumption of minority continues at the appeal stage until the decision on the applicant's age becomes final.

- While the presumption of minority applies, international human rights, EU and national frameworks as interpreted by relevant courts require that applicants be assigned a guardian or representative, be provided with information about the age assessment process in a language they understand, be given the right to refuse medical examinations and be ensured age-appropriate reception conditions during the age assessment procedure.

Triggering the presumption of minority

Courts and human rights bodies largely agree that the presumption of minority applies throughout the entire age assessment process. Determining precisely when this presumption is triggered is, however, a delicate matter. As early as *Abdullahi Elmi and Aweys Abubakar v Malta* (22 November 2016, paras 111-115, 119-124, 144-148), the ECtHR held that children must be afforded protection before their minority is formally established by the State, since the court indicated that the obligation to treat an applicant as a child arises once the authority has reason to believe that they may be a minor and continues throughout the age assessment procedure. In the case, two unaccompanied Somali minors, aged 16 and 17, informed the Maltese authorities of their age upon arrival but were nevertheless placed in migrant detention for 8 months in conditions unsuitable for children until their minority was officially confirmed. The ECtHR emphasised that specific arrangements should have been made from the outset to accommodate the applicants pending the outcome of the age assessment, and therefore it found violations of Articles 3, 5(1) and 5(4) of the Convention.

Similarly in Italy, in its landmark judgment *Darboe and Camara v Italy* (21 July 2022, paras 131, 153-156), the ECtHR first referred to this obligation as "the principle of presumption of minor age". The court outlined several procedural safeguards that must apply from the moment the authorities become aware of a claim to minority, insofar as it is not "unfounded or unreasonable", and throughout the age assessment process. The court found that the State's failure to apply the presumption of minority from the outset, after the Guinean applicant revealed to be a minor upon arrival, engaged Articles 3, 8 and 13 of the ECHR due respectively to inappropriate reception conditions, the lack of procedural safeguards such as a representative, and the absence of an effective remedy to challenge both.

In subsequent rulings, the ECtHR has maintained the position that the presumption of minority applies from the moment the authorities possess plausible indications that an applicant may be a minor. Significantly, the court's case law does not require applicants at this stage to provide evidence substantiating their claims, nor has the court focused on the reliability of documents, when available, to trigger the presumption of minority. The ECtHR has accepted copies, untranslated documents and non-legalised or non-biometric civil status documents, such as birth certificates, as sufficient. Its focus has instead been on whether the State provided adequate procedural safeguards and reception conditions from the moment minority was disclosed.

As in the two previously cited ECtHR rulings, in *A.D. v Malta* (17 October 2023, paras 74, 124) the ECtHR confirmed that a mere claim to minority, provided that it is neither "unfounded or unreasonable", is sufficient to trigger the presumption of minority. It observed that the applicant, an undocumented Ivorian national who maintained that he was a minor, had in principle benefited from that presumption when, 2 weeks after his arrival, the Juvenile Court ordered the appointment of a guardian, his placement under the temporary custody of the reception authority, and his transfer to accommodation suitable for children. However, the authorities failed to ensure adequate conditions thereafter, leading the ECtHR to find violations of Articles 3, 5(1) and 13 of the Convention.

In other judgments, such as in *Diakitè v Italy* (14 September 2023, paras 21-26), *T.K. v Greece* (18 January 2024, paras 4, 22 and 23) and *F.B. v Belgium* (6 March 2025, para 81), in which applicants submitted civil status documents in support of their minority claims, the ECtHR focused on the authorities' failure to apply the presumption of minority and to provide procedural safeguards from that moment onwards, rather than on whether the documents themselves constituted sufficient proof of age. In *Diakitè*, the applicant submitted a birth certificate upon arrival but was nonetheless not presumed to be a child nor appointed a representative; instead, he was immediately subjected to a medical age assessment and classified as an adult. In *T.K.*, a Sierra Leonean unaccompanied minor who had initially been registered as an adult in a reception camp on Samos, belatedly submitted an untranslated and non-legalised copy of his birth certificate. In both cases, the court held that the applicants should have benefited from the procedural guarantees established in *Darboe* from the moment they made a plausible claim to minority, thereby engaging Article 8 of the ECHR.

In *T.K.*, the court additionally found violations of Articles 3 and 13 because the applicant had been treated as an adult for more than 1 year, during which he was exposed to inadequate reception conditions and lacked an effective remedy to challenge the situation. By contrast, in *F.B.*, the ECtHR found that authorities had, in principle, respected the presumption of minority, since the applicant, a Guinean girl who presented a non-legalised copy of her birth certificate, was accommodated in a centre for minors throughout the age assessment procedure.

For its part, the CRC Committee has likewise clarified that the presumption of minority applies as soon as authorities have indications that an applicant may be a child. In *Jas.K.B., C.K.B., M.S.B. and J.K.B.* (14 September 2026, para 9(7)), the committee examined the case of an Afghan family detained in Czechia, whose birth dates were all recorded as 1 January, resulting in the elder daughter being considered 18 without an age assessment. The younger daughter was not formally detained but was placed with her relatives in a detention centre adapted to families. Despite the respondent State's claim that the elder daughter "consistently identified herself as 18, and this was supported by available documentation without contradiction", the committee noted that it had failed to verify her age despite the fact that her recorded birth date was approximate and very close to minority. Stressing that States "have an obligation to promptly identify children in migration contexts" and treat them "as minors pending appropriate assessment", the committee found violations of Articles 3 and 37 of the CRC.

The triggering of the presumption of minority has also been addressed by national courts, with many decisions likewise holding that, as soon as an applicant claims to be a minor, the presumption applies and remains in force unless and until it is proven otherwise. Referring to CRC Committee General Comment No 6,[46] the Norwegian Supreme Court (12 December

2019) found that the presumption applies from the moment the presumed child undergoes the initial screening, notably requiring a lower evidentiary threshold than that applicable in Norway to the age determination itself.

Similarly, drawing on the ECtHR's judgment in *Darboe*, the Dutch Council of State (9 October 2024) held that the presumption of minority takes effect from the moment an applicant claims to be a minor. The council further emphasised that the presumption is essential to safeguarding the rights afforded to children under national and international laws, thereby preventing potential violations of their fundamental rights. At the same time, the council recognised that the presumption is rebuttable *(see Section 4.1)*, provided that the authorities conduct an adequate investigation and properly justify their conclusions. This line of case law was subsequently confirmed in several Council of State rulings delivered on 20 August 2025, 13 October 2025, 23 October 2025 and 17 November 2025.

Lifting the presumption of minority

The ECtHR has not addressed in detail whether the presumption of minority extends until a first instance age assessment decision is issued or continues until that decision becomes final. Notably, the CRC Committee has consistently held that applicants must be presumed to be children for as long as age determination procedures are ongoing, including during any appeal proceedings (see *A.L. v Spain*, 31 May 2019, para 12(3); *J.A.B. v Spain*, 31 May 2019, para 13(3); *R.K. v Spain*, 18 September 2019, para 9(13); *A.D. v Spain*, 4 February 2020, para 10(3); *M.B. v Spain*, 28 September 2020, para 9(8); *C.O.C. v Spain*, 29 January 2021, para 8(8); and *A.M. v Switzerland*, 21 May 2024, paras 4(3), 4(6)). Moreover, in *R.Y.S. v Spain* (4 February 2021, paras 2(13), 8(3) and 8(14)), the CRC Committee emphasised that examining an asylum application on the assumption that the applicant is an adult, despite a pending challenge to the age determination, may have serious consequences for the assessment of protection needs and may expose the individual to irreparable harm, in breach of Articles 3 and 12 of the CRC.

Several national courts, for instance in Greece, Malta and the Netherlands, have similarly held that applicants with a claim to minority must be treated as minors throughout the judicial review. For example, the Administrative Court of First Instance of Athens (23 April 2024) ruled in a detention case that the presumption of minority applies throughout the age assessment, including during a judicial review of the age determination decision.

