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Bone Tired: Unaccompanied Minors and Age Assessment Practices in the Belgian Asylum System

How Can Age Determination Be Restructured in Accordance with the Best Interests of the Child ?

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To the young people who inspired this thesis,

whose stories deserve to be heard before they are doubted.

May they never lose hope.

Abstract

In Belgium, the question of a young asylum seeker's age is not simply technical. It can determine whether a person is treated as a child or as an adult, with immediate consequences for guardianship, reception, procedural safeguards, education, healthcare, and protection from detention or removal. Focusing on unaccompanied minors in the Belgian asylum system, this thesis examines the legal framework governing age determination, its implementation in Belgium, and its compatibility with the Convention on the Rights of the Child, particularly the principle of the best interests of the child. Adopting a socio-legal approach, the research combines legal, policy, and academic sources with four qualitative interviews with asylum seekers who underwent age assessment during their asylum procedure in Belgium. The analysis finds that Belgian age assessment practices are only partially compatible with the CRC. While identifying minors is a legitimate child-protection objective, the current framework relies heavily on contested medical examinations and remains weakened by opaque doubt procedures, insufficient safeguards, limited consent guarantees, weak remedies, and the serious consequences of misclassification. The thesis therefore argues for a more holistic and multidisciplinary framework that gives greater weight to vulnerability than to chronological age, manages uncertainty through the benefit of the doubt, and strengthens safeguards where exclusion from protection is most likely to occur. In doing so, it highlights the need to treat age assessment as a child-protection procedure rather than a tool of migration control.

Abbreviations

BIC — Best Interests of the Child

CEAS — Common European Asylum System

CGRS — Office of the Commissioner General for Refugees and Stateless Persons

CRC — Convention on the Rights of the Child

EASO — European Asylum Support Office

ECHR — European Convention on Human Rights

ECtHR — European Court of Human Rights

EU — European Union

GP — Greulich and Pyle

IO — Immigration Office

IOM — International Organization for Migration

OOC — Observation and Orientation Centre

PTSD — Post-Traumatic Stress Disorder

RCD — Reception Conditions Directive

UAMs — Unaccompanied Minors

UN — United Nations

UNHCR — United Nations High Commissioner for Refugees

UNICEF — United Nations Children's Fund

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1. Introduction

1.1. Bone tired: introduction on the ground

I remember the day he arrived at the reception centre. He looked exhausted and disoriented, but what struck me most was how young he appeared. Carrying a backpack containing all his belongings, he had been brought by a social worker from an observation and referral centre for unaccompanied foreign minors, managed by Fedasil. He had stayed there for three weeks, until the results of his age assessment were issued, after which he was transferred to this facility. The social worker simply wished him good luck and left. He seemed not to understand the situation.

As I welcomed him, he handed me the envelope he was holding. It contained his appointment for the reception centre, his Appendix 26 confirming the registration of his asylum application with the Immigration Office, as well as the results of the bone and dental examinations he had undergone. The report indicated an estimated age of 19 years, with a margin of error of three years. He quietly told me he was sixteen. He repeated it several times, as if trying to convince me. Then he asked: “Are there other teenagers here? Will I be able to go to school ?” “I will do everything I can to help you,” I replied, knowing that, as he was legally considered an adult, enrolling him in school would be extremely difficult. He then went to his new room, which he would share with five adult men. The facility was not designed for children. In the following weeks, he returned regularly to my office, asking when he would be able to start school. His frustration became visible, and he would occasionally cry. He said he simply wanted to go to school, like other children. “I am just a child,” he repeated.

This encounter is not an isolated case. Across Belgium, children are regularly admitted to reception centres as adults following age assessment procedures, thereby being deprived of the specific safeguards and protection to which they are entitled. It is difficult to assess the extent of this phenomenon but in 2024, 2280 people declared themselves as unaccompanied minors requested asylum in Belgium.[1] The core issue lies in the inadequacy of the methods

[1] Eurostat, ‘Asylum Applications - Annual Statistics’ (2026) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_applications_-_annual_statistics> accessed 19 February 2026.

used to determine age, which raise serious concerns as to their reliability in establishing majority. This central problem gives rise to two major tensions. First, the accuracy and widespread use of medical age assessment methods, such as bone and dental examinations, can have far-reaching consequences on the lives of those concerned. The misclassification of a minor as an adult prevents access to essential protections, including guardianship, adapted reception conditions, access to education and healthcare, and procedural safeguards within the asylum process. The determination of age therefore constitutes a decisive legal threshold with profound human implications. Second, the age assessment practices currently applied in Belgium raise significant concerns regarding their compatibility with international and European standards, particularly the Convention on the Rights of the Child and its guiding principle of the best interests of the child.[2] These practices therefore cast doubt on the extent to which current age determination procedures ensure effective protection of the rights of the child within the Belgian and broader European asylum framework. More fundamentally, they reflect an underlying tension between child protection frameworks and migration governance, where the imperative to control migration may undermine the effective safeguarding of children's rights.[3] In this evolving context, the recent reform of the European asylum system under the New Pact on Migration and Asylum is likely to further shape the framework within which age assessment practices are carried out.

In light of these tensions, the research problem lies in the limitations of age assessment methods used to identify minors in the Belgian asylum system, and in the concerns these limitations raise regarding their compatibility with the Convention on the Rights of the Child.

In response to this concern, this thesis pursues several complementary objectives:

It first aims to critically examine age assessment procedures currently applied to unaccompanied minors in Belgium and to assess the potential changes introduced by the New Pact on Migration and Asylum. It also seeks to explore the impact of age determination methods on asylum seekers, in order to assess their compatibility with the Convention on the Rights of the Child. Building on this analysis, these findings serve the central objective of the

[2] Concluding observations on the combined fifth and sixth periodic reports of Belgium (2019) (CRC/C/BEL/CO/5-6) para 41.
[3] Sara Lembrechts, 'Safeguarding Children's Rights in Immigration Law, Klaassen, M., Rap, S., Rodrigues, P. & Liefaard, T' (2021) 35 Int J Law Policy Fam 1.

thesis, which is to contribute to the development of a more child-centred and rights-compliant approach to age determination.

In order to address these objectives, the following research questions will structure and guide the analysis:

How are age assessment procedures conducted in Belgium for unaccompanied minors seeking asylum, and how might the upcoming EU Asylum Procedures Regulation (EU) 2024/1348 influence these practices?

To what extent are Belgian age assessment practices compatible with the Convention on the Rights of the Child?

If Belgian age assessment practices are found not to fully comply with Belgium's obligations under the CRC, how could they be restructured to better align with the best interests of the child, fundamental rights, and the objective of child protection?

The thesis is structured as follows. Chapter 1 introduces the research problem, the background, the theoretical framework, and the methodological approach. Chapter 2 sets out the legal framework governing the protection of unaccompanied minors and age assessment at international, European, and Belgian levels. Chapter 3 examines how age assessment is conducted in the Belgian asylum procedure, including medical methods, scientific limitations, procedural safeguards, and the possible impact of the New Pact on Migration and Asylum. Chapter 4 assesses the compatibility of Belgian age assessment practices with the CRC and the best interests of the child, focusing on procedural safeguards, medical methods, and the consequences of misclassification. Chapter 5 then considers how age assessment could be rethought through a more child-protective approach, before presenting the final discussion and conclusions in chapter 6.

1.2. Background

This subchapter (1.2) situates the research within its broader contextual framework. The first part outlines the political landscape in the European Union (EU) and Belgium in the aftermath of increased migration flows since 2015. Particular attention is given to the rise of populist and nationalist political movements, the growing fragmentation among Member

States regarding the balance between solidarity and sovereignty, and the resulting tensions for human rights protection. This context is relevant because age assessment does not operate in isolation from broader asylum and migration policies. In a political climate increasingly marked by suspicion, deterrence, and pressure on reception systems, the determination of age becomes more than a technical procedure: it functions as a gatekeeping mechanism that decides whether a young person is treated as a child entitled to specific protection or as an adult asylum seeker subject to ordinary migration control.

The second part presents relevant data on asylum applications and arrivals in both the European Union and Belgium, before focusing specifically on unaccompanied minors, their characteristics, and available data concerning age assessment practices.

1.2.1. Migration in the European and Belgian political context

Migration is not a new phenomenon, the International Organization for Migration even affirms "it is as old as humanity itself".[4] Recent conflicts around the world and natural disasters linked to global warming suggest that these population flows are unlikely to diminish.[5] In light of the worsening challenges posed by climate change, the IOM estimates that an additional 216 million climate migrants could be forced to move by 2050.[6] Since 2015, and the significant increase in migration flows linked to the conflict in Syria, the European asylum system has been under sustained pressure.[7] Subsequent movements over the past decade, associated with conflicts in Ukraine, Afghanistan and parts of Africa, have further tested the capacity of European states to provide asylum, with several of these groups consistently representing a significant share of asylum applicants in the European Union.[8] The further strain on European states' capacity to provide asylum to those in need of international protection has significant political implications at both national and European levels. Migration has become a central and highly politicized "issue", and the rise of populist and nationalist political movements disturbed the European political landscape, especially in

[4] International Organization for Migration, 'World Migration Report 2024' (2024) Foreword <https://worldmigrationreport.iom.int/what-we-do/foreword/foreword> accessed 22 February 2026.
[5] ibid.
[6] International Organization for Migration (IOM) and University of Cairo, 'Climate Change and Migration' (2025) 7.
[7] Mehreen Yaseen and others, 'The Political Dynamics of Refugee Migration in Europe: Analyzing the Impact of Nationalism, EU Solidarity, and the Dublin Regulation Post-2015 Migrant Crisis' (2025) 3 Crit Rev Soc Sci Stud 486, 489.
[8] International Organization for Migration (n 4) chap 2.

countries that experienced high flows of migrants.[9] Governments face growing domestic pressure from voters concerned about immigration levels, public spending, security, and cultural identity. Within this context, and driven by securitisation and migration control agendas, narratives centred on border security have become increasingly prominent. This creates tensions between humanitarian obligations under international law and demands for stricter border control.[10]

Since 2015, structural weaknesses within the EU's common asylum framework are increasingly exposed. The Dublin Regulation illustrates the EU's struggle to present a coherent coordinated response to the growing influx of migrants.[11] With the initial objective to regulate responsibility-sharing of asylum seekers among Member States, it exacerbated tensions and revealed divisions. Border states such as Greece and Italy often feel disproportionately affected by the reception of migrants, while other Member States like Poland or Hungary resist relocation schemes.[12] These internal fractures even question the EU's fundamental values and shared responsibility upon which the EU, as a political and economic union, was founded.[13] This dynamic is also alimented by a rising euroscepticism from some national political parties.[14] The debate on solidarity against sovereignty has risen. The reception of asylum seekers is confronted with some governments willing to keep border control under national competence[15], emphasising the tension between national interests and European obligations.

