



Assessing the age of asylum applicants

The information presented in this fact sheet is extracted from the [Asylum Report 2023](#) and covers developments in 2022 and early 2023.

Once arrived in an EU+ country, it is critical to promptly identify children who are travelling alone as unaccompanied or separated from their families. When children are not identified early in the asylum procedure, they may face inadequate support or even detention, and they are at greater risk of falling into the hands of traffickers or becoming victims of crime or exploitation.

The identity and age of migrant children is often unclear as many do not have documentation. If there are substantial doubts about a child's age, an age assessment may be carried out by national authorities to determine the correct path for the applicant and ensure best interests in the case of a minor.





Key developments extracted from the Asylum Report 2023

Data at a glance

Total asylum applications in EU+ countries, 2022	996,000
Asylum applications by unaccompanied minors, EU+ total, 2022	42,000 (4% of all asylum applications)
Top receiving EU+ countries, 2022	Austria: 13,000 (31% of total) Germany: 7,300 (17%) Netherlands: 4,200 (10%)

Source: Eurostat [[migr_asyunaa](#)] as of 13 April 2023.

Compared to 2021, even more countries reported an alarming increase in the number of unaccompanied children, putting a strain on specific processes, such as appointing a guardian, assessing the age of self-proclaimed minors, remaining within the time limits for processing and providing adequate material reception conditions and support.

Selected developments at the global and European levels

- In February 2022, the Council of Europe hosted a plenary session on the rights of children in migration, with topics covering age assessments and guardianship for unaccompanied minors.¹ The Steering Committee for the Rights of the Child (CDENF) approved a draft recommendation relating to human rights principles and guidelines on age assessments for children.²
- In January 2023, ECRE published a legal note on challenges in age assessment procedures and the international and European legal standards that guide the process.³
- The UN Committee on the Rights of the Child (UNCRC) expressed concern about the generalised use of the age determination procedure in some countries.⁴
- The UN Committee on Economic, Social and Cultural Rights (CESCR) issued its concluding observations on the third periodic report for Czechia, and it expressed concern that the detention of children was allowed prior to an age assessment.⁵

Developments in EU+ countries

- The **Spanish** Ministry of Justice approved a preliminary draft of a new law on age assessments. The process aims to bring the legislative framework in line with recommendations from the UNCRC and the Spanish Ombudsperson.⁶ Civil society organisations working with unaccompanied minors sent their comments on the draft law. The organisations argued, for example, that the procedure should be planned as preferential but not urgent. This would allow judges to suspend or extend deadlines when necessary to make an adequate age assessment.⁷

- Convive-Fundación Cepaim in **Spain** noted that the trend from previous years continued, whereby unaccompanied children arriving in Ceuta and Melilla declared themselves as adults to be transferred more quickly to the mainland.⁸
- In **Luxembourg**, the Directorate of Immigration requested an increase in the number of age assessments that could be conducted in a month due to a rise in the number of applications from unaccompanied minors and, thus, in cases where minority was in doubt.
- The description of the age assessment method followed by the National Board of Forensic Medicine was updated in **Sweden**. The procedure itself did not change, but its description became more detailed and transparent to minimise risks and to interpret the margin of errors and factors affecting the statistical model. In addition, the legal position on a child's age assessment for family reunification was updated with recent CJEU case law.
- The **Netherlands** Forensic Institute changed its age assessment practice based on a recent literature review, and since October 2022, applicants with a mature collarbone are considered to be at least 18 years old, instead of 20 years.⁹
- The **Greek** Council for Refugees observed delays in the age assessment procedure in Samos due to a lack of trained staff.¹⁰
- Caritas International noted a gap in age assessment practices in **Belgium**, leaving several youngsters on the streets without access to material reception conditions. In October and November 2022, the Guardianship Service did not conduct age assessment procedures among the youngsters sleeping outdoors, but without a proof of their minority, these youngsters could not be prioritised for reception. Qualifying as single male adults, they had little chance to be accommodated during the crisis situation.¹¹

Court rulings related to the age assessment procedure

- In the case *Darboe and Camara v Italy*, the ECtHR [ruled](#) on procedural safeguards for unaccompanied minors who were placed in adult reception centres. The court found violations of Articles 3, 8 and 13 by the national authorities when failing to provide information on the asylum procedure, appoint a legal guardian and ensure access to a lawyer. As a result, the applicant was erroneously considered to be an adult and his right to procedural safeguards in the age assessment procedure was not ensured in Italy. As there was no formal decision issued to consider him an adult, he was unable to appeal the decision. The Italian authorities failed to apply the principle of the presumption of minority.
- The Cypriot Administrative Court of International Protection [observed](#) several deficiencies in the age assessment procedure of a Somali applicant. The youngster provided his birth certificate in English, but this was not evaluated by the authorities. He needed to undergo a medical examination, without receiving details on the reason for it nor about the possibility that he can provide comments on the procedure. The choice of method for the medical examination was not reasoned and justified. In addition, for the

purpose of family reunification, the authorities took into account the date of his medical examination and not the date of his application for international protection.