Also in case law predominantly involving detention, the Maltese Immigration Appeals Board has equally found that the presumption of minority applies during appeals against age assessment decisions declaring majority and applicants are to be placed in the care of the reception agency until the appeal is concluded (see *F.B. v The Principal Immigration Officer (PIO)*, 4 October 2021; *W.K.A. v The PIO*, 4 October 2021; and *M.M. v The PIO*, 13 April 2022).

For its part, the Dutch Court of the Hague seated in 's-Hertogenbosch (4 November 2022) and in Roermond (23 May 2023) has held that the presumption of minority applies until a definitive decision on age is adopted, thereby preventing applicants in those cases from being transferred to adult accommodation following declarations of majority that were not yet final. More recently, the Dutch Council of State has nuanced the practice of the Agency for

the Reception of Asylum Seekers (COA) to rely on age assessments conducted by the Minister for Migration and Asylum to transfer applicants to adult accommodation (15 May 2024, 10 December 2025, and 13 March 2026). The council has held that, while responsibility for determining age lies with the Minister, and COA may rely on the Minister's assessment, when an applicant provides concrete indications that their classification as an adult may be incorrect, COA must apply the presumption of minority and refrain from transferring the applicant while it seeks clarification from the Minister. Mere assertions do not meet this threshold; applicants must provide reasons why COA should not rely on the Minister's determination. In such cases, COA must inquire with the Minister and form its own view on the applicant's accommodation needs. This does not require COA to independently verify the Minister's age assessment or review procedural aspects, such as the timeliness of notifications. However, COA must take into account the information provided by both the Minister and the applicant when deciding whether to transfer an applicant to adult accommodation.

Scope of the presumption of minority

While authorities are in the process of verifying whether applicants are minors, the presumption of minority applies, producing cross-cutting effects that extend beyond the migration context and triggering safeguards that include age-appropriate reception conditions, the right to a guardian or representative, the right to information and to refuse medical methods of age assessment, as well as the right to an effective remedy to challenge the findings of the assessment.

As indicated earlier, the ECtHR first expressly referred to the presumption of minority in *Darboe and Camara v Italy* (21 July 2022, paras 153-155), in which it characterised it as an inherent element of the right to respect for private life under Article 8 of the ECHR. The court stressed that, when such a presumption applies, authorities must ensure a set of procedural safeguards, including the appointment of a representative or guardian, access to legal assistance, the applicant's informed participation in a multidisciplinary age assessment procedure, and access to an effective remedy to challenge its outcome. It further held that, in order to comply with both Article 3 and the child's right to personal development under Article 8, authorities are obliged to provide reception conditions appropriate to children, such as placement in specialised centres or with foster families.

This approach was later reaffirmed in subsequent case law, including *Diakitè v Italy* (14 September 2023, para 22), *T.K. v Greece* (18 January 2024, paras 19-21) and *F.B. v Belgium* (6 March 2025, para 73), all concerning applicants for international protection.

Similarly, the UN CRC Committee has long held that applicants undergoing an age assessment must be promptly appointed a guardian or a representative to uphold their best interests and ensure informed participation in the procedure (*A.D. v Spain*, 4 February 2020, paras 10(11) and 10(16)). Beyond the assessment itself, the committee has further emphasised that individuals who may be minors should be referred to child protection systems and granted access to child-specific services, including education and psychological support tailored to their needs (see *R.Y.S. v Spain*, 4 February 2021, paras 2(13), 8(8) and 8(14)).

The overarching role of the presumption of minority has also been addressed by national courts. Notably, the Italian Supreme Court of Cassation (8 October 2025) recently held that the determination of age by the Italian Juvenile Courts is not merely instrumental to the adoption of protective measures but also produces effects across other branches of the legal system, including administrative and criminal proceedings, where age operates as the decisive threshold to determine the applicable legal regime. In this case, the court examined the case of a detained, undocumented Tunisian national who claimed to be a minor but had been classified as an adult following an X-ray examination. The court reiterated that, under Italian law, age determination must follow a sequential procedure involving the competent public authorities and, only when strictly necessary, socio-medical examinations can be ordered exclusively by the Juvenile Prosecutor. Importantly, the Supreme Court of Cassation held that, pending a final decision by the Juvenile Court, all proceedings treating the individual as an adult must be suspended and any remaining doubt must be resolved in favour of minority.

While it is established that the presumption of minority applies throughout the entire age assessment process, its exact boundaries have been subject to judicial interpretation. The recommendations of the Committee of Ministers of the Council of Europe state that the presumption of minority should apply from the moment an applicant is referred for an age assessment.[47] ECtHR case law, however, suggests that the presumption arises even earlier, namely as soon as the authorities have reason to believe that an applicant may be a minor. The court has linked this threshold to whether the claim to minority is “unfounded or unreasonable” and whether the authorities possess reasonable grounds for treating the applicant as an adult.

Because the age of majority constitutes a decisive threshold between the legal regimes applicable to minors and adults, the presumption of minority produces effects that extend to those regimes well beyond the asylum context. The scope of the presumption of minority in the context of international protection is well established, with both the ECtHR and the CRC Committee having emphasised that the appointment of a guardian, ensuring informed participation in the procedure, the right to an effective remedy and access to age-appropriate reception conditions are essential safeguards for applicants subject to age assessment procedures. These safeguards will be examined in greater detail in the following sub-sections.

5.1. Right to a representative

The prompt appointment of a guardian or representative is widely recognised as a key procedural safeguard for unaccompanied and separated children, as it provides someone responsible for the child with a comprehensive view of their case and likely needs, enabling independent review and the possibility to intervene to ensure their best interests are met. Soft law instruments have stressed that the appointment should precede any referral to asylum or other proceedings,[48] while the EU Fundamental Rights Agency (FRA) has affirmed that the timely appointment of a representative able to participate in all actions concerning the child is necessary for the procedure to be lawful.[49] Similarly, the EUAA has consistently highlighted in its practical guides (see the Second Edition, pp. 26-27; and Third Edition, pp. 27-28) that the presence of a representative at the earliest possible stage is required within the asylum framework, including during age assessment procedures.

The new instruments of the Pact have reinforced this requirement. Representatives are required even at stages preceding the asylum procedure, such as during screening under Article 13(3) of the Screening Regulation, or at very early stages of the asylum process, including procedures to determine the Member State responsible for examining an application pursuant to Article 23 of the AMMR.

Moreover, both the amended RCD (Article 27) and the APR (Article 23) introduce safeguards concerning the appointment of a guardian for unaccompanied minors. These relate to **timeliness** (requiring a guardian to be appointed within a maximum of 15 working days from the *making* of an asylum application, with a provisional representative appointed in the interim); **quality** (including limits on caseloads as guardians must not be responsible for more than 30 minors, must possess the necessary qualifications, training and expertise, and mechanisms for performance supervision must be in place); **independence** (requiring representatives to act in accordance with the best interests of the child and to remain independent, such that individuals or organisations whose interests conflict, or may potentially conflict, with those of the child are ineligible for appointment); and **safety** (through criminal-record checks and the establishment of complaint mechanisms).

The following sub-sections show that the above requirements under the Pact are grounded in the jurisprudence of international human rights bodies and EU+ national courts, which have held that:

- The appointment of a guardian is integral to ensuring that the applicant can duly submit an asylum claim and exercise other core rights. The absence of a representative during the proceedings may lead to an annulment, for instance of a decision on international protection or a decision terminating child custody.
- The presence of a guardian in the procedure must be meaningful, requiring that representatives are qualified and independent, alongside compliance with other requirements set out in the Pact, such as the caseload ceiling intended to ensure that each applicant receives adequate attention.

5.1.1. Lack of a representative may invalidate the proceedings

Both the ECtHR and the CRC Committee have long regarded the prompt appointment of a guardian as integral to the presumption of minority and an essential safeguard during age assessment procedures. Since *Darboe and Camara v Italy* (21 July 2022, paras 16-21, 142-144), the ECtHR has consistently examined compliance with the right to a representative under Article 8 of the Convention. In this landmark judgment, the court found that the failure to promptly appoint a guardian or representative prevented the applicant from duly submitting an asylum request. The Gambian national, who disclosed his minority and intent to seek international protection shortly after arrival, was neither treated as a minor nor assigned a representative in a timely manner, which prevented him from effectively requesting international protection between his arrival in Italy and the appointment of a guardian more than 6 months later. The court found that the absence of this basic procedural safeguard amounted to a violation of the State's positive obligation under Article 8 of the ECHR to secure the right to respect for private life.