Moreover, in the aftermath of the 2015 developments, the pressure on European asylum systems also places strain on the EU's compliance with its international human rights obligations.[16] Border security pushes Europe to tighten its frontiers and adopt restrictive or emergency measures. One major human right treat concerns the principle of non-refoulement[17]. The European Court of Human Rights (ECtHR), has increasingly been asked to adjudicate pushback events. Cooperation with third countries like Turkey to limit

[9] Yaseen and others (n 7) 499.
[10] ibid 487.
[11] ibid.
[12] ibid.
[13] ibid 496.
[14] ibid 499.
[15] ibid 500.
[16] ibid 491.
[17] Katrien Luyten, 'Addressing Pushbacks at the EU's External Borders' (2025) Eur Parliam Res Serv EPRS.

cross-border movement also puts pressure on human rights provisions.[18] At the same time, European member states are required to ensure adequate reception conditions, including safeguards for the most vulnerable.[19] However, in practice, periods of high arrivals often lead governments to introduce more restrictive measures, such as accelerated procedures or detention, thereby weakening these guarantees. Politically, this dynamic creates a structural dilemma. On the one hand, governments must comply with international and European legal obligations that protect fundamental rights. On the other hand, they face domestic electoral pressures to reduce migration flows and maintain control over borders. When these two imperatives clash, human rights commitments may be perceived by some political actors as constraints on sovereignty.[20]

In June 2026, the New Pact on Migration and Asylum will come into effect, making the current period particularly significant for Member States.[21] Proposed by the European Commission five years earlier, it aims to reform the Common European Asylum System (CEAS). While the Pact is officially presented as seeking to rebalance responsibility-sharing among Member States and promote a more "humane approach" to the reception of asylum seekers[22], it has also been criticised for reinforcing filtering, accelerated procedures, and border-control logics.[23] This tension is relevant to the present thesis and will be examined more specifically in Chapter 3 in relation to age assessment.

In Belgium, the political landscape mirrors the European trend. On 3 February 2025, a new government coalition led by Flemish nationalist Bart De Wever came to power, reflecting a shift towards more conservative and restrictive migration policies. Pursuing a general austerity policy, the government aims to save 1,6 billion euros on asylum and migration policy during its mandate[24], sharpening migration rules, described by authorities as "the

[18] Yaseen and others (n 7) 491.
[19] ibid 506.
[20] ibid 496.
[21] 'Coordination et Initiatives Pour Réfugiés et Étrangers (CIRE), Pacte Européen Sur La Migration et l'asile : Décryptage' (2025) 4.
[22] European Commission, Communication from the Commission on a New Pact on Migration and Asylum 2020 (COM(2020) 609 final).
[23] 'Coordination et Initiatives Pour Réfugiés et Étrangers (CIRE), Pacte Européen Sur La Migration et l'asile : Décryptage' (n 21) 5.
[24] Baptiste Hupin, 'Accord du gouvernement De Wever sur l'asile et la migration : maîtriser les arrivées, réduire la capacité d'accueil' (*RTBF*, 2025) <https://www.rtbf.be/article/accord-du-gouvernement-de-wever-sur-l-asile-et-la-migration-maitriser-les-arrivees-reduire-la-capacite-d-accueil-11497875> accessed 23 February 2026.

strictest migration policy ever".[25] One source of savings will come from a gradual and structural reduction in the capacity to accommodate asylum seekers. In addition, the system of allowances granted to persons who have refugee status or subsidiary protection will be reviewed. Deterrence campaigns targeting asylum seekers will be "intensified and modernized" and the asylum application registration process will be tightened.[26] Migration Minister Anneleen Van Bossuyt has described the approach as one of "controlled migration".[27]

1.2.2. Migration Trends and Asylum Data

In 2024, about 912 000 people applied for asylum for the first time in EU countries.[28] Amongst them, 234 670 were under the age of 18.[29] It represents 25,7 % of all first-time asylum applicants in the EU that year. Most of them arrive with family members, but others arrive unaccompanied. They were 36 290[30] in 2024, which is equivalent to 15,9% of the total number of first-time asylum applicants aged less than 18 years old. This number might look insignificant compared to the total number of applicants that applied for asylum that year, but from a humanitarian and policy perspective, it represents a major child-protection issue for the member states.[31] Unaccompanied minors (UAMs) are considered one of the most vulnerable groups in asylum systems. They require in a nutshell: special housing arrangements, guardianship systems, education access, medical and psychological support, safeguards against trafficking and exploitation. So even if they are only 4% of total

[25] Belgian Immigration Office, 'Information about the Asylum and Migration Policy' (no date) <https://dofi.ibz.be/en/Information_about_the_asylum_and_migration_policy> accessed 23 February 2026.
[26] Hupin (n 24).
[27] European Migration Network, 'Anneleen Van Bossuyt Becomes Belgian Minister of Asylum and Migration' (3 February 2025) <https://emnbelgium.be/news/anneleen-van-bossuyt-becomes-belgian-minister-asylum-and-migration> accessed 23 February 2026.
[28] Eurostat (n 1).
[29] Eurostat, 'Children in Migration - Asylum Applicants' (2026) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Children_in_migration_-_asylum_applicants> accessed 19 February 2026.
[30] Eurostat, 'Children in Migration - Asylum Applicants' (2026) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Children_in_migration_-_asylum_applicants> accessed 19 February 2026.
[31] Gregor Noll, 'Junk Science? Four Arguments against the Radiological Age Assessment of Unaccompanied Minors Seeking Asylum' (2016) 28 Int J Refug Law 234, 235.

applicants, they require disproportionately high support resources.[32] This is also why states tend to be very restrictive on the recognition of child status.[33]

In Belgium, 33 050 asylum applications were registered in 2024.[34] 2280 of them were made by unaccompanied minors.[35] It represents a 10,6% decrease in applicants compared to 2023, yet the country remains the sixth EU Member State with the highest number of unaccompanied applicants.[36] During the 10 first months of 2025, the nationalities most represented among first-time applicants are predominantly Eritrean (625 persons), Ukrainian (374 persons), and Afghan (255 persons).[37] The remaining applicants come, in descending order, from Morocco, Algeria, Guinea, Ethiopia, the Democratic Republic of the Congo, Syria, and Palestine. Men constitute 84% of the applicants.[38] An examination of the applicants' ages at the time of submitting their protection requests shows that the majority were between 16 and 17 years old, with 1930 minors recorded in this age group.[39] The second most represented category consists of those aged 11 to 15 with 787 minors.[40] From January to October 2025, 2903 applicants declared themselves to be unaccompanied minors. Doubts regarding their age were raised in 1454 cases, representing approximately half of the total. Consequently, 1120 age assessments were conducted, resulting in a determination of majority in 848 cases and of minority in 256 cases.[41] This means that 75,7% of the tests conducted resulted in a determination of majority.

These migration trends and asylum data provide the context for the following section, which sets out the theoretical framework guiding the analysis.

1.3. Theoretical framework:

This section sets out the theoretical framework guiding the analysis of this thesis. It clarifies the key concepts underpinning the research, including the notions of age, asylum seeker, and

[32] Katja Fournier, 'L'estimation de l'âge Des MENA En Question : Problématique, Analyse et Recommandations' (Plate-forme Mineurs en Exil 2017) 9.
[33] ibid 7.
[34] Eurostat (n 1).
[35] ibid.
[36] 'Eurostat, Children in Migration - Asylum Applicants' (n 30).
[37] Service public fédéral Justice, 'Statistique Du Service Des Tutelles: Eléments Mensuels Pour 2025 et Annuels' (2025) 4.
[38] ibid 6.
[39] ibid 5.
[40] Service public fédéral Justice (n 37) 5.
[41] ibid 7.

the specific categories of unaccompanied and unrecognised minors. It then examines the concept of age assessment as a central mechanism within asylum procedures, before introducing the principle of the best interests of the child as the primary normative lens through which these practices will be analysed. This approach relies on international, European and Belgian legal frameworks to define and structure the key concepts used in the analysis. Together, these elements provide the conceptual foundations necessary to understand the legal and practical issues surrounding age determination in the asylum context.

1.3.1. Age, childhood and categorisation in asylum systems

In 1989, the most widely ratified human rights treaty in history was adopted: the United Nations (UN) Convention on the Rights of the Child (CRC). It is the main legal instrument in children's rights. Ciara Smyth defines it as the "point of departure for any discussion of the rights of the child".[42]

The first article of the Convention defines a child, for the purposes of the Convention, as "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier".[43] It should be noted that this definition is functional and context-specific, as it serves to delimit the scope of the Convention's protection rather than to provide a universally applicable or absolute definition of childhood. It opted for a chronological definition of childhood, setting eighteen years as the decisive legal threshold. However, across countries and cultures, the definition of a child may vary. This socially and culturally shaped concept is not always determined by precise numerical age but by social roles, biological development, rites of passage, and cultural expectations.[44] Such perceptions of the child might be very different from the occidental perspective. Taking in consideration this intersectional determination of childhood, it appears that the CRC framework reflects a political and ideological constructions rather than universal developmental realities. Nevertheless, while this chronological definition of childhood is globally accepted, it may not

[42] Ciara Smyth, *European Asylum Law and the Rights of the Child* (Routledge 2014) 29.
[43] 'United Nations Convention on the Rights of the Child (1989)'.
[44] Terry Smith and Laura Brownless, 'Age Assessment Practices: A Literature Review & Annotated Bibliography' (UNICEF 2011) 2.

accurately reflect biological, social, or psychological maturity, and cultural understandings of age should not be disregarded when assessing children's status and protection needs.[45]

Age can also be defined biologically, socially and psychologically.[46] Biological age refers to someone's stage of physical development in relation to their overall life course, rather than the number of years lived.[47] Social age is defined by an individual's roles and responsibilities in society.[48] Psychological age refers to an individual's level of cognitive, emotional, and behavioural development.[49] The results derived from these different conceptions of age may diverge from an individual's chronological age. Smith and Brownless conclude that "Chronological age is therefore recognised by many as having significant limitations in terms of being able to indicate biological, social or psychological age, as it provides only a rough indicator of an individual's status along biological, social or psychological dimension".[50]

Children may seek asylum, whether accompanied by their families or on their own. Within international law, the Refugee Convention only provides a definition of the term "refugee" but does not define that of "asylum seeker". The United Nations High Commissioner for Refugees (UNHCR) defines asylum seekers as someone who is seeking international protection. Their request for refugee status, or complementary protection status, has yet to be processed, or they may not yet have requested asylum but they intend to do so.[51] This definition, which is very similar in European Law[52] and Belgian law[53], highlights that while not all asylum seekers will ultimately be recognised as refugees or beneficiaries of international protection, all refugees were once asylum seekers. These individuals, referred to throughout this research as asylum seekers, constitute the primary subjects of this study, rather than individuals who have already been formally recognised as refugees.