- The Immigration Appeals Board in Malta [examined](#) the age determination process in a case of a child who was declared to be an adult following the age assessment of AWAS, based on a photo of a documentation from the Principal Immigration Officer. The board underlined that the Principal Immigration Officer did not have the right to intervene in age assessment procedures, and AWAS had no competence to review its own age assessment. The applicant was declared to be a minor again and the board ordered that he should be accommodated in the open shelter for unaccompanied minors.
- The Immigration Appeals Board in Malta ordered the immediate release of two children from detention as their age was determined in a procedure against the law. In January 2023, the ECtHR granted an interim measure wherein it ordered Malta to ensure that “the applicants’ conditions are compatible with Article 3 of the Convention and with their status as alleged unaccompanied minors” who arrived by boat in mid-November 2022. The Immigration Appeals Board found in December 2022 that the detention of children was legal but requested that a legal guardian be appointed.¹²
- In another case, the Immigration Appeals Board [found](#) that the detention of a Bangladeshi applicant claiming to be a minor was lawful, as he had first given a date of birth that indicated that he was an adult. Pending the appeal of the age assessment, the board ordered that he should be accommodated in the buffer zone within an AWAS open centre.
- In the [case](#) of another Bangladeshi applicant, the Immigration Appeals Board in Malta found that the detention was lawful due to a risk of absconding but, as in the previous case, ordered the applicant to be transferred to the buffer zone of an open facility, pending the results of the appeal of the age assessment.
- For an applicant from Côte d'Ivoire, the Immigration Appeals Board [found](#) the detention measure lawful and ordered that the applicant be kept in facilities adequate for minors pending an age assessment.
- The Dutch Council of State [reviewed](#) the determination of an applicant’s age for the Dublin procedure when a person was registered as a minor in the Netherlands, but also registered both as a minor and as an adult in various other Member States. As doubts remained about the applicant’s age after the age inspections (*leeftijdsschouw*, undertaken by three officers from the Dutch Immigration and Naturalisation Service (IND), the Royal Military Police (KMar) and the Aliens Police, Identification and Human Trafficking Department (AVIM) who spoke separately with the applicant), the council confirmed that the Dublin unit may rely on the principle of mutual trust and assume that the registration of the age took place with due care in other Member States. Thus, the applicant can be considered as an adult when the person has been registered in several Member States with different ages. In addition, the authorities should consult the source documents in the original registration to conclude the age when possible.

To search for more developments by topic, country or year, consult the [National Asylum Developments Database](#).

To read more case law related to asylum, consult the [EUAA Case Law Database](#).

Sources

Please see [Sources on Asylum 2023](#) for the full list of over 1,200 references which were consulted for the Asylum Report 2023.

¹ European Union Agency for Fundamental Rights. (2022, February 4). *Age assessments and guardianship for unaccompanied children*. <https://fra.europa.eu/en/news/2022/age-assessments-and-guardianship-unaccompanied-children>

² Council of Europe. (2022, February 11). *Council of Europe's Steering Committee for the Rights of the Child approves human rights principles for children in migration*. <https://www.coe.int/en/web/children/-/council-of-europe-s-steering-committee-on-the-rights-of-the-child-approves-human-rights-principles-for-children-in-migration>

³ European Council on Refugees and Exiles. (December 2022). *Age assessment in Europe*. Legal Note #13, 2022. <https://ecre.org/wp-content/uploads/2023/01/Legal-Note-13-FINAL.pdf>

⁴ United Nations Committee on the Rights of the Child. (2022, June 28). *Concluding observations on the combined fourth to sixth periodic reports of Greece* [CRC/C/GRC/CO/4-6]. <https://uhri.ohchr.org/Document/File/115ee2b4-0565-44c3-8973-8319f32fbc2/E9B9A517-C497-4E44-95B9-5CE737138E51>

⁵ United Nations Committee on Economic, Social and Cultural Rights. (2022, March 28). *Concluding observations on the third periodic report of Czechia*. E/C.12/CZE/CO/3. <https://uhri.ohchr.org/Document/File/8e7b781d-018d-4e99-91ae-9ba5f48ab6fd/092B7BA9-53B4-4FEF-864D-01CF2CC46E0E>

⁶ Ministry of Justice of Spain | Ministerio de Justicia. (2022, April 20). *Anteproyecto de Ley por la que se regula el procedimiento de evaluación de la edad* [Draft Law regulating the age assessment procedure]. <https://www.mjusticia.gob.es/es/AreaTematica/ActividadLegislativa/Documents/APL%20procedimiento%20evaluacion%20de%20la%20edad.pdf>

⁷ Spanish Commission for Refugee Aid | Comisión Española de Ayuda al Refugiado. (2022, May 10). *ONGs piden permitir documentos de los países de origen de los menores no acompañados en la determinación de su edad*. <https://www.cear.es/ong-expertas-en-infancia-y-migracion-piden-procedimiento-evaluacion-permita-revisar-sentencias/>

⁸ Convive Foundation Cepaim | Convide Fundación Cepaim. (February 2022). *Input to the Asylum Report 2023*. https://euaa.europa.eu/sites/default/files/2023-02/convive_fundacion_cepaim.pdf

⁹ Immigration and Naturalisation Service | Immigratie- en Naturalisatiedienst. (2022, October 4). *IB 2022/92 Toekennen leeftijd bij gestelde Amv* [IB 2022/92 Assigning age to an alleged UAM]. https://puc.overheid.nl/ind/doc/PUC_1294821_1/1/

¹⁰ Greek Council for Refugees | Ελληνικό Συμβούλιο για τους Πρόσφυγες. (February 2023). *Input to the Asylum Report 2023*. https://euaa.europa.eu/sites/default/files/2023-02/greek_council_for_refugees.docx

¹¹ Caritas Belgium. (2022, November 18). *Situatie Pacheco* [Situation in Pacheco building]. <https://www.caritasinternational.be/wp-content/uploads/2022/12/18.11.22-situatie-Pacheco.pdf>

¹² Aditus foundation. (2023, January 12). *European Human Rights Court orders Malta to release children from detention*. https://aditus.org.mt/european-human-rights-court-orders-malta-to-release-children-from-detention/#.Y_uMV3bMI2w