This line of case law was shortly after reaffirmed in the ECtHR's judgments in *Diakitè v Italy* (14 September 2023, paras 21-26) and *T.K. v Greece* (18 January 2024, paras 4 and 24), in which the ECtHR reiterated that, under both the Convention and EU law, the appointment of a guardian, access to legal assistance and informed participation in the age assessment process constitute essential procedural safeguards.

Likewise, the UN CRC Committee has long held that the prompt appointment of a representative during age assessment procedures constitutes an essential safeguard for the best interests of the child and their right to be heard under Articles 3 and 12 of the CRC. Throughout its jurisprudence, the committee has reiterated that all persons claiming to be minors must be provided with a representative "as soon as possible on their arrival and free of charge". It has further held that failure to do so may result in "substantial injustice", given that, in practice, the outcome of age assessments determines access to child protection and other rights guaranteed under the CRC (see for instance *A.L. v Spain*, 31 May 2019, para 12(8); *A.D. v Spain*, 4 February 2020, para 10(14); *M.B. v Spain*, 28 September 2020, para 9(12); *C.O.C. v Spain*, 29 January 2021, para 8(12); *R.Y.S. v Spain*, 4 February 2021, para 8(9)).

One such right is the right to seek international protection as a minor under Article 22 of the CRC. As the ECtHR later did in *Darboe and Camara v Italy*, the CRC Committee in *R.K. v Spain* (18 September 2019, paras 2(5) and 9(11)) examined a situation in which the absence of a representative prevented a Guinean applicant fleeing religious persecution from effectively applying for asylum as a minor. The applicant had been classified as an adult without undergoing an age assessment procedure and was placed in detention pending deportation. When he attempted to request international protection as a minor while in detention, the procedure could not continue because a guardian had not been appointed, thereby exposing him to a risk of *refoulement*. Although he was eventually allowed to lodge the application, he continued to be registered as an adult despite possessing a birth certificate attesting to his minority. The committee recalled that children involved in asylum, administrative or judicial proceedings must be provided not only with a guardian but also with legal representation. It concluded that the failure to appoint a guardian enabling the applicant to seek international protection as a minor deprived him of the special protection afforded to unaccompanied

asylum-seeking children and exposed him to a risk of irreparable harm, amounting to a violation of Articles 20(1) and 22 of the CRC.

Beyond violations of rights under international human rights instruments, the failure to appoint a representative in a timely manner may also lead to the annulment of proceedings in which this safeguard was absent, including a decision on international protection or child custody. This issue has primarily arisen before national courts, which are generally responsible for reviewing compliance with procedural requirements. For example, in July 2020 the Swiss Federal Administrative Court (FAC) ruled that the failure to appoint a guardian for an Ethiopian applicant claiming to be a minor invalidated both his hearing before the Swiss State Secretariat for Migration and the subsequent decision denying him international protection. Although the applicant had initially been treated as an adult following a bone examination, he later produced documents attesting to his minority. FAC noted that, while he was no longer a minor at the time of the judgment and therefore no longer required a guardian, he had been a minor when lodging the asylum application and had not benefited from the necessary procedural safeguards. The case was therefore remanded for a re-examination.

Also in a 2020 case, the Slovenian Administrative Court upheld the decision to deny refugee status and instead grant subsidiary protection to an Afghan applicant who claimed to be a minor but had been reclassified as an adult without a proper age assessment. The court based the decision on grounds that he had been appointed a representative and provided with adequate procedural safeguards from the outset and throughout the procedure.

The failure to appoint a representative may also compromise the legality of decisions concerning child custody, as illustrated by decisions of the German Higher Administrative Court of Baden-Württemberg dated 9 April 2024 and 11 June 2024. In both cases, the court granted interim relief, finding that the absence of a qualified and independent representative constituted a serious procedural defect “likely to lead to the illegality” of the contested decisions, namely the termination of custody and child welfare measures by the Youth Welfare Office (*Jugendamt*). As the reasoning in these cases also concerned the independence and qualifications required of representatives, they are examined below.

5.1.2. Qualified and independent representatives

As mentioned earlier, the right to a representative who is both qualified and independent is recognised under the Screening Regulation, the AMMR, the amended RCD and the APR. Under the AMMR, representatives must possess the resources, qualifications, training, expertise and independence necessary to safeguard a child’s best interests during procedures determining the Member State responsible to examine their application. Similarly, the APR requires guardians to guide minors through the asylum procedure and assist with the lodging of the application and the personal interview, while the amended RCD requires representatives to explain relevant information to an unaccompanied minor, liaise with competent authorities to secure immediate access to material reception conditions and healthcare, and represent the minor to ensure the effective exercise of their rights and compliance with their obligations.

These requirements are also reflected in several soft law instruments, notably the CRC Committee's General Comment No 6,[50] which provides that guardians "should have the necessary expertise in the field of childcare, so as to ensure that the interests of the child are safeguarded and that the child's legal, social, health, psychological, material and educational needs are appropriately covered by, inter alia, the guardian acting as a link between the child and existing specialist agencies/individuals who provide the continuum of care required by the child. Agencies or individuals whose interests could potentially be in conflict with those of the child's should not be eligible for guardianship".

Consequently, the CRC Committee's jurisprudence has repeatedly recalled the duty of authorities to appoint qualified representatives (see for instance *J.A.B. v Spain*, 31 May 2019, para 13(7); *A.L. v Spain*, 31 May 2019, para 12(8); *M.B. v Spain*, 28 September 2020, para 9(12); *R.Y.S. v Spain*, 4 February 2021, para 8(9)). The committee has also specifically addressed the requirement of independence and the risks arising from conflicts of interest in age assessment procedures in *A.D. v Spain* (4 February 2020, paras 10(11), 10(14) and 11) and *C.O.C. v Spain* (29 January 2021, paras 8(12) and 10), as well as in several other cases not involving applicants for international protection, where the committee referred to the position of the Spanish Public Prosecution Service, which is tasked both with deciding on age assessments and protecting the rights of the child. It found that the role played by the Office of the Prosecutor was insufficient to fulfil the function of a guardian, as it does not adequately ensure respect for the best interests of the child or the child's right to be heard. In its decisions, the committee recommended that all presumed minors be appointed a representative as soon as possible and emphasised "that any private lawyers chosen to represent them are recognised and that all legal and other representatives are allowed to assist them during the age assessment".

At the national level, German case law has likewise addressed the requirements of independence and competence of representatives. In a ruling concerning the age assessment of a Guinean applicant claiming to be a minor, the Higher Administrative Court of Bremen (4 June 2018) held that the consent form for the medical examination, signed by a Youth Welfare Office *(Jugendamt)* employee on the applicant's behalf, was invalid because the *Jugendamt*'s appointment as guardian by the Family Court had not yet been served at the time the form was signed. The court noted that, while the *Jugendamt* may also act as an emergency representative under Section 42a(3) of Book VIII of the German Social Code (SGB VIII), this requires an organisational and personnel separation of functions within the *Jugendamt* to prevent conflicts of interest between its role as the child's representative and its responsibilities for age determination, decisions on reception placement, and the provision of benefits to unaccompanied minors. The court therefore stressed that tasks relating to emergency representation should be performed by persons responsible for guardianship rather than by staff involved in age assessment, as was the case here.

Relatedly and drawing from the ECtHR's judgment in *Darboe* and CRC case law, the Higher Administrative Court of Baden-Württemberg also ruled on 9 April 2024 and 11 June 2024 that applicants plausibly claiming to be unaccompanied minors must be appointed an independent representative during the age assessment. Importantly, the court noted that German law did not meet EU standards under Article 24(1) of the recast RCD (while also referring to the not yet applicable Article 27(1) of the 2024 RCD) as it failed to ensure the

appointment of an independent representative during age assessments. It therefore applied the directive with vertical direct effect.