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[45] ibid 7.
[46] ibid.
[47] ibid.
[48] ibid.
[49] ibid.
[50] ibid 8.
[51] UN High Commissioner for Refugees, 'Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees' (2019) HCR/1P/4/ENG/REV. 4 para 28.
[52] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) Art 2(c).
[53] Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Belgium) art 1.

Within the broader category of minor asylum seekers, unaccompanied minors constitute a distinct subgroup. The Belgian definition of UAMs is based on chronological age criterion set out in the CRC and is included in the Program law of December 24, 2002.[54] It specifies that an unaccompanied minor is a person who meets four cumulative conditions: (1) being under the age of eighteen; (2) not being accompanied by, or under the effective care of, a person exercising parental authority or legal guardianship; (3) originating from a country outside the European Economic Area; and (4) having applied for asylum or otherwise lacking the legal conditions required to enter or reside in Belgian territory.[55] This category constitutes the primary focus of this research, which specifically examines the situation of unaccompanied minor asylum seekers.

Subsequently a minor can be unaccompanied and unrecognised. An unrecognised minor is an applicant whose claimed age has not been accepted by the authorities and who is therefore treated procedurally as an adult. In the asylum context, the distinction between a claimed minor, a recognised minor, and an unrecognised minor is therefore crucial. A claimed minor is an individual who declares that they are under eighteen years of age upon arrival or during the asylum procedure. A recognised minor is one whose minority status has been formally accepted by the competent authorities, thereby granting access to child-specific procedural safeguards and protection measures. By contrast, an unrecognised minor is a person whose claimed age has been disputed and ultimately rejected, often following an age assessment procedure, resulting in his classification as an adult.[56] This distinction reveals a significant gap between chronological age as asserted by the individual and legal age as determined by the state. Because access to guardianship, specialised reception conditions, and enhanced procedural guarantees depend on formal recognition, age assessment operates as a decisive gateway to protection. The institutional determination of age therefore does not merely verify a biological fact, it produces legal status and directly shapes the scope of rights available to the applicant.

[54] Loi-programme du 24 décembre 2002 (I) art. 479 (Titre XIII - Chapitre VI) : Tutelle des mineurs étrangers non accompagnés.
[55] European Migration Network and Belgian Contact Point, 'Unaccompanied Minors in Belgium: Reception, Return and Integration Arrangements' (2009) 10.
[56] Fournier (n 32) 9.

1.3.2. Age assessment

Age assessment constitutes a central mechanism within asylum procedures, linking the determination of legal status to the categorisation of individuals as either minors or adults. The European Asylum Support Office (EASO) defines age assessment as a "process by which authorities seek to establish the chronological age, or range of age, of a person in order to determine whether an individual is a child or not".[57]

This process is widespread across European countries for asylum purposes. Age assessment is considered necessary within the asylum context because age constitutes a decisive legal threshold. Individuals under the age of 18 are entitled to specific rights and protections, including child-sensitive procedural safeguards and adapted reception conditions. The correct identification of a person as a minor is therefore essential to ensure access to these rights[58], while also preventing adults from being placed within child protection systems.[59]

Doubts may arise not only when an applicant claims to be a minor, but also when they present themselves as an adult. In some cases, children on the move may declare themselves to be adults in order to avoid protective measures imposed by authorities. This may occur for various reasons, including the desire to continue their migration journey or to avoid placement in supervised accommodation with freedom of movement. In practice, age assessment becomes necessary in situations where there are doubts regarding the claimed age of an individual, particularly in the absence of reliable documentation or where available evidence is contradictory.[60] Such doubts may arise due to the lack of birth registration in countries of origin, the unreliability of documents, or inconsistencies in the information provided. In these cases, authorities may initiate an age assessment in order to resolve this uncertainty.[61]

The process of age assessment may involve a range of methods, generally divided into non-medical and medical approaches. Non-medical methods are typically used as a first step and include the examination of documentary evidence, age assessment interviews, and

[57] European Asylum Support Office (ed), 'EASO Practical Guide on Age Assessment' (Publications Office of the European Union 2018) EASO Practical Guides Series 15.
[58] Jason M Pobjoy, *The Child in International Refugee Law* (Cambridge University Press 2017) 3.
[59] European Asylum Support Office (n 57) 17.
[60] ibid.
[61] Noll (n 31) 237.

psychological evaluations aimed at assessing the individual's background, consistency of statements, and level of maturity.[62] Where non-medical methods are insufficient, authorities may resort to medical techniques. These include radiation-free methods, such as dental observation, physical development assessments, and magnetic resonance imaging, as well as methods involving exposure to radiation, such as X-ray examinations of the hand and wrist, the collarbone, or the teeth. These techniques aim to estimate biological development in order to approximate chronological age and are generally applied progressively, in line with a multidisciplinary approach.[63]

While this section introduces and defines the concept of age assessment, Chapter 3 will examine the procedure and techniques used in Belgium in order to address the first research question.

1.3.3. The Best Interests of the Child

To conclude the theoretical framework, a central concept of this thesis is introduced. As previously mentioned in the discussion on the definition of age, the Convention on the Rights of the Child constitutes a cornerstone in the protection of children. Emphasised in the Joint General Comments of the Committee on the Rights of the Child, children seeking asylum are, first and foremost, children, and the standards established under the CRC are fully applicable in the migration context.[64] This is further reflected in the general principle of non-discrimination in Article 2(1): all the rights in the Convention are in principle applicable to all children. Asylum seekers make no exception.[65]

Of particular relevance to this research is the general principle enshrined in Article 3: the Best Interests of the Child (BIC). By its nature, the principle constitutes simultaneously a substantive right, an interpretative legal principle, and a rule of procedure. As a substantive right, it guarantees that the child's best interests must be a primary consideration in all decisions affecting them. As an interpretative principle, it requires that where a legal provision is open to more than one interpretation, the interpretation that most effectively

[62] European Asylum Support Office (n 57) 32.
[63] Noll (n 31) 235.
[64] UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and UN Committee on the Rights of the Child, Joint General Comment No 4 (CMW) and No 23 (CRC) (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (CMW/C/GC/4-CRC/C/GC/23).
[65] United Nations, 'Convention on the Rights of the Child' (1989) 1577 Treaty Ser 3.

serves the child's best interests should be adopted. Finally, as a procedural rule, it imposes an obligation on decision-makers to assess and determine the best interests of the child in each individual case, and to justify how this assessment has been carried out.[66]

The Article consists of three paragraphs. Article 3(1) provides that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the BIC shall be a primary consideration".[67] As noted by Ciara Smyth, although the principle has historically been associated with a degree of ambiguity due to its broad and flexible nature, its interpretation has been clarified through subsequent developments.[68] In particular, the General comment No. 14 emphasizes that the notion of "all actions concerning children" include not only the actions explicitly directed to children, but also those that have a direct or indirect impact on them.[69] As a result, all migration-related decisions affecting children fall within the scope of the BIC principle. The principle applies to all authorities involved in such decision-making and operates both at the individual and collective levels.[70] Decisions concerning individual children require a specific and contextualised assessment of their best interests, while laws, policies, and administrative practices must also integrate this principle at a broader level.[71] Consequently, migration measures concerning children must not only refer to the BIC principle, but must itself be in the best interest of the Child. Age assessment procedures, as decisions that directly affect both the recognition of an individual as a child and access to corresponding protection, must be conducted in accordance with the BIC principle.[72]

While Article 3(1) lays down an overriding principle applicable in all contexts concerning children, Article 3(2) establishes a distinct obligation, requiring States to ensure that children receive the protection and care necessary for their well-being. This provision imposes a positive duty on States to adopt appropriate legislative and administrative measures, while taking into account the rights and responsibilities of parents and caregivers. The notion of

[66] UN Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) (CRC/C/GC/14) para 6.
[67] United Nations (n 65).
[68] Smyth (n 42) 33.
[69] UN Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) para 19-20.
[70] Smyth (n 42) 34.
[71] UN Committee on the Rights of the Child, General comment No. 7 (2005): Implementing child rights in early childhood (CRC/C/GC/7).
[72] Smyth (n 42) 35.

well-being itself is understood broadly, encompassing not only the child's physical protection but also their overall development, including emotional, social, and psychological dimensions.[73]

Article 3(3) complements this framework by requiring States to regulate and supervise institutions and services responsible for the care and protection of children. It ensures that such entities comply with appropriate standards, particularly regarding safety, health, staffing, and supervision. This provision reflects the structural dimension of the BIC principle, embedding child protection within institutional frameworks and ensuring that systems entrusted with children's care operate consistently with their rights and well-being.[74]

Taken together, these elements highlight that the best interests of the child is not only a general guiding principle, but a binding legal standard that must inform both individual decisions and broader policy frameworks. In the context of this research, it constitutes the primary normative lens through which the Belgian age assessment practices will be evaluated.

1.4. Methodology

Having outlined the background of the thesis, as well as its research objectives and questions, this section presents the methodology guiding the research. It first explains the socio-legal approach adopted, which combines a review of relevant legal and normative frameworks with empirical data drawn from qualitative interviews. It then sets out the methods used for data collection, data management, and data analysis, before addressing the limitations of the study. By clarifying these methodological choices, the section explains how the research examines the relationship between legal standards governing age assessment and their implementation in practice.

1.4.1. Methodological Approach

This thesis follows a socio-legal approach, combining a review of relevant legal frameworks with empirical data drawn from qualitative interviews. The legal review identifies the

[73] John Eekelaar and John Tobin, *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press 2019) 101.
[74] ibid 104.

international, European, and Belgian standards relevant to age assessment and the protection of asylum-seeking unaccompanied minors. It provides the basis for assessing Belgian age assessment practices in light of the Convention on the Rights of the Child, with particular attention to the principle of the best interests of the child, procedural safeguards, and access to child-specific protection.

The review covers three levels of law. At the international level, it focuses primarily on the Convention on the Rights of the Child and relevant interpretative materials. At the European level, it examines the legal framework of the Common European Asylum System, in particular the Asylum Procedures Directive and the Reception Conditions Directive, as well as the reforms introduced by the New Pact on Migration and Asylum where relevant. At the national level, the research examines the Belgian asylum system, including the Aliens Act of 15 December 1980 and the legislation governing the guardianship of unaccompanied minors.

Building on this legal review, the thesis incorporates an empirical dimension through qualitative interviews with asylum seekers who have undergone age assessment procedures in Belgium. The interview material was analysed using thematic analysis, a method commonly used to identify recurring patterns within qualitative data.[75] In this thesis, thematic analysis is used to identify recurring themes in participants' testimonies, particularly regarding their understanding of the procedure, experiences of doubt, access to information, consent, and the consequences of age assessment decisions.

This combined approach makes it possible to examine the potential gap between legal standards and their implementation in practice. The legal framework governing age assessment is therefore considered alongside scientific literature, policy reports, and testimonies describing how age assessment operates in practice. The testimonies collected are used to illustrate and complement the arguments developed in the legal and scholarly literature, rather than to provide generalisable conclusions on their own.

Ultimately, this methodological approach enables the thesis to assess the compatibility of Belgian age assessment practices with the Convention on the Rights of the Child and to formulate recommendations for more child-centred and rights-compliant procedures.

[75] Virginia Braun and Victoria Clarke, 'Using Thematic Analysis in Psychology' 3 *Qualitative Research in Psychology* (2006) 77, 78.

1.4.2. Data Collection

In line with the socio-legal approach outlined above, data collection was conducted in two stages: first, through a review of academic, legal, and policy sources, aimed at mapping the relevant legal and scholarly landscape. This includes books and peer-reviewed articles, as well as legal materials such as treaties, EU instruments, Belgian legislation, constitutional provisions, case law, and international human rights instruments. It also draws on grey literature, including reports from civil society organisations, institutional publications, and selected media sources. The selection of sources was guided by their relevance to the research questions, their legal authority, and their connection to age assessment, child protection, and asylum procedures. Primary legal sources were prioritised where they establish binding or authoritative standards, including international conventions, EU asylum instruments, Belgian legislation, and relevant case law. Particular attention was given to the Convention on the Rights of the Child and its interpretative materials, including General Comments of the Committee on the Rights of the Child, as these provide the main normative framework for assessing whether age assessment practices respect child-specific protection standards. Academic, policy, and grey literature sources were selected where they provided analysis or documentation of the scientific, procedural, institutional, or practical dimensions of age assessment.

In a second step semi-structured interviews were conducted. The target population of this study consists of asylum seekers who have undergone age assessment procedures in Belgium. Access to participants was facilitated by the researcher's previous professional experience as a case worker with the Belgian Red Cross, which provides familiarity with the field and relevant contacts. To avoid potential bias, the participants selected have no prior professional relationship with the researcher. The author is aware that this experience may have shaped its sensitivity to the practical consequences of age assessment procedures. Interviews are conducted with individuals residing in different Red Cross reception centres in order to ensure diversity of contexts. The sample aims to reflect a range of backgrounds, including variations in age, nationality, gender, and outcomes of the age assessment procedures. In particular, the study includes individuals who have been recognised as minors as well as those who have been classified as adults following the assessment. In total, four interviews were conducted remotely.

1.4.3. Data Management and Ethical Considerations

Following the collection of interview data, particular attention was given to data protection, informed consent, and participant anonymity. With the participants' consent, the interviews were recorded and subsequently transcribed. All data were stored securely on password-protected devices, with access limited to the researcher. The data collected will be destroyed after the completion of the study and following the defence of this thesis, scheduled for 19 September 2026.

Given the vulnerability of the participants and the sensitivity of the data collected, consent was treated as a central ethical requirement. Particular attention was paid to ensuring that participants understood, in a language they spoke, the objectives of the study, the voluntary nature of their participation, their right to withdraw at any time, and the intended use of the data before signing the consent form. Where interpretation was required, the interpreter was also asked to sign a confidentiality agreement.

To protect participants' anonymity, identifying details are not included in the thesis. All data is anonymised for safeguarding purposes, and participants are referred to using gender-neutral pronouns. A sample interview guide and a copy of the consent form are provided in the annex.

1.4.4. Data Analysis

Following transcription and anonymisation, the interview material was analysed using thematic analysis, following the approach developed by Braun and Clarke. This method was chosen because it allows recurring patterns to be identified within qualitative data[76] and is well suited to exploring how participants experienced age assessment procedures in practice.

The analysis began with a close reading of the interview transcripts. Relevant passages were then coded according to recurring issues emerging from the data, including participants' understanding of the procedure, access to information, consent, experiences of doubt, perceived treatment by authorities, and the consequences of age assessment decisions. These codes were then grouped into broader themes and organised in relation to the research questions.

[76] ibid 81.

The themes identified through the interviews were not analysed in isolation. They were interpreted alongside the legal framework and academic literature examined in the first part of the thesis. This made it possible to consider whether the practical experiences described by participants reflected, complicated, or diverged from the legal and institutional framework governing age assessment in Belgium. In this sense, the empirical material contributes to the broader socio-legal objective of the thesis: examining the relationship between legal standards and their implementation in practice.

Given the limited number of interviews, the analysis does not aim to produce generalisable conclusions. Instead, it prioritises depth over breadth by offering a detailed and contextualised exploration of participants' experiences of age assessment and its consequences. The testimonies are therefore used to illustrate and complement the legal and scholarly analysis, particularly in relation to vulnerability, migration control, institutional harm, and the compatibility of Belgian practices with the Convention on the Rights of the Child.

1.5. Limitations

To conclude the methodology, the limitations mirror the aims of the thesis and determine what the researcher does not want to address in his work.

This thesis is not a doctrinal research, nor is a deep anthropological fieldwork, but strikes the right balance between these two fields in order to make the most of their complementarity. Therefore, the thesis does not provide an exhaustive comparative study of age assessment practices across all EU member states, but rather focuses on Belgium as a case study within the European Framework. Given the entry into force of the EU Asylum Procedures Regulation (EU 2024/1348) in June 2026, the evaluation of its long-term implementation effects remains necessarily prospective. In addition the study does not review the asylum system as a whole, but concentrates on age determination and its impact on access to protection. While it critically examines the reliability and human rights implications of medical age assessment methods, it does not seek to conduct independent biomedical research or to develop new scientific techniques. Finally, the interviews conducted in this study do not aim for statistical representativeness, but rather seek to contribute to an in-depth

understanding of age assessment procedures in Belgium and their compatibility with the CRC.

2. Legal framework

This section outlines the legal framework governing the protection of unaccompanied minors and the conduct of age assessment in asylum contexts. It examines the relevant norms across international, European, and national levels, with the aim of identifying the legal and normative standards against which Belgian age assessment practices will later be assessed in chapter 4.

2.1. International Law

2.1.1. The Convention on the Rights of the Child

The CRC builds upon the normative foundations of the Universal Declaration of Human Rights by recognising children as rights-holders with their own agency and individuality.[77] The implementation of the CRC by States parties is monitored by the Committee on the Rights of the Child. In addition to its monitoring role, the Committee issues General Comments, which provide authoritative interpretations of the Convention. In accordance with Article 45(d) of the CRC, the Committee is empowered to make suggestions and general recommendations to States parties.[78]

As the BIC has already been examined in the theoretical framework, this section is only going to focus on the CRC's specific guidance on child protection and age assessment procedures. Under Article 22, States parties are required to take appropriate measures to ensure that children seeking refugee status, whether accompanied or unaccompanied, receive appropriate protection and humanitarian assistance.[79] This provision constitutes the only explicit reference within international human rights law to the situation of children seeking asylum. It obliges States to consider the specific protection needs and humanitarian assistance required by such children, given their vulnerability, to ensure the effective enjoyment of their

[77] Jacqueline Bhabha, *Child Migration and Human Rights in a Global Age* (Princeton University Press 2014) 254.
[78] Gertrude Mafoa Quan and Ann Skelton, 'Age Determination of Unaccompanied Migrant Children: An Appraisal of the Jurisprudence of the Committee on the Rights of the Child' (2025) 43 Nord J Hum Rights 59, 62.
[79] United Nations (n 65).

rights under the CRC.[80] In the light of age determination, the principle of non-discrimination (Article 2 CRC), demands that assessments be conducted on an individual basis, free from assumptions based on nationality or ethnicity. Age determination also directly engages the right to identity (Articles 7 and 8 CRC), as age constitutes a fundamental element of a child's legal status and access to rights. An incorrect assessment may therefore have lasting consequences on the recognition and exercise of these rights. In addition, the right of the child to be heard (Article 12 CRC) requires that the individual be able to express their views and participate effectively in the process. The CRC further guarantees respect for human dignity and physical integrity (Articles 3 and 37), which is particularly relevant in the context of potentially intrusive medical examinations, as well as the right to privacy (Article 16), which limits the collection and use of personal data.[81]

The scope and practical application of these rights in the migration context have been further clarified by the Committee on the Rights of the Child, notably through General Comment No.6 (2005). In this instrument, unaccompanied migrant children are defined as "children who have been separated from both parents and other relatives and are not being cared for by an adult, who by law or custom, is responsible for doing so".[82] In Paragraph 31, the General Comment provides clear guidelines on age assessment. It specifies that priority should be given to the prompt identification of children as separated or unaccompanied, either upon arrival at points of entry or as soon as their presence becomes known to the authorities. Such identification measures may include age assessment, which should not rely solely on physical appearance but must also take into account the individual's psychological maturity. Age assessment procedures must be conducted in a scientific, safe, child- and gender-sensitive, fair, and dignified manner, while respecting the child's physical integrity. In cases of remaining uncertainty, the principle of the benefit of the doubt should apply, meaning that where there is a reasonable possibility that the individual is a child, they should be treated as such.[83]

The CRC jurisdiction has further provision on age assessment procedures in the joint General Comment between the CRC and the UN Committee on the Protection of the Rights of All

[80] Pobjoy (n 58) 21.
[81] European Asylum Support Office (n 57) 18,19.
[82] UN Committee on the Rights of the Child, General comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6, 1 September 2005) Para 7.
[83] ibid Para 31.

Migrant Workers and Members of Their Families. In paragraph 3 and 4, the Committee expresses concern that children, particularly those aged between 15 and 18, are sometimes treated as adults and consequently receive a lower level of protection. In order to make an informed estimate of age, States should undertake a comprehensive and multidisciplinary assessment of the child's development, including both physical and psychological aspects. Such assessments should be conducted by qualified professionals, such as specialist paediatricians or other experts trained in evaluating different dimensions of development.[84]

Age assessment procedures should be carried out promptly and in a child-friendly, gender-sensitive, and culturally appropriate manner, in a language that the child understands. They should include interviews with the child and, where appropriate, with accompanying adults. Available documentation should be presumed authentic unless there is evidence to the contrary, and due weight must be given to statements provided by the child and their relatives. In cases of uncertainty, the principle of the benefit of the doubt must apply. Furthermore, States should refrain from relying on medical methods such as bone and dental examinations, as these may be inaccurate, present wide margins of error, and risk causing harm or unnecessary legal consequences. Finally, States must ensure that age determination decisions are subject to review or appeal before an independent and competent authority.[85]

These recommendations can be summarised into four key guidelines for child-rights compliant age assessment: first, States should employ methods that are safe, child- and gender-sensitive, and respectful of the child's dignity. Second, in cases of doubt, the individual should be given the benefit of the doubt and granted access to child-specific rights and protections. Third, States should refrain from using invasive or potentially traumatic methods of age determination. Fourth, children must be provided with appropriate assistance and legal representation throughout the procedure, including access to review and appeal mechanisms.[86] These standards are particularly relevant in the context of age assessment, as they require States to adopt procedures that are capable of identifying children in a reliable and child-sensitive manner.