In both cases, following preliminary interviews, the *Jugendamt* determined that two applicants who had not been appointed representatives were of legal age and terminated their temporary custody. The applicants appealed the decisions, requesting their interim suspension before the Freiburg Administrative Court, which was granted and subsequently contested before the Higher Administrative Court. The Higher Administrative Court confirmed that the *Jugendamt*'s decisions violated both Article 24(1) of the recast RCD and Article 25(1) of the recast APD, which it interpreted to require that a qualified and independent representative be appointed as soon as possible when there are credible indications that the applicant is a minor. In this regard, the court dismissed the argument that the *Jugendamt* educators responsible for the applicants complied with EU law requirements to be considered guardians. It noted that while they may temporarily act in the child's interest, since the *Jugendamt* is also the body that decides to terminate custody, this could lead to a conflict of interest between applicants and the *Jugendamt* staff. The court pointed out that this staff was not barred under the SGB VIII from being part of the organisational unit responsible for age determination, and it found this contrary to the EU standard.

Consequently, the court held that EU law must be applied directly over the conflicting national provisions that failed to ensure the appointment of a qualified and independent representative. Such a representative must be a person whose interests do not conflict with those of the child, in accordance with Articles 2(j) and 24(1) of the recast RCD and Article 25(1) of the recast APD. Furthermore, this representative must assist the minor and serve as a link to the authorities and institutions responsible for implementing the measures and procedures under the recast RCD, and therefore must also possess knowledge of the recast RCD and the relevant procedural law, be informed about the possibility of family reunification, understand the specific protection needs and developmental psychology of an unaccompanied minor, and be able to communicate in a child-friendly manner.

In contrast, in a 27 June 2024 decision, the Higher Administrative Court of Bremen addressed the case of a Ugandan national claiming to be a minor who was not an applicant for international protection and had not been assigned a representative until she lodged an administrative challenge against the *Jugendamt*'s decision classifying her as an adult. In this case, the court dismissed her request for interim measures, distinguishing between the right to representation under Article 24(1) of the recast RCD, which required asylum-seeking minors to be appointed a representative "as soon as possible", and the protection afforded by Article 8 of the ECHR, which the court considered to establish a less stringent standard. Although no representative had been appointed at the outset of the age assessment, the court held that this did not render the decision unlawful, because one was appointed during the administrative challenge in which the authorities fully reconsidered the case and issued a new, reasoned and judicially-reviewable decision.

Overall, agencies and bodies involved in handling applicants who plausibly claim to be minors are obligated to prioritise the best interests of the child in all their actions. However, since

institutions also have their own needs and priorities which can sometimes conflict with the interests of the applicants, the requirement to appoint a representative supports the administration in effectively upholding the child's best interests. It is undisputed that applicants whose minority is in question must be appointed a guardian, and this appointment must be swift, raising the question about when this right attaches.

Departing from the 2013 recast APD requirement that a representative be appointed "as soon as possible", the Pact instruments adopt a more procedural approach, identifying the *making* of the asylum application as the moment that triggers the obligation to provide a (provisional) representative. International human rights bodies, UN committees and the ECtHR have typically adopted a substantive perspective, treating representation as a safeguard that enables access to a range of core rights, including the right to international protection. For example, noting the 3-day limit in the recast APD between the making and the registration of an application, in *R.K. v Spain* the CRC Committee found a violation of Article 22 of the CRC because the State's failure to appoint a representative precluded the detained applicant from being *registered* as a minor.

Notably, in the ECtHR's landmark case *Darboe and Camara v Italy*, as well as in several subsequent rulings that followed this line of case law, the court found a breach of Article 8 of the ECHR in the State's neglect to ensure appropriate safeguards, particularly the failure to promptly appoint a legal guardian or representative, which prevented the applicants from duly and effectively *submitting* an asylum request.

It follows that the standards may not always fully align. A key implication is that the authorities, and courts when necessary, may need to reconcile them to avoid potential situations where the absence of a representative, resulting from the child not having yet *made* an application, leads to the inability, difficulty or delay in making the application, and could even contribute to outcomes such as detention or *refoulement*. This could be achieved through the domestic child welfare framework or front-loaded child protection provisions, such as Article 13(3) of the Screening Regulation, which aim to reduce these risks. In this regard, several national courts have held that the absence of a representative can render the relevant procedure invalid, with case law showing instances in which either the termination of child welfare services or the denial of international protection was overturned on this basis.

In addition, the representative's presence must be meaningful. The guardian must be qualified, possess sufficient knowledge of the relevant issues, be allowed to participate in all key matters, from age assessments to asylum and reception matters, and must be independent. This requirement of independence has been codified in Article 13(4) of the Screening Regulation, which provides that the child's representative "shall not be a person responsible for any elements of the screening, shall act independently and shall not receive orders either from persons responsible for the screening or from the screening authorities". Likewise, in related frameworks, independence has been interpreted as ensuring that the guardian is, by design, free from any potential conflicts of interest. For instance, both national courts and the CRC Committee have indicated that certain institutional arrangements may fall short of this standard, including situations where representatives are affiliated with agencies responsible for conducting age assessments or making decisions on custody.

5.2. Right to informed consent

Closely linked to the right to representation is the right of applicants claiming to be minors to receive age-appropriate information on age assessment, the international protection procedure and related proceedings. When authorities contest a claim to minority, applicants must also be informed of this fact and of the possibility of undergoing a medical age assessment. Under Article 25(4) of the APR, this information must be provided prior to a medical examination and in a language the applicant understands or may reasonably be presumed to understand. It must cover the details on the method of examination, the potential implications of the medical examination for the international protection procedure, as well as the consequences of refusing to undergo the examination.

The Children's Rights Division of the Council of Europe has emphasised the importance of providing unaccompanied migrant children with reliable and accurate information about age assessment procedures in a language they understand and giving them sufficient time to reflect on this information so that they can fully comprehend the different stages of the process and their consequences.[51]

The right to information is complemented by the requirement that a child's participation in a medical examination must be based on their consent and that of their representative, as set out in Article 25(5) and 25(6) of the APR. As emphasised by the CRC Committee, information and consent are intrinsic to a child's right to have their views heard under Article 12 of the CRC, since only when adequately informed can they agree to participate in proceedings, including medical examinations carried out for non-medical purposes.[52] This view is shared by the Council of Europe's Commissioner for Human Rights, which found that "where there is a medical component to a multidisciplinary age assessment, examinations should only be carried out with the consent of the child or their guardian".[53] Therefore, as recalled in the EUAA Practical Guide on Age Assessment (November 2025, pp. 30-32), the right to informed consent is founded on comprehensive information that is conveyed in an age-, culturally- and child-friendly manner, and must be exercised freely, without pressure.

Judicial interpretation of the right to informed consent has clarified that:

- Age assessments through medical methods require the applicant's genuine consent. Therefore, consent must be 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 the applicant understands. This includes clear explanations of the examination method, its implications and the right to give or withhold consent at any time.
- The CRC Committee has held that a refusal to undergo a medical age assessment cannot automatically result in an applicant being treated as an adult.
- Both the ECtHR and the CRC have emphasised the importance of access to information and documents on the outcome of the medical examination, including the procedures for challenging it. This right is now codified in Article 25(4) of the APR, while the ECtHR has recognised it under Article 8 and Article 13 of the ECHR.

5.2.1. Adequate information as a precondition for consent

Consent to a medical age assessment must be genuine and therefore requires that the applicant understands the methods, procedure and implications of the examination. Accordingly, international human rights bodies and courts have consistently held that sufficient, age-appropriate information provided in a language that the applicant understands is a precondition for valid consent.

The ECtHR has addressed the obligation of EU+ countries to provide adequate information in age assessment procedures and the validity of consent in several rulings. It has examined such claims under Article 8 of the Convention, requiring that applicants be informed of the type of medical age assessment to be conducted and the possibility to give or withhold consent, often also assessing, under Article 8 or Article 13, whether they were informed of the medical conclusions and of how to challenge them.