[84] Joint General Comment No 4/23 (n 64) Para 3 & 4.
[85] ibid.
[86] Quan and Skelton (n 78) 63.

2.2. European Law

2.2.1. The European Convention on Human Rights

Within the Council of Europe framework, the European Convention on Human Rights (ECHR) plays a central role in shaping procedural safeguards for children in asylum contexts. Although there is no direct correlation between any rights in the ECHR and the CRC, and the ECHR does not explicitly regulate age assessment, the ECtHR has developed an interpretative approach whereby certain substantive rights under the Convention are read in light of the principle of the best interests of the child.[87] This position has subsequently been confirmed in a number of cases. This practice was initiated in the context of Article 8 of ECHR: the right to respect for private family life, family life being the first domain of children.[88] In cases such as *Neulinger and Shuruk v Switzerland*, the Court emphasised that the child's best interests must be a primary consideration in assessing interferences with family life. Moreover, the Court has relied on the principle of the BIC in its interpretation of Article 3, which prohibits torture and inhuman or degrading treatment or punishment.[89] In *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*, the Court found a violation of Article 3 ECHR, holding that the detention of a young unaccompanied child in conditions not adapted to her age, combined with the absence of adequate care and the failure to take into account her extreme vulnerability, amounted to inhuman and degrading treatment.[90] Finally, the *F.B. V Belgium* Case will be further discussed in chapter 4.1.

2.2.2. The EU Charter of Fundamental Rights

The provisions mentioned in the last section are further reinforced at the EU level by the Charter of Fundamental Rights of the European Union, which largely mirrors the protections of the ECHR while integrating child-specific standards inspired by the CRC. In particular, article 24 of the Charter explicitly incorporates the BIC principle, providing that it must be a primary consideration in all actions concerning children, thereby giving binding effect within EU law to a core standard derived from the CRC.[91] Furthermore, the principle of

[87] Smyth (n 42) 47.
[88] ibid.
[89] *Neulinger and Shuruk v Switzerland* (2010) (App no 41615/07) ECtHR para 135.
[90] *Mubilanzila Mayeka and Kaniki Mitunga v Belgium* (2006) (App no 13178/03) ECtHR paras 55.
[91] ibid 44.

non-discrimination (Article 21), requires that anyone should be treated objectively and considered individually, which is crucial when age assessing.

The Charter further guarantees a set of procedural rights that are directly relevant to age assessment. The right to be heard and to participate effectively in administrative procedures (Articles 24 and 41) ensures that individuals can express their views and that these are duly taken into account. The right to human dignity and physical integrity (Articles 1 and 3) is particularly significant in light of the potentially intrusive nature of certain medical examinations. In addition, Articles 7 and 8 protect private life and personal data, imposing strict conditions on the collection and use of sensitive information. Finally, Article 47 guarantees the right to an effective remedy, ensuring that age determination decisions can be challenged in practice.[92]

These provisions confirm that, under EU law, age assessment must respect both substantive rights and procedural safeguards. This is also reflected in the case law of the Court of Justice of the European Union, which has increasingly emphasised child-specific safeguards in the application of EU asylum and migration law, particularly for UAMs.

2.2.3. The European Asylum System

The child protection principles derived from the CRC, and reflected in both the ECHR and the Charter, are further operationalised within the Common European Asylum System, where they are translated into concrete procedural safeguards governing the treatment of unaccompanied minors.

The New Pact on Migration and Asylum was conceived as a comprehensive set of legislative measures aimed at reforming the CEAS. Entering into force in June 2026, it consists of ten legal instruments, including one Reception Conditions Directive (RCD) and nine Regulations. Within this framework, this thesis focuses on the Directive (EU) 2024/1346 and the Regulation on Asylum Procedures (EU) 2024/1348.

Directive (EU) 2024/1346 constitutes a recast of the RCD 2013/33/EU and will replace it as of June 2026, following its transposition by Member States. The new RCD establishes

[92] European Asylum Support Office (n 57) 18,19.

standards for the housing, care and assistance of unaccompanied minors, while also setting out procedural safeguards that, in principle, enable them to effectively exercise their right to protection.[93] In Article 24(b), Unaccompanied minors are designated as "Applicants with special reception needs", requiring Member States to take into account their specific needs.[94] In particular, Article 27 is dedicated entirely to UAMs and outlines the procedures for the appointment and review of provisional representatives. It requires Member States to appoint a representative no later than 15 working days from the date the application is lodged, and obliges that representative to take into account the minor's views regarding their needs. Additionally, Article 27(10) mandates that authorities initiate family tracing as soon as possible after the application is submitted, while ensuring that the best interests of the child are fully respected.[95] The Directive further contains detailed provisions on minors and UAMs, notably requiring access to education and healthcare under conditions equivalent to those of national children.[96] Another key protection established in Article 13 of the RCD is the prohibition of the detention of asylum-seeking children. It stipulates that, as a general rule, minors should not be detained and must instead be placed in appropriate accommodation in accordance with Articles 26 and 27.[97]

Moreover, the new Asylum Procedure Regulation (Regulation (EU) 2024/1348) (APR) which replaces the Asylum Procedures Directive (2013/32/EU), aims to establish a common procedure for granting and withdrawing international protection in the EU. In its preamble, the APR requires Member States to make the child's best interests a primary consideration.[98] It provides specific safeguards for UAMs, notably through Articles 23 and 33. It requires Member States to ensure that a qualified person is designated as soon as possible to assist the child and safeguard their best interests, pending the appointment of a representative. A representative must be appointed promptly to support the child throughout the asylum procedure, including in accessing legal processes and essential services such as healthcare

[93] Agnese Coletta, 'Unaccompanied Minors in the EU: Legal Frameworks and Challenges' (*Voice of Youth for Change in Europe VOYCE*, 25 March 2026) <https://voycecommunity.eu/our-work-1/f/unaccompanied-minors-in-the-eu-legal-frameworks-and-challenges> accessed 2 April 2026.
[94] Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection art 24(b).
[95] ibid art 27.
[96] ibid art 16 & art 22.
[97] ibid art 13.
[98] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (15).

and education. Where no representative is yet available, the Regulation mandates the designation of an interim assisting person.[99] More broadly, the procedural framework emphasises the need for child-sensitive guarantees and individualised assessment, requiring that applicants in need of special procedural guarantees receive appropriate support to ensure the effective exercise of their rights. The Regulation also ensures access to effective remedies, including the possibility to challenge decisions with the support of free legal assistance.[100] Finally, it explicitly incorporates the BIC principle, notably by limiting the application of certain procedures, such as the border procedure, where this would not be compatible with those interests.[101]

Focusing on age assessment across the Union, the previous regulatory framework was characterised by significant fragmentation among Member States, despite the growing importance of this issue within the CEAS. According to a 2021 report by the EASO, substantial divergences persist both in the legal framework and in practical implementation. While a majority of States have adopted some form of legal or administrative guidance on age assessment, others operate without specific national rules, and existing instruments vary considerably in scope, content, and binding force. These divergences are even more pronounced in practice. Some Member States rely extensively on medical methods, such as radiological examinations of the hand, teeth, or clavicle, whereas others favour multidisciplinary or psychosocial approaches, and at least one State does not use medical methods at all. As a result, significant discretion remains at national level with regard to both the methods employed and the procedural safeguards applied, leading to a lack of harmonisation and persistent inconsistencies in the treatment of age assessment across the EU.[102]

Against this background, Article 25 of the Asylum Procedures Regulation (EU) 2024/1348 was introduced to establish a more structured and harmonised framework for age assessment. It provides that such assessments may only be conducted where doubts exist regarding the applicant's age and must follow a multidisciplinary approach, including psychosocial evaluation by qualified professionals. The Regulation explicitly prohibits reliance solely on physical appearance or behaviour and requires that available documentation be presumed

[99] ibid art 23.
[100] ibid.
[101] ibid (62).
[102] European Asylum Support Office (n 57).

genuine unless proven otherwise, while also taking into account the applicant's statements.[103] Where doubts persist, medical examinations may be used as a measure of last resort. These must be the least invasive possible, carried out with full respect for human dignity, and conducted by qualified professionals. Importantly, where the outcome remains inconclusive or indicates an age range including minority, the applicant must be treated as a minor, reflecting the principle of the benefit of the doubt.[104] The Regulation further establishes procedural safeguards, including the obligation to provide prior, child-friendly information regarding the examination and to obtain free and informed consent.[105] While refusal to undergo a medical examination does not prevent a decision on the application, it may give rise to a rebuttable presumption of adulthood.[106] Finally, the Regulation allows Member States to recognise age assessment decisions carried out by other Member States, provided they comply with Union law.[107] Overall, the Regulation establishes a two-step approach to age assessment, prioritising non-medical methods and allowing medical examinations only as a measure of last resort. In situations of persisting uncertainty, the applicant must be afforded the benefit of the doubt and treated as a minor.

Finally, Regulation (EU) 2024/1351 on asylum and migration management replaces the Dublin III Regulation and establishes a revised framework for determining the Member State responsible for examining an application for international protection. Although it does not specifically regulate age assessment, it remains relevant for unaccompanied minors because responsibility must be determined in light of the best interests of the child and, where possible, family unity.[108] Like Dublin III, it prioritises family links, or otherwise the Member State where the application was first registered, provided this serves the child's best interests. However, these safeguards depend on the applicant first being identified as a minor.[109]

Overall, the provisions examined above suggest that the New Pact strengthens the formal safeguards applicable to age assessment by introducing more detailed procedural

[103] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU art 25 (1).
[104] ibid art 25 (2).
[105] ibid art 25 (4).
[106] ibid art 25 (6).
[107] ibid art 25 (7).
[108] Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 art 25.
[109] Agnese Coletta (n 91).

requirements. However, their protective value for unaccompanied minors should be assessed with caution, since their effectiveness will depend largely on how they are interpreted and implemented in practice by Member States. This question will be examined more closely in Chapter 3.4.

Taken together, these provisions highlight that age assessment is not merely a technical determination, but a decisive procedural step that conditions access to the specific safeguards afforded to unaccompanied minors under EU law. In this sense, age assessment operates as a procedural gatekeeper to rights and protection within the EU asylum system.

2.3. Belgian law

While European law provides an increasingly detailed framework governing the protection of UAMs and the conduct of age assessment, the implementation of these standards ultimately depends on national legal systems. Although EU instruments establish procedural safeguards and emphasise the best interests of the child, they leave a margin of discretion to Member States in their practical application. It is therefore necessary to examine how these principles are reflected within the Belgian legal framework, particularly with regard to the regulation of age assessment and access to child-specific protection.

At the constitutional level, Article 22bis of the Belgian Constitution expressly protects children's rights. It guarantees children's physical, psychological, moral and sexual integrity, their right to be heard in matters affecting them, and access to measures and services supporting their development. It also requires the best interests of the child to be a primary consideration in all decisions concerning them, thereby embedding core child protection principles within the Belgian legal order.[110]

The Belgian asylum legal framework is primarily structured around two key legislative instruments. First, the Aliens Act of 15 December 1980 governs the entry, residence, settlement and removal of foreign nationals, and establishes the general framework for asylum procedures and international protection. Second, the Law of 12 January 2007 on the reception of asylum seekers regulates the reception conditions of applicants for international protection and other categories of foreign nationals, including access to accommodation,

[110] Belgian constitution, art22bis.

material assistance, and specific safeguards for vulnerable persons such as minors.[111] Together, these instruments form the backbone of the Belgian asylum system, structuring both the procedural and material aspects of protection.

The Alien Act clearly defines minors (accompanied and unaccompanied) as vulnerable persons.[112] In addition, the reception Act explicitly recognises unaccompanied minors as a vulnerable group with specific needs.[113] In particular, Article 37 provides that "in all decisions concerning the minor, the best interests of the child shall prevail", thereby incorporating the BIC principle into the Belgian reception framework. Article 74/19 is also very relevant, as it explicitly prohibits the detention of unaccompanied children. UAMs who receive a negative decision are not transferred to return centres and remain within the reception system until they reach adulthood.[114]

The procedural framework is further specified by the Royal Decree of 11 July 2003, which regulates the conduct of the asylum procedure before the Office of the Commissioner General for Refugees and Stateless Persons (CGRS). In particular, it establishes detailed rules regarding the personal interview, including the presence of an interpreter and the organisation of hearings. It also explicitly provides that the best interests of the child shall be a primary consideration guiding the Commissioner General and his or her officers in the examination of the asylum application.[115]

Moreover, the Royal Decree of 9 April 2007 regulates the functioning of the Observation and Orientation Centres (OOC) for unaccompanied minors. These centres constitute the first phase of reception for newly arrived individuals claiming to be minors, including those whose age has not yet been formally established.[116] During this initial period, minors are

[111] European Council on Refugees and Exiles (ECRE), 'Asylum Information Database (AIDA) Country Report on Belgium – Update on 2024' (2025) 13.
[112] Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Belgium) art 1(12).
[113] Loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers (Belgium) art 36.
[114] European Council on Refugees and Exiles (ECRE) (n 109) 130.
[115] Arrêté royal du 11 juillet 2003 fixant la procédure devant le Commissariat général aux Réfugiés et aux Apatrides ainsi que son fonctionnement (Belgium) art 14(4).
[116] Arrêté royal du 9 avril 2007 déterminant le régime et les règles de fonctionnement applicables aux centres d'observation et d'orientation pour les mineurs étrangers non accompagnés (Belgium).

accommodated in a structured environment allowing for their identification, observation and orientation, until their age has been determined.[117]

Another relevant piece of law important for UAMs in the Guardianship Act.[118] It establishes a dedicated protection system for unaccompanied minors through the appointment of a guardian responsible for safeguarding their best interests, under the supervision of the Guardianship Service. Article 7 is particularly relevant to age assessment, as it provides that, where the Guardianship Service or the competent asylum authorities have doubts regarding the age of the individual, a medical examination shall be carried out without delay by a physician at the request of the Service in order to determine whether the person is under 18 years of age. The examination is conducted under the supervision of the Guardianship Service.[119] Furthermore, Article 3 of the Royal Decree executing the Guardianship Act provides that the Guardianship Service is responsible for identifying unaccompanied minors and verifying their identity, nationality, and age. This is done using official documents or information obtained from diplomatic or consular authorities, provided that such inquiries do not endanger the minor or their family.[120] The article 7 also specifies that the medical test conducted by the Guardianship Service may include psycho-affective tests.[121]

The Aliens Act of 15 December 1980 also establishes a specific framework for unaccompanied minors through the so-called Best Interests Procedure.[122] This procedure is designed to determine a durable solution for UAMs, with the objective of ensuring that they may obtain a lawful residence status in Belgium. Any such solution must be guided by the best interests of the child and respect their fundamental rights. Conducted by the Immigration Office, particularly the MINTEH unit[123], this procedure operates alongside the asylum procedure and becomes especially relevant when international protection is refused. In such cases, authorities must determine, in light of the child's best interests, whether family

[117] Loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers (Belgium) art 41.
[118] Loi-programme du 24 décembre 2002 art 479 (Titre XIII, ch VI): Tutelle des mineurs étrangers non accompagnés (Belgium).
[119] ibid art 7.
[120] Arrêté royal du 22 décembre 2003 portant exécution du Titre XIII, Chapitre 6 " Tutelle des mineurs étrangers non accompagnés " de la loi-programme du 24 décembre 2002 art 3.
[121] ibid art 7.
[122] Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Belgium) art 74/16.
[123] Office des étrangers (Belgium), 'Détermination de La Solution Durable' (no date) <https://dofi.ibz.be/fr/themes/international-protection/vulnerable/best-interest-procedure-unaccompanied-minors-search-2> accessed 3 April 2026.

reunification, return to the country of origin, or residence in Belgium is the appropriate solution. The Act further specifies that return may only be envisaged where adequate reception and care are guaranteed, taking into account factors such as the risk of trafficking and the conditions in the country of origin.[124] Beyond international protection and the durable solution procedure, unaccompanied minors may also apply for other residence permits under Belgian law, including residence on humanitarian grounds under Article 9bis, on medical grounds under Article 9ter, or through the specific procedure for victims of human trafficking.[125]

This section has shown that unaccompanied minors are, in principle, protected by a broad legal framework covering reception conditions, procedural safeguards, and substantive rights, grounded in vulnerability and the best interests of the child. However, these protections depend on the individual being recognised as a minor. The following chapter therefore examines how age assessment is conducted in Belgium and whether it effectively ensures access to the protections outlined above.

[124] Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Belgium) art 61/14.
[125] Coordination et Initiatives pour Réfugiés et Étrangers (CIRE), 'Guide de la procédure de protection internationale en Belgique' (2019) 66.

3. Age Assessment in the Belgian Asylum Procedure

This chapter examines how age assessment procedures are conducted in Belgium in the context of asylum applications by unaccompanied minors, as well as the potential changes introduced by the New Pact on Migration and Asylum.

It first outlines the asylum procedure and the role of age assessment within it. Drawing on both academic literature and interview-based testimonies, it then critically analyses the scientific reliability of the methods used and the procedural safeguards in place, highlighting potential divergences between the legal framework and its implementation in practice.

Finally, the chapter considers the potential impact of the Asylum Procedures Regulation (EU) 2024/1348 on Belgian practices.

3.1. The Asylum Procedure for Unaccompanied Minors in Belgium

This section outlines the Belgian asylum procedure and its specific features for unaccompanied minors, including the guardianship system and the medical age assessment techniques used.

3.1.1. Overview of the Asylum Procedure

Several actors are involved in the asylum process in Belgium, each fulfilling distinct roles within the asylum and child protection framework. The Commissioner General for Refugees and Stateless Persons is in charge of examining applications for international protection, while the Immigration Office is responsible for decisions relating to residence status. Unlike the IO, which is a federal administrative service operating under the authority of the Federal Public Service Interior, the CGRS is an independent body. It does not fall under the direct authority of the Minister of the Interior or the Secretary of State for Asylum and Migration, thereby ensuring its independence from political influence. The Council for Alien Law Litigation is an independent administrative court responsible for reviewing decisions taken by the Belgian asylum authorities, including those of the CGRS.[126] The Guardianship Service is attached to the Federal Public Service Justice and plays a central role in identifying unaccompanied minors and initiating age assessment where doubts arise.[127] Fedasil is

[126] European Council on Refugees and Exiles (ECRE) (n 109) 36–37.
[127] ibid 93.

responsible for the reception and accommodation of applicants, including UAMs. Fedasil is supported in reception by other organisations like the Belgian Red Cross and Caritas.[128]

Like any other applicants for international protection, UAMs are required to follow the Belgian asylum procedure, with some adjustments that will be detailed throughout this chapter. There are three successive phases in the filing of an application for international protection in Belgium: the submission, the registration and the effective filling.[129] Applications for international protection must be submitted in person to the IO. In practice, this takes place at the registration centre located within Fedasil's main arrival centre, the Petit-Château, in Brussels. At this stage, the authorities verify the applicant's identity, nationality, and travel route. In order to determine whether Belgium is responsible for examining the application under the Dublin regulation, biometric data, including fingerprints and facial images, are collected and encoded in the Eurodac database.[130] If the IO suspects that the applicant is a "Dublin case", the applicant will be summoned at a later date for the Dublin interview. If Belgium is found responsible, the case is forwarded to the CGRS. Otherwise, the applicant is transferred to the responsible country. After the application is submitted, the IO issues an Annex 26, which proves registration and grants temporary legal residence. From that point until the end of the procedure, the applicant is entitled to reception conditions, including accommodation, food, and healthcare.[131]

The CGRS is now responsible for examining the substance of the claim. The procedure includes a personal interview, during which the applicant is given the opportunity to present their reasons for seeking protection. On this basis, the CGRS may grant refugee status, subsidiary protection, or issue a negative decision.[132] In case of a negative decision, the applicant receives an order to leave the territory. Applicants whose claims are rejected have the right to appeal before the Council for Alien Law Litigation within 30 days of notification. It reviews the legality and merits of the decision.[133] Following the appeal, the decision may be annulled or reformed, including the granting of international protection. Alternatively, the

[128] Fedasil, 'Nos partenaires' (no date) <https://www.fedasil.be/fr/propos-de-fedasil/nos-partenaires> accessed 25 April 2026.
[129] Coordination et Initiatives pour Réfugiés et Étrangers (CIRE) (n 123) 22.
[130] ibid 28.
[131] ibid 27.
[132] ibid 42.
[133] ibid 49.

appeal may be rejected. In such cases, a further appeal in cassation may be brought before the Council of State, limited to points of law.[134]

The procedure may also involve accelerated or border procedures in specific circumstances, as well as subsequent applications. However, for the purposes of this thesis, the analysis will be limited to standard first-time applications lodged on the territory.