In *Darboe and Camara v Italy* (21 July 2022, paras 142-148), the ECtHR noted that authorities carried out an X-ray of the applicant's left wrist without providing any information on the type of age assessment procedure or its possible consequences. In these circumstances, it held that there was "no need to examine the existence or validity of his consent to undergo a medical examination, or to assess its appropriateness". The court thus confirmed that the provision of adequate information is a precondition for valid consent and found that the failure to appoint a guardian and to provide such information amounted to a violation of Article 8 of the Convention.

The fact that information is a precondition for giving or withholding consent was made strikingly clear in the ECtHR judgment in *F.B. v Belgium* (6 March 2025, paras 87-90), in which the court examined the Belgian authority's referral policy for medical age assessments. In the case, a Guinean applicant underwent a medical age assessment consisting of a triple X-ray of her hand, collarbone and teeth before being interviewed by the guardianship service, which only took place afterwards. She challenged the subsequent termination of child custody, arguing that she had not been informed of her right to refuse the medical examinations and had never given written consent.

The authorities submitted that she had received an information leaflet in French, explaining that her stated age was under question, the assessment procedure, the margin of error, the benefit of the doubt and her right to appeal the decision. She contested having received this information before the age assessment, stating that she only learned of the doubts about her age during the guardianship interview which took place after. The ECtHR held that, even assuming the leaflet had been provided, it did not explicitly mention the right to give or withhold consent because it merely stated that she could "express her opinion" and appeal the decision. The court stressed that informed consent must be meaningful and explicit, especially where the individual lacks legal assistance or representation, as was the case, since conducting medical procedures without free and informed consent constituted an interference with physical integrity and personal autonomy, in violation of Article 8 of the Convention.

Following this judgment, Belgian courts overturned several national decisions based on age assessments that were not consistent with the findings of the ECtHR. For instance, in May 2025 the Belgian Council of State confirmed that the decision-making process leading to the denial of guardianship failed to meet the procedural safeguards required under Article 8 of the ECHR. The court noted that, although the applicant had been informed of doubts regarding his age and had received a document explaining the age test, to which he did not object, neither the interview record nor any other evidence in the case file indicated that he had been informed of the need to give consent for the medical examination.

The CRC Committee has likewise issued views requiring informed consent to medical examinations for the purposes of age assessment. Notably, in *R.Y.S. v Spain* (4 February 2021, para 8(8)) the committee found several violations, including of Articles 3 (best interests of the child), 12 (right to be heard) and 16 (privacy and dignity) of the CRC, in a case where a 16-year-old Cameroonian girl was subjected to a wrist X-ray, a panoramic dental X-ray and a genital examination for age assessment purposes without being properly informed. The committee noted that, as the applicant had not been informed of the purpose of the examinations in a language she could understand and was not represented by counsel, she could not be considered to have given informed consent.

Similarly, the Czech Constitutional Court (7 July 2021) held that the right to information applies throughout the entire age assessment process, which includes the right to interpretation at each stage. The court's ruling concerned a case in which the applicant had been informed, with the assistance of an interpreter, that he would undergo a medical examination and the purpose of that examination. However, neither an interpreter nor a representative were present during it, the applicant was not informed of the outcome, and he was not given an opportunity to comment before being treated as an adult. Drawing on the CRC Committee's views, the court ruled that this violated the child's right to be heard and human dignity, as the applicant was treated more as an object than as a subject of rights.

For its part, German case law has elaborated on the allocation of the obligation to inform applicants, the burden of proof where it is disputed whether the required information was provided, and the content of that information. In June 2018, the Higher Administrative Court of Bremen clarified that, when an applicant disputes having received the required information, the burden of proof lies with the administration. The court held that this requires written documentation setting out the specific content of the information provided and signed by a Youth Welfare Office (*Jugendamt*) employee, the applicant and, when necessary, an interpreter. It reasoned that, although physicians have their own duty to provide information, a failure by the *Jugendamt* to properly inform the applicant before the medical examination cannot be remedied by information subsequently provided by a medical practitioner, since the statutory obligation under Book VIII of the German Social Code (SGB VIII) rests with the *Jugendamt*. Drawing on Section 42f(2) of the SGB VIII and Article 25(5) of the APD, the court explained that the information must cover the methods used and the possible consequences of both the age assessment and any refusal to undergo it, including the fact that entitlement to protective custody depends on its outcome, as well as the practical consequences of the termination of provisional protective custody under the Social Code and, when applicable, migration law provisions. In the absence of such information, the court held that neither the

applicant nor the representative could be regarded as having validly consented to the examination.

5.2.2. Consequences of refusing to undergo a medical age assessment

The requirement under EU law that applicants referred for an age assessment must be informed of the possibility and consequences of declining medical methods raises the question of what follows from such a refusal. Article 25(6) of the APR clarifies that, for the purposes of age determination, this may only give rise to a rebuttable presumption that the applicant is not a minor, while the CRC Committee has held that "a person should not be declared to be an adult exclusively on the basis of his or her refusal to undergo medical tests" and that automatic findings of adulthood based on such a refusal breach Articles 3 and 12 of the CRC.

This was affirmed in the CRC Committee decision in *J.A.B. v Spain* (31 May 2019, paras 13(4), 13(5) and 13(9)) concerning a Cameroonian applicant who was classified as an adult solely due to his refusal to undergo a medical age assessment. The applicant had been admitted to the child protection system through the intervention of a local NGO, which also assisted him in obtaining authentic identification documents from the embassy. After an original birth certificate was issued and retained by the embassy pending the issuance of the applicant's passport, the authorities nevertheless considered him undocumented and required him to undergo a medical age assessment. He declined, arguing that he was documented and the passport would be issued within 2 weeks.

Similarly, in *A.D. v Spain* (4 February 2020, paras 10(11), 10(16)) a Malian applicant was initially held in detention and released after receiving an original birth certificate attesting his age. Although he was in the process of obtaining a passport and had a birth certificate, the applicant was required to undergo bone testing, which he refused.

Following their respective refusals, both applicants were declared to be adults although their documentation, which was not given probative value by the authority, showed that they were minors. Both cases illustrate the CRC Committee's stance that a refusal to undergo medical testing cannot override the documentation available *(see Section 2.1)* nor justify an automatic declaration of adulthood, a position also taken by the French Constitutional Council (21 March 2019). This approach reflects the broader principle that medical age assessment methods may be used only as a last resort, and as exemplified by the Belgian Council of State's ruling in *A.M. v Belgian State* (27 May 2025), even when applicants cannot provide evidence of minority, authorities must exhaust any less intrusive means available.

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).[54] 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.

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.[55] 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".[56] 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.[57]

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.

5.3.1. Standard-setting case law by the ECtHR

Under the ECtHR's interpretation of Article 13 of the Convention, an effective remedy must allow applicants to challenge the substance of the age determination in practice. This remedy does not need to be judicial, and it may be ensured through a combination of aggregate measures, but it must be accessible and provide a response quickly enough to remain effective. The ECtHR has typically found remedies ineffective when a formal or reviewable decision does not exist, the decision is not communicated to the applicant, a clear avenue to challenge is not available or delays render the remedy meaningless.

For instance, in the landmark ECtHR case *Darboe and Camara v Italy* (21 July 2022, paras 186, 198-199), the applicant contended that the results of the age assessment were never disclosed to him, a judicial decision had not been issued in his case and, in any event, the administration had failed to indicate any remedy through which he could challenge his classification as an adult. As a result, he was left without a formal finding that he could appeal. The ECtHR rejected the government's objection that he could have brought the matter before the guardianship judge, noting that 4 months after his initial minority claim upon arrival in Sicily, he had submitted an application to the Venice guardianship judge, yet received no communication beyond an acknowledgment of receipt. The ECtHR recalled that, while Article 13 does not require the remedy to be judicial in nature, it must be before an authority with sufficient powers to render it effective in practice, which may be achieved through an aggregate of remedies under domestic law when a single remedy does not suffice. In this case, the lack of procedural clarity, coupled with the absence of a reviewable decision, rendered any potential remedy ineffective, in violation of Article 13 of the ECHR, read in conjunction with Articles 3 and 8 of the Convention.