3.1.2. The Guardianship Framework and the Initiation of Age Assessment

If during the submission of the asylum application, an applicant declares himself as a minor to the IO, it will report it to the Guardianship Service. The police, a lawyer, or any individual can also report a minor, through a "reporting form".[135] In principle, once reported, UAMs are first accommodated in a OOC for a period of 15 days, pending confirmation of whether they are considered a minor or an adult.[136] As outlined in the legal framework, the Service is responsible for identifying unaccompanied minors and contacting the relevant authorities, such as Fedasil, to arrange appropriate accommodation. During the identification process, the Guardianship Service verifies whether the individual meets the criteria to be considered an unaccompanied minor, in line with the four conditions described in section 1.3.1 of this thesis. If there is any doubt regarding the individual's age, the Service is responsible for initiating an age assessment, which takes the form of a medical examination.

On its website, the Guardianship Service explains that the medical examination consists of a triple X-ray of the teeth, collarbone, and wrist. It also states that, before any examination, the young person is interviewed with an interpreter if needed, their documents are examined and may be verified, input is gathered from social workers, reception centres, and guardians, and transport to the hospitals is arranged.[137] Once the results are received, the Guardianship Service determines whether the individual is a minor and communicates its decision to both the applicant and Fedasil so that reception conditions can be adjusted if necessary. If the

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[134] European Council on Refugees and Exiles (ECRE) (n 109) 38.
[135] 'Signalement d'un Mineur Étranger Non Accompagné | Service Public Federal Justice' <https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles/signalement_d_un_mineur_etranger_non_accompagne> accessed 9 April 2026.
[136] Arrêté royal du 9 avril 2007 (n 116) art 2.
[137] 'Identification d'un Mineur Étranger Non Accompagné | Service Public Federal Justice' <https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles/identification_d_un_mineur_etranger_non_accompagne> accessed 9 April 2026.

person is recognised as under 18, a guardian is appointed. If not, no guardian is assigned and the Service's involvement comes to an end.[138]

The guardian acts as the legal representative of the UAM and plays a crucial role, assisting them throughout the entire asylum procedure. A guardian should be appointed as soon as possible following the reporting of the minor. At the next stage of the procedure, the CGRS interview is adapted to the age, maturity, and educational level of the child. It is conducted by specially trained protection officers, with the assistance of qualified interpreters where necessary, in a child-friendly setting. The minor is encouraged to provide their account freely, with the possibility of taking breaks or interrupting the interview if needed, and may use drawings or other means to express themselves. The interview necessarily takes place in the presence of the guardian, and may also include the minor's lawyer and a trusted person. The guardian may intervene during the interview, and both the minor and the guardian may object to the interpreter if necessary.[139]

3.1.3. The Medical Age Determination Techniques

As mentioned before, the Guardianship Service conducts a triple medical test for age assessment: an examination and X-ray of the teeth, an X-ray of the wrist, and an X-ray of the collarbone.[140] The first test is based on an orthopantomogram that assesses the stages of wisdom tooth development. These evaluation systems are built on research by Demirjian and Köhler.[141] The second test is based on the Greulich and Pyle (GP) method. This method involves assessing the degree of fusion of the cartilage responsible for bone growth. Growth is completed when these cartilage zones disappear through ossification, as the areas of calcification merge. If the examination shows that fusion has occurred, the individual is considered to have reached adult bone age.[142] However, it is not possible to determine when this stage was reached[143]. The third test assesses the maturation of the clavicle and relies on the Schmeling and Coll method. The goal is to assess the development of ossification in the

[138] ibid.
[139] Coordination et Initiatives pour Réfugiés et Étrangers (CIRE) (n 123) 69.
[140] Al Aynsley-Green and others, 'Medical, Statistical, Ethical and Human Rights Considerations in the Assessment of Age in Children and Young People Subject to Immigration Control' (2012) 102 Br Med Bull 17 20.
[141] Smith and Brownless (n 44) 16.
[142] Al Aynsley-Green and others (n 136) 31.
[143] Fournier (n 32) 20.

clavicular cartilage, which is classified in 5 categories.[144] All interviewees reported having undergone the three medical examinations (wrist, dental, and clavicle X-rays)[145], suggesting that, in practice, age assessment relies systematically on these methods.

3.2. Scientific Limitations of Medical Age Assessment Methods

Building on the previous section, which outlined the asylum procedural framework for UAMs, this section examines how age assessment operates in practice by analysing the scientific limitations of the medical methods used.

3.2.1. General Issues of Scientific Reliability

What does scientifically reliable mean? Drawing on a general principle of scientific theory, the validity of any method depends on the reliability of its underlying assumptions and their confrontation with empirical data. If the premises are flawed, the method cannot be considered scientifically valid.[146] In the context of age assessment, the methods used in Belgium have not been developed or tested on populations representative of the majority of UAMs, such as those from Afghanistan or Somalia. As a result, their scientific foundations may be questioned. Age estimation relies on comparing an individual's physical development to that of a reference group with a known age. However, the lack of reliable birth registration systems in many countries of origin makes it impossible to establish accurate reference groups. For instance, only a very small percentage of births are registered in countries such as Afghanistan and Somalia.[147]

First, dental age assessment based primarily on the analysis of wisdom teeth development through orthopantomograms, is subject to significant scientific criticism. There is no single standardised method formally established in Belgium for interpreting dental X-rays, which may lead to inconsistencies in the evaluation process. Moreover, the scientific basis of these methods is limited, as they rely largely on studies conducted on European, predominantly Caucasian populations, and have not been validated for the populations from which most

[144] A. Schmeling, R. Schulz, W. Reisinger, M. Mülher, K-D. Wernecke, G. Geserick, 'Studies on the Time Frame for Ossification of Medial Clavicular Epiphyseal Cartilage in Conventional Radiography (2004)' Int J Leg Med 118 5–8.
[145] Interview with unaccompanied minors who underwent an age assessment procedure in Belgium, 'Interviews with Participants 1–4, Conducted between March and April 2026.'
[146] Fournier (n 32) 19.
[147] Noll (n 31) 237.

UAMs originate.[148] This raises serious concerns regarding their applicability in the asylum context. In addition, the margin of error associated with these techniques is substantial. While initial studies indicate a standard deviation of approximately 1.5 years, further research has demonstrated discrepancies of up to 2.6 to 3.5 years between estimated and actual age.[149] Furthermore, several studies have highlighted a tendency for these methods to systematically overestimate age, especially in male individuals. The use of wisdom teeth as an indicator of age remains highly contested within the scientific community, given the considerable variability in dental development.[150]

Second, wrist radiography, commonly based on the GP method, is also subject to significant scientific criticism. The method relies on an atlas developed in 1959 from a sample of approximately 1,000 American children from a high socio-economic background. These reference populations are therefore both outdated and not representative of the diverse backgrounds of contemporary unaccompanied minors.[151] More fundamentally, these methods were not designed to determine chronological age, but rather to assess whether skeletal development is advanced or delayed in relation to a known age. Their use in the asylum context thus involves an inversion of their original purpose, the reliability of which has not been scientifically validated. In addition, wrist radiography assesses the degree of cartilage ossification, yet once full bone maturation is reached, it is only possible to conclude that the individual has attained adult bone age, without being able to determine when this occurred. This limitation is particularly problematic around the age threshold of 18, as it prevents any precise distinction between late adolescence and adulthood.[152]

Thirdly, clavicle radiography is likewise subject to substantial scientific limitations. Clavicle ossification occurs over a broad age range, approximately between 15 and 35 years, making it particularly unsuitable for determining whether an individual is just under or just over 18.[153] Although the protocol between hospitals and the Guardianship Service links certain stages of clavicular ossification to fixed average ages, scientific literature shows that these stages vary

[148] Al Aynsley-Green and others (n 136) 34–35.
[149] Fournier (n 32) 20.
[150] Noll (n 31) 241.
[151] Al Aynsley-Green and others (n 136) 31.
[152] Fournier (n 32) 20.
[153] Laura Bailey and Sandi Harvey, 'Introduction to Forensic Anthropology, Chapter 12: Estimating Age in Human Skeletal Remains' (no date) PPSC ANT 2315 <https://pressbooks.ccconline.org/ppscant2315introtoforensicanthropology/chapter/chapter-12-estimating-age-in-human-skeletal-remains> accessed 25 April 2026.

significantly between individuals and correspond to broad, overlapping age ranges rather than exact ages. Such rigid benchmarks therefore risk overestimating age, particularly in borderline cases.[154]

3.2.2. Technical and Quality Limitations

The reliability of radiographic age assessment is further weakened by significant technical and methodological limitations. First, the quality of imaging plays a crucial role: in wrist radiography, factors such as underexposure or incorrect positioning can substantially affect the evaluation, with studies showing that up to 15% of images are unusable due to poor visualisation.[155] Similar technical issues arise in clavicle radiography, where problems such as over-projection and the absence of standardised protocols regarding positioning and imaging angles may distort the results. In particular, the absence of a visible clavicular epiphysis is often interpreted as evidence of full bone maturation and, therefore, adulthood. However, this absence may simply result from inadequate imaging angles rather than actual biological development, leading to a risk of erroneous conclusions.[156] In addition, the interpretation of radiographs itself raises concerns regarding expertise and reproducibility. The reading of such images is complex and may vary between practitioners, making consistent and reliable results difficult to achieve. Finally, statistical methods used in age estimation introduce further bias. Regression-based models tend to "pull" age estimates toward the average, leading to systematic overestimation of younger individuals' ages and underestimation of older individuals' ages.[157] This effect is particularly problematic in the asylum context, as it increases the risk that minors will be wrongly classified as adults, and adults as minors.

3.2.3. Ethnic variations

The current age assessment procedure in Belgium does not take into account the ethnic origin of the individuals being assessed, despite substantial scientific evidence demonstrating its relevance[158]. Numerous studies have shown that both dental and skeletal development vary

[154] Fournier (n 32) 21.
[155] F Gabioud, 'Des Méthodes d'évaluation de l'âge d'un Être Humain (PhD Thesis, Université de Genève 2009) No Med 10599' 117–118.
[156] Fournier (n 32) 21.
[157] F Gabioud (n 151) 123.
[158] Ranit Mishori, 'The Use of Age Assessment in the Context of Child Migration: Imprecise, Inaccurate, Inconclusive and Endangers Children's Rights' (2019) Child 6 1–3.

significantly across populations, thereby affecting the accuracy of age estimation methods.[159] For instance, research based on the Demirjian method in South Indian children revealed an overestimation of age by nearly three years for both boys and girls.[160] Similarly, studies on the emergence of wisdom teeth indicate notable differences between populations, with earlier development observed in some African groups and delayed development in certain Asian populations.[161] Latino populations develop wisdom teeth sooner than caucasian Canadians aswell.[162] Other research has also highlighted that bone maturation may occur more rapidly in some groups, such as individuals of African origin, which may further distort age estimates when using European reference models.[163] As a result, methods developed on western populations, like the Demirjian and Köhler or the Greulich and Pyle methods, cannot be reliably applied to diverse migrant groups without adjustment. The failure to account for ethnic variation therefore introduces a significant risk of systematic error, often leading to the overestimation of age.[164]

3.2.4. Gender and Medical Factors

Age determination methods used in Belgium also fail to adequately account for variations related to gender and individual medical history, further undermining their reliability. Scientific studies indicate that skeletal and dental development may vary according to sex. For example, the Demirjian method assigns different age estimates to the same stage of dental development in boys and girls, reflecting sex-based differences in maturation. Evidence further suggests that males may, on average, exhibit more advanced stages of tooth development than females.[165] In addition, specific physiological conditions may significantly affect bone development. For example, pregnancy and breastfeeding can alter bone structure to such an extent that radiographic analysis may become difficult or unreliable.[166] Hormonal factors also play a crucial role in growth regulation: conditions such as hormonal deficiencies

[159] Noll (n 31) 239.
[160] Smith and Brownless (n 44) 16.
[161] A Olze and others, 'Comparative Study on the Effect of Ethnicity on Wisdom Tooth Eruption' (2007) 121 Int J Legal Med 445, 445.
[162] Ana C. Solari and Kenneth Abramovitch, 'The Accuracy and Precision of Third Molar Development as an Indicator of Chronological Age in Hispanics' J Forensic Sci 2002473 531, 532.
[163] Olja Grgic and others, 'Skeletal Maturation in Relation to Ethnic Background in Children of School Age: The Generation R Study' (2020) 132 Bone 3.
[164] Fournier (n 32) 22.
[165] Yun-Hoa Jung and Bong-Hae Cho, 'Radiographic Evaluation of Third Molar Development in 6 to 24 Year-Olds (2014)' Imaging Sci Dent 44 185, 189.
[166] Christopher S Kovacs, 'Pregnancy and Lactation Associated Bone Fragility' (2025) 9 J Endocr Soc 1, 1.

may delay skeletal maturation, leading to an underestimation of age, while hormonal excesses, such as increased androgen production, may accelerate bone development and result in overestimation.[167] More broadly, a wide range of medical and biological factors can influence growth patterns, introducing significant variability between individuals.[168]

3.2.5. Environmental and Socio-Economic Factors

Environmental factors, including climate, socio-economic conditions, and nutrition, also play a significant role in bone and dental maturation, yet are not adequately taken into account in current age assessment practices. Scientific research has demonstrated that individuals of the same origin may exhibit different developmental patterns depending on their living environment. For example, studies have shown that Spanish individuals living in Ceuta (North Africa) display faster third molar maturation than those residing in continental Spain (Galicia).[169] This finding highlights the influence of environmental conditions on biological development. By extension, even greater variations may be expected between populations living in markedly different contexts, such as between Belgian and Afghan adolescents.[170]

3.2.6. Trauma and Biological Ageing

The impact of trauma on biological development represents an additional factor that is insufficiently considered in current age assessment practices. While this issue is only beginning to be explored in forensic research, studies in the field of trauma have demonstrated that chronic stress can significantly affect growth and maturation processes. For instance, research on females shows that exposure to maltreatment, including physical or sexual abuse, is associated with an earlier onset of puberty, often by several months.[171] Other studies have highlighted the biological effects of post-traumatic stress, including the shortening of telomerase markers associated with cellular ageing, which may correspond to an accelerated ageing process of several years.[172] Given the high prevalence of trauma among

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[167] Grgic and others (n 159) 4.
[168] Fournier (n 32) 23.
[169] Stella Martin-de las Heras and others, 'Third Molar Development According to Chronological Age in Populations from Spanish and Magrebian Origin' (2008) 174 Forensic Sci Int 47, 50.
[170] Fournier (n 32) 24.
[171] Penelope K Trickett and others, 'Child Maltreatment and Adolescent Development' (2011) 21 J Res Adolesc 3, 12.
[172] Karl-Heinz Ladwig and others, 'Posttraumatic Stress Disorder and Not Depression Is Associated with Shorter Leukocyte Telomere Length: Findings from 3,000 Participants in the Population-Based KORA F4 Study' (2013) 8 PLOS ONE 1, 6.

unaccompanied minors, particularly those from conflict-affected regions, these findings suggest that affected individuals may present physical characteristics associated with older age.[173] It can also be reasonably assumed that standard age assessment methods are based on populations with a significantly lower prevalence of Post-Traumatic Stress Disorder (PTSD).[174] As a result, trauma may contribute to the overestimation of age in assessment procedures. Research conducted in Belgium indicates that UAMs present particularly high levels of psychological distress, including symptoms of post-traumatic stress disorder. A study highlights that these minors exhibit significantly higher levels of PTSD symptoms compared to both the general population and accompanied refugee children.[175] Belgian data further suggest that approximately 25% of refugee children report high levels of post-traumatic stress[176], although this figure is likely higher among UAMs.

As we have seen in the 3.2 sections, there is broad consensus in the literature that several factors significantly influence biological development and age estimation. These include ethnicity, environmental and socio-economic conditions, gender, trauma, and medical history. However, there is no scientifically established method to adequately account for or weigh these variables in the assessment process. It also remains unclear how these factors interact with each other.[177] As a result, these variables, whether considered individually or in combination, may substantially affect age estimation outcomes and, by extension, access to protection. Despite their importance, they are not systematically taken into account in current procedures.

3.3. Procedural Safeguards in Practice

Beyond the scientific limitations of medical age assessment methods, the Belgian system also raises significant concerns from a procedural perspective. Procedural safeguards constitute a fundamental component of the rule of law, ensuring that decisions affecting children are taken in a fair, transparent, and accountable manner. However, in the context of age

[173] Fournier (n 32) 24.
[174] Noll (n 31) 244.
[175] Marianne Vervliet and others, 'The Mental Health of Unaccompanied Refugee Minors on Arrival in the Host Country' (2014) 55 Scand J Psychol 33.
[176] Ruth Kevers and others, 'Mental Health Problems in Refugee and Immigrant Primary School Children in Flanders, Belgium' (2022) 27 Clin Child Psychol Psychiatry 938.
[177] Noll (n 31) 244.

assessment, these safeguards appear both limited in the legal framework and inconsistently applied in practice, with potentially far-reaching consequences for the individuals concerned.

The first procedural gap can be identified within the Guardianship procedure itself. As mentioned in the Belgian Law section of the legal framework, the age assessment conducted by the Guardianship Service may include psycho-affective tests. However, in practice, such tests do not appear to be implemented. Instead, the system relies systematically on medical examinations.[178] This observation is supported by all interviews conducted for this research, in which none of the respondents reported having undergone any form of psycho-affective assessment.[179]

3.3.1. The emission of Doubt

The issuance of doubt constitutes the starting point of the age assessment procedure and therefore plays a decisive role in determining access to protection.[180] However, in Belgium, this stage is characterised by a significant lack of legal clarity and procedural safeguards. There are currently no clearly defined criteria governing when and how doubt regarding an individual's age should be raised. In practice, such doubt is often not formally motivated, despite the fact that it triggers the initiation of medical testing and thus constitutes an administrative decision that should be subject to justification.[181] The Guardianship legislation does not specify any time limit for raising doubts regarding an individual's age, which means that such doubt may be raised at any stage of the procedure.[182] This lack of transparency raises concerns regarding the objectivity of the process.

Moreover, available evidence suggests that identity documents and expert assessments indicating minority are frequently disregarded. Doubt may even be raised in the presence of official documents, including authenticated passports, which appears difficult to reconcile with principles of private international law, according to which such documents have evidentiary value unless serious indications justify their rejection. In this context, the reliance on subjective elements, such as physical appearance, further weakens the reliability of the

[178] ibid 12.
[179] Interviews with Participants 1–4 (n 145).
[180] Pobjoy (n 58) 93–95.
[181] Fournier (n 32) 13.
[182] Belgian Red Cross, 'Formation Nouveaux BS – MENA : Questions' (2025).

decision to initiate age assessment.[183] Such practices based on visual and behavioural indicators introduces an interpretative dimension that is inherently shaped by socially and culturally constructed norms of childhood and maturity.[184] This concern is reflected in the testimony of one interviewee, who reported that, when they stated to an agent of the Guardianship Service that they were 16, they were told: "You are not that age, it does not match your face". No other justification was provided.[185]

Additional uncertainties arise as to the scope and nature of the doubt itself. While the legal framework refers to doubt concerning whether an individual is a minor or not, practice shows that authorities may also question the exact age declared without necessarily disputing that the person is under 18. In other words, doubt is sometimes raised about the accuracy of the date of birth rather than about minority itself, despite the absence of a clear legal basis for such a distinction. At the same time, the use of doubt appears to operate asymmetrically, as it is predominantly invoked in a manner that is unfavourable to the individual[186]. Pobjoy describes this as a "culture of disbelief".[187] Moreover, this tendency appears to disproportionately affect individuals asserting minority.[188] This is particularly problematic given that some children are known to present themselves as adults, for example in the context of Nigerian child exploitation networks, where minors may be compelled to claim majority.[189]

In Belgium, while authorities frequently question claims of minority, situations in which a person declares themselves to be an adult despite potentially being a minor are not systematically investigated. It remains unclear which authorities are competent to raise doubt, on what basis such decisions are made, and how individualised assessment and the absence of conflicts of interest are ensured. More broadly, the absence of clear criteria, formal motivation, and safeguards raises fundamental questions regarding the consistency and

[183] Fournier (n 32) 13.
[184] Ulrike Bialas, 'Who Is a Minor? Age Assessments of Refugees in Germany and the Classificatory Multiplicity of the State' (2025) 48 Ethn Racial Stud 740, 749.
[185] Interview with unaccompanied minor who underwent an age assessment procedure in Belgium, 'Interview with Participant 1' (29 March 2026).
[186] Fournier (n 32) 13.
[187] Pobjoy (n 58) 94.
[188] Heaven Crawley and Immigration Law Practitioners' Association, *When Is a Child Not a Child? : Asylum, Age Disputes and the Process of Age Assessment / Heaven Crawley* (ILPA 2007) 26–28.
[189] Bénédicte Lavaud-Legendre, 'Autonomie et Protection Des Personnes Vulnérables : Le Cas Des Femmes Nigérianes Se Prostituant En France' (2012) HAL Open Sci 36–37.

fairness of the procedure. The selective use of doubt in practice therefore risks undermining the protective function of the system.[190]

3.3.2. The Consideration of Identity Documents

Some of the people claiming to be UAMs have identification documents (passport, birth certificates, etc.). However, the Belgian authorities may have doubts about the authenticity of these ones if they are not legalized by the Belgian consulate. Others do not possess any identity documents and must attempt to obtain them in order to appeal the age determination. This process can take several months and involves numerous obstacles in the country of origin. Administrative services may be disrupted or destroyed, applicants may lack family contacts able to assist them, and procedures