In contrast, in both *A.C.* v *France* (16 January 2025, paras 204-221)[58] and *F.B. v Belgium* (6 March 2025, paras 96-105), the ECtHR found that, although the authorities had breached Article 8 in their handling of the respective age assessments, the applicants nevertheless had access to an effective remedy, satisfying the requirements of Article 13.

In *A.C. v France*, a non-asylum-seeking Guinean national whose claim to minority had initially been rejected was denied access to the child welfare system in France. He complained before the ECtHR about the resulting lack of protection, and the court found a breach of Article 8 of the Convention. He further alleged under Article 13 that no remedy with suspensive effect had been available to challenge the decision excluding him from child protection. The ECtHR, recalling that the set of remedies provided by domestic law may collectively satisfy the requirements of Article 13 even if none of them, taken individually, does so in full, noted that several remedies were indeed available to address the effects of wrongful classification as an adult. It noted that under French law, juvenile judges may grant educational assistance measures, including placing an unaccompanied minor under the care of a departmental child welfare service. Pending such a decision, juvenile judges may also

provisionally order educational assistance measures, although this is a discretionary power that does not itself suspend the refusal decision; alternatively, urgent interim measures may be sought before the administrative court. The ECtHR further observed that the applicant had submitted requests both to the administrative judge and the juvenile judge, and the latter's refusal to grant him educational assistance had been quashed by the court of appeal as soon as he submitted civil status documents, which were presumed genuine even though the documents had not been considered reliable in an expert report *(see Section 2.1)*.

In *F.B. v Belgium*, the applicant appealed the decision terminating guardianship, basing her challenge on procedural flaws in the age assessment process, which the ECtHR found to constitute a breach of Article 8 of the Convention. With regard to her complaint under Article 13, the applicant argued that the remedies available before the Belgian Council of State were ineffective, in particular because its review was limited to legality and did not extend to a full examination of the merits of the case. The ECtHR declared this complaint inadmissible, noting that the applicant had in fact been able to bring two proceedings before the Council of State: an action for the annulment of the contested decision and, importantly, an application for interim measures seeking a suspensive effect under Article 17(1) of the Coordinated Laws on the Council of State[59] which, if granted, could have prevented the decision from taking effect pending the outcome of the proceedings.

5.3.2. Suspensive effect of appeals

Unlike in ECtHR case law related to *non-refoulement*, the court does not require an appeal against an age assessment decision to have an automatic suspensive effect. In the judgment in *A.C.* v *France* (16 January 2025, paras 208-211),[60] for instance, the court was satisfied that the judge could have issued discretionary interim measures provisionally to order the applicant's placement in age-appropriate accommodation. Similarly, in *F.B. v Belgium* (6 March 2025, paras 96-105) the ECtHR noted that the Belgian Council of State could have granted an interim suspensive effect to the appeal.

Meanwhile, the CRC Committee has long held that decisions concerning best interest assessments and best interest determinations must have automatic suspensive effect,[61] with recent case law reaffirming that this also applies to age assessment decisions and a suspensive effect should be ensured from the outset. In this regard, the CRC Committee's decision in *S.E.M.A.* v *France* (6 March 2023, paras 7(2) and 8(7)-8(9)) provides a helpful comparative reference with the ECtHR case law as delivered in *A.C. v. France*, as they both concerned non-asylum-seeking applicants with rejected claims to minority who had sought access to the child welfare system in France. In the two cases, the government argued that, although the first instance appeal against the age assessment did not have an automatic suspensive effect, the applicant could have obtained provisional accommodation from the Juvenile Court and could have subsequently requested suspensive effect in the onward appeal.

While in *A.C. v. France* the ECtHR examined flaws in the information provided to the applicant about deadlines and avenues of appeal as violating Article 8 of the ECHR *(see Section 5.2.1)*, but at the same time concluded that an effective remedy under Article 13 had been available, in *S.E.M.A. v. France*, the CRC Committee treated the procedural shortcomings as engaging

the right to an effective remedy and found them to constitute breaches of Articles 3 and 12 of the CRC. First, the committee noted that the administrative decision had not been translated into a language the applicant understood, nor did it indicate the available remedies or the possibility of obtaining legal assistance, with the result that the applicant was only able to lodge the appeal after a social worker referred him to a lawyer. Second, neither the appeal before the Juvenile Court nor the onward appeal before the Court of Appeal of Lyon had an automatic suspensive effect. Third, the Juvenile Court declined to exercise its discretionary power to order temporary accommodation, while the subsequent appeal lasted more than 1 year. Although the Court of Appeal eventually overturned the Juvenile Court's decision and accepted the authenticity of the applicant's documents, confirming that he was a minor, the absence of an automatic suspensive effect combined with the excessive delay rendered the remedy ineffective within the meaning of Article 7(e) of the CRC Optional Protocol.[62]

It can therefore be concluded that the ECtHR and the CRC Committee standards on the suspensive effect of appeals do not entirely align, with the CRC Committee requiring an automatic suspensive effect, while the ECtHR does not require that age assessment decisions be automatically suspended, but that such protection may instead be ensured through interim relief mechanisms. Likewise, the requirement that applicants be informed of how to appeal and the applicable deadlines are addressed by the ECtHR as part of the procedural safeguards inherent in Article 8 of the ECHR instead of under Article 13, whereas the CRC Committee examines it as an element of the right to an effective remedy, although both bodies ultimately converge in requiring such safeguards.

At the national level, several EU jurisdictions, such as in Germany, Greece, Malta and the Netherlands, provide examples of suspensive effects being granted through interim measures. Frequently, applicants' requests for a suspensive effect have been addressed through the provisional suspension of the consequences of being classified as adults following an age assessment, such as the termination of guardianship, placement in adult accommodation or detention. These cases are therefore examined in *subsection 5.3.3*, which discusses how age assessment decisions are appealed in practice, often through indirect means.

5.3.3. National approaches to appealing age assessment decisions

While EU law now sets common requirements for age assessments, it does not harmonise how these decisions can be challenged. Appeal mechanisms are therefore largely governed by procedural autonomy at the country level, which is reflected in national practices and to which the ECtHR generally defers. Rather than prescribing how age assessment decisions must be appealed, it is apparent that the ECtHR examines whether the domestic system as a whole provides an effective remedy capable of addressing the consequences of an erroneous age determination.

In practice, applicants before the ECtHR have frequently challenged their classification as adults indirectly by contesting downstream consequences, such as exclusion from child protection systems, the termination of guardianship, detention or placement in adult accommodation. The court has accepted such indirect or aggregate avenues of review when they are effective in practice and capable of safeguarding related rights under Articles 3, 5

and 8 of the ECHR, namely with regard to access to age-appropriate reception conditions, protection from detention or the rights to information and representation.

In practice, indirect or aggregate remedies remain common across EU jurisdictions. According to the EUAA's Age Assessment Practices in EU+ Countries: A baseline for Pact implementation (March 2026, p. 20), only a limited number of countries, including Belgium, Denmark, Luxembourg, Italy and Sweden, provide a direct procedure to appeal age assessment decisions. Consequently, the reviewed case law offers numerous examples of applicants contesting age assessment decisions through appeals concerning guardianship, placement in age-appropriate accommodation, detention or within the international protection procedure and related issues, such as AMMR proceedings.

Examples of age assessments reviewed through appeals against the termination of **guardianship** can be found in Belgium (9 December 2019, 10 October 2024) and Germany (5 April 2017, 4 June 2018, 26 January 2024, 9 April 2024), where several Higher Administrative Courts have granted interim relief to applicants excluded from the child protection and accommodation system following their classification as adults. Dutch courts have similarly issued interim measures preventing the transfer of applicants claiming to be minors to the adult **reception** system after they were declared to be adults by COA (see decisions by the Court of The Hague seated in 's-Hertogenbosch on 4 November 2022 and Roermond in 23 May 2023), although whether such transfers were themselves open to challenge remained contentious until the Council of State confirmed in May 2024 that they were. Classification as an adult has also been challenged in **detention** decisions by the Maltese Immigration Appeals Board (see *W.K.A. v The Principal Immigration Office (PIO)* and *F.B. v PIO*, both delivered on 4 October 2021; *Y.M.O. v The PIO*, 3 December 2021; *R.M. v The PIO*, 24 March 2022; *M.M. v The PIO*, 13 April 2022; and *D.A. v The PIO*, 21 April 2022) and the Athens Administrative Court of First Instance (23 April 2024).

Age assessments may also arise within the procedure concerning **transfers to the Member State responsible for the application**, as shown in the CRC Committee decision in *A.M. v Switzerland* (21 May 2024, paras 1(2), 1(3) and 4(3)), in which the Swiss authorities disregarded a prior age assessment in Sweden and issued a take back request. The applicant appealed the resulting transfer decision, arguing that unaccompanied minors must not be transferred under Article 8(4) of the Dublin III Regulation. The Swiss authorities dismissed the appeal, but the transfer was suspended following interim measures issued by the CRC Committee, which reaffirmed the applicant's right to be treated as a child pending Dublin (currently AMMR) proceedings and to challenge the outcome on age-related grounds.

Likewise, the Swiss Federal Administrative Court and the Belgian Council of State have examined age assessments in cases concerning **birth date entries in national migration databases**. In two Swiss cases, the court kept the fictitious date of birth in the migration database. In the first case (August 2018), it considered the recorded date more likely to be correct than the date claimed by the applicant; while in the second (December 2025), it found the applicant's claim no more plausible than the recorded date, which it retained but marked as 'disputed'. By contrast, in Belgium (October 2018), the court held that the Guardianship Service could assess whether a person was a minor but could not establish a new, fictitious date of birth based on a medical assessment of biological age. In Germany, an Afghan

national challenged his date of birth in the Central Register of Foreigners, which had been determined in the absence of documentary evidence on the basis of an interview and visual assessment by the Senate Youth Welfare Administration (*Senatsjugendverwaltung*). The latter refused to revise its assessment, arguing that it was an internal administrative measure rather than a separately challengeable administrative act. In October 2024, the Berlin Administrative Court upheld this position, clarifying that the assessment could be relied on but was not binding when determining the date of birth to be recorded in the register.

Importantly, applicants have also challenged age determinations within **international protection procedures** themselves, as illustrated by cases in Belgium (2023), Hungary (see the ECtHR case below), the Netherlands (2019 and 2021) and Switzerland (2020). However, relying on appeals within long, complex procedures, such as international protection, as the only path to contest age assessments may interfere with access to an effective remedy, particularly when a direct redress mechanism does not exist against the age assessment decision itself.

To address this, the Dutch Council of State (18 December 2024) adopted an expansive interpretation of procedural law to allow an age classification to be reviewed on procedural fairness grounds. The case concerned a Syrian applicant who had initially been registered as a minor but was later reclassified as an adult following an age assessment and a Eurodac hit. He objected to this reassessment and submitted an extract from the population register, which temporarily led to a change in his recorded age. When the document was later deemed invalid, however, the authorities reinstated the original date of birth without notifying him. By that time, the deadline to appeal the asylum decision had already expired and his objection to the age assessment was declared inadmissible, leaving him no clear path to challenge it.

The Council of State confirmed that, while a notification altering an applicant's date of birth constitutes a decision under the General Administrative Law because it changes the person's legal status from minor to adult, it is not a final decision and therefore cannot be appealed independently. As a result, any challenge must be brought as part of the asylum appeal. However, because this was no longer possible in the applicant's case, the council found that he should nonetheless have been afforded an opportunity to contest the age determination in court and therefore instructed the State Secretary to examine it on its merits.

A similar issue was raised before the ECtHR in *F.S. and A.S. v Hungary* (19 June 2025, paras 23-24), in which two detained Afghan brothers, one of whom had been confirmed as a minor, complained about the lack of a direct avenue to challenge the age assessment. The applicants argued that the Hungarian legal framework required them instead to contest the assessment as part of proceedings against the substantive asylum decision. Since they had been granted subsidiary protection, they contended that they did not wish to challenge that decision and, in any event, that by the time it was delivered on 23 April 2018, an appeal would not have had any practical impact on age-dependent matters. The court's dismissal of this specific ground as out of time, given that the application before the ECtHR was lodged on 22 October 2018, within the time limit following the international protection decision but not the age assessments, which were conducted in October and November 2017, further reinforces the importance of a separate appeal avenue to ensure an effective remedy.

In response to the same concerns, the CRC Committee has generally held that individuals must be able to challenge the outcome of an age assessment separately, through child-sensitive procedures before an appropriate and independent body. Firmly established in soft law instruments,[63] the committee's position has been developed through its jurisprudence regarding the Spanish system, where a decree determining a person's majority or minority issued by the Public Prosecutor's Office cannot be appealed directly. Any challenge must instead be brought indirectly, typically by appealing a subsequent decision terminating child protection measures. Against this backdrop, the committee has consistently found that this lack of a direct remedy violates Article 12 of the CRC and, consequently, has repeatedly emphasised the need for direct appeals against age assessment decisions and for authorities to establish effective and accessible redress mechanisms that safeguard the best interests of the child and their right to be heard.

Examples of this case law can be found in *J.A.B.* v *Spain* (31 May 2019, para 13(3)), *A.L.* v *Spain* (31 May 2019, para 12(3)), *R.K.* v *Spain* (18 September 2019, paras 9(3) and 10), *A.D.* v *Spain* (4 February 2020, paras 10(9) and 11), *M.B.* v *Spain* (28 September 2020, paras 9(8) and 10), *C.O.C.* v *Spain* (29 January 2021, paras 8(8) and 10) and *R.Y.S.* v *Spain* (4 February 2021, paras 2(8), 2(9), 7(3), 8(3), 8(5) and 9). In the latter, a Cameroonian applicant was erroneously declared an adult due to a clerical error in her medical age assessment. Although she attempted to challenge directly the age determination, her claim was outright dismissed on grounds that such decisions are not explicitly regulated as administrative acts subject to an appeal under Spanish law. Still, in the case file before the court, the applicant had access for the first time to her medical file and discovered that the X-ray results had been incorrectly recorded, which prompted her to request a review from the Public Prosecutor's Office. The review was initially denied and later conducted on the authority's own motion.

Separately, she appealed the decision terminating her placement in child protection, which was also dismissed at first instance, with second instance proceedings ongoing at the time of the committee's decision. The CRC Committee found these failures to breach Articles 3 and 12 of the CRC and reiterated the call for an effective and accessible redress mechanism for reviewing age assessment findings, while emphasising that the positive outcome of the asylum request, which the applicant was forced to submit as an adult, did not constitute a remedy for the violations of her rights as a minor.

While EU law establishes common requirements to conduct age assessments, it does not regulate how such decisions can be challenged. As a result, the design of appeal mechanisms remains largely governed by procedural autonomy at the country level, leading to significant variations across Member States, as the reviewed jurisprudence shows. However, the significant expansion of age assessment provisions under the Pact, moving towards more uniform EU procedural standards, may now open the way for CJEU case law to develop how the right to an effective remedy under Article 47 of the EU Charter applies to these new EU law provisions.

Key gaps concern the availability of a direct appeal against age assessment decisions and the suspensive effect of appeals, both areas left largely unregulated at the EU level and treated differently in ECtHR and CRC case law. The ECtHR does not require direct appeals against age assessments and accepts indirect or 'aggregate' remedies when these are effective and allow for case-by-case interim measures to address the consequences of an erroneous age determination, whereas the CRC Committee requires direct appeals with an automatic suspensive effect.

Among other safeguards at risk, because the APR and the amended RCD provide that the duties of representatives cease once an age assessment finds the applicant to be an adult, wrongly classified applicants may be left without a guardian during the review of the decision unless a suspensive effect is attached to the appeal.

In practice, age assessments are often challenged indirectly through proceedings on guardianship, access to child protection or within the international protection procedure and related issues, such as placement in reception or in procedures concerning transfers to the Member State responsible for the application. However, this approach may hinder a child's ability to challenge the age assessment directly and effectively, as it becomes embedded in a separate and more complex procedure. In response, some national courts have introduced additional safeguards grounded in procedural fairness, allowing appeals beyond the explicit legal basis and enabling a swift judicial review, including the possibility of interim measures, in order to secure the right to an effective remedy and the best interests of the child.

5.4. Length of the procedure

A delay in initiating an age assessment may restrict access to services which are essential to a child's wellbeing, including education, age-appropriate reception conditions, counselling, the appointment of a representative and other fundamental protections. Likewise, prolonged age determination procedures may obstruct related processes, such as the examination of an application for international protection or family tracing, and contribute to uncertainty and instability, factors that are particularly harmful for unaccompanied minors.

The Pact on Migration and Asylum significantly expands the provisions on age assessments and places strong emphasis on the authority's diligence in ensuring safeguards for applicants claiming to be minors. These safeguards include an early assessment of special needs, the prompt appointment of a representative and ensuring their access to education as soon as possible.

Although the Pact does not set specific time limits for age assessments, a duty of diligence can be drawn from the principles of good administration in Article 41 of the EU Charter and from the best interests of the child in Article 24(2). The best interests of the child are also embedded in the Screening Regulation (Article 13), the amended RCD (Article 26), the APR (Article 22) and the AMMR (Article 23). In its Dublin case law, for instance, the CJEU (C-648/11, 6 June 2013, paras 55-60) has interpreted this principle as requiring authorities to ensure that procedures involving unaccompanied minors do not take longer than strictly necessary, given their particular vulnerability. The duration of age assessment processes has also been addressed in ECtHR and CRC jurisprudence:

- The absence of specific, common timeframes has led case law to adopt a substantive approach in assessing whether there have been undue delays in age determination. The ECtHR has generally focused on whether the authorities acted with sufficient diligence and whether the procedure was completed within a reasonable time given the circumstances of the case.
- The CRC Committee has taken judicial review into account in its assessment of the length of the procedure.

5.4.1. Lack of diligence defines undue delay

Significant weight is given to the promptness of age assessment procedures, since a delayed start may deprive applicants who may be children of access to all the safeguards examined in this report, and the mere passage of time may result in applicants reaching the age of majority before an official determination is made, rendering the process moot (see ECtHR judgments in *Mahamed Jama v Malta*, 26 November 2015, para 147; *A.D. v Malta*, 17 October 2023, para 189; and *J.B. and Others v Malta*, 22 October 2024, para 118).

Human rights bodies assess delays in light of the impact they cause to the applicant's rights. In the examined ECtHR case law, this has typically concerned the right to liberty under Article 5(1) of the ECHR, and in some cases the prohibition of inhuman or degrading treatment

under Article 3 and the right to private and family life under Article 8, respectively, when applicants have been exposed to inadequate reception conditions and a lack of procedural safeguards. This was the case in *Darboe and Camara v Italy* (21 July 2022, paras 122-126, 144, 157) and *T.K. v Greece* (18 January 2024, paras 22-25).

In *Darboe*, the ECtHR found a breach of Article 8 due to the authority's failure to promptly identify the applicant as a child, which deprived him of age-appropriate safeguards for 4 months and prevented him from effectively and duly submitting an asylum request. The court further stressed that countries have a duty under the Convention to examine asylum cases promptly, ensuring that situations of insecurity and uncertainty are kept as short as possible. In *T.K. v Greece*, the applicant had initially been registered as an adult in the absence of reasons to believe otherwise, but he later submitted a copy of his birth certificate which the authorities disregarded. The age assessment then took over 1 year to be completed, during which the applicant was treated as an adult, deprived of procedural safeguards and lived in an informal settlement outside a refugee camp for an unspecified period, in breach of Articles 3 and 8 of the ECHR.

The diligence of authorities in age assessments has been particularly scrutinised in ECtHR case law concerning the detention of applicants pending the verification of their age. The court has held that determining an applicant's age is a prerequisite for assessing their asylum or migration status and may therefore fall within the scope of Article 5(1)(f) of the ECHR where national law permits detention to establish identity or determine the applicant's right to enter the territory. In such cases, the ECtHR has focused on whether the authorities carried out the age assessment in due time or, in other words, whether the detention was maintained in "good faith", remained closely connected to the purpose relied upon and was not prolonged beyond the time reasonably necessary to determine the applicant's age (see *Mahamed Jama v Malta*, 26 November 2015, para 150 and *A.D. v Malta*, 17 October 2023, para 189).

One judgment in which the ECtHR found that authorities took an unreasonable amount of time to verify the ages of the detained applicants, in breach of Article 5(1), is *Abdullahi Elmi and Aweys Abubakar v Malta* (22 November 2016, paras 144-148). In the case, one applicant waited over 7 months for a final age assessment, remaining in detention throughout, despite the authority having been orally informed 6 months earlier that he had been found to be a minor. The second applicant waited 5 months for a wrist X-ray and a further 2.5 months for a final decision, also remaining in detention during the entire period. The court held that the number of alleged minors processed annually, as presented by the government, could not justify a period exceeding 7 months to determine the applicants' claims, a situation rendered even worse by the fact that the applicants lacked any procedural safeguards.

5.4.2. Length of the appeals

For its part, the UN CRC Committee has long held that multidisciplinary age assessments should be conducted in a "prompt, child-friendly, gender-sensitive and culturally appropriate manner",[64] and has repeatedly requested that States adopt interim measures to protect applicants from *refoulement* and inappropriate reception conditions during the review of age assessments (see *A.L. v Spain*, 31 May 2019, paras 1(2) and 12(4); *R.K. v Spain*, 18 September 2019, paras 1(2) and 9(4); *A.D. v Spain*, 4 February 2020, paras 1(2) and 10(10); *M.B. v Spain*,

28 September 2020, paras 1(2), 9(9); *C.O.C. v Spain*, 29 January 2021, paras 1(2) and 8(9); *R.Y.S. v Spain*, 4 February 2021, paras 1(2) and 8(4); and *A.M. v Switzerland*, 21 May 2024, paras 1(3) and 4(4)).

Recent case law of the CRC Committee concerning non-asylum-seeking applicants has found violations when judicial review proceedings were so prolonged that they could not be completed before the applicant reached the age of majority. In *S.E.M.A.* v *France* (6 March 2023),[65] the applicant was not admitted into the child protection system for almost 1.5 years, despite initially submitting a copy of his birth certificate and later multiple original documents. Regarding the proceedings contesting the age assessment, the CRC Committee noted that the Lyon Court of Appeal postponed the hearing to a date after the applicant would reach the age of majority, without providing him with protection in the child welfare system. The committee concluded that this violated Articles 3, 8, 12, 20(1) and 37(a) of the CRC.

Similarly, in *U.A.* v *France* (5 July 2024),[66] the applicant was removed from the child welfare system following a socio-educational assessment that concluded he was an adult, despite having provided original documentation attesting to his age. The committee noted that the applicant lived on the streets from his arrival in Marseille in September 2019 until early January 2020, again from late May 2020 to March 2021, and finally from September to mid-October 2021, without receiving any protective measures. Although he appealed the age determination decision, the hearing was delayed by over 1 year, meaning the case would not be considered until after he had reached adulthood. The CRC Committee found violations of Articles 3, 8, 12, 20(1), 28, and 37(a) of the Convention in this case.

The case law shows that international human rights bodies attach significant weight to the length of age assessment procedures, including during an appeal, and assess delays in light of the harm they cause to the applicant's rights. Both the ECtHR and the CRC Committee stress that age assessments must be prompt and have expressed concern that excessive delays may result in applicants reaching majority before their minor age is formally determined. The ECtHR, in particular, assesses undue delays by examining whether the authorities acted with sufficient diligence and whether the process was prolonged beyond what was strictly necessary in the circumstances, and it has been reluctant to accept abstract references to systemic pressure or processing capacity as justifications for lengthy delays. This standard is likely to become more concretely defined as procedures converge under the Pact and underscores the need for Member States to anticipate capacity demands through contingency planning and the use of the solidarity mechanism under the AMMR.

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,[67] 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 Report 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.[68]

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[69] or when foreign assessments met specific conditions (see EUAA Report 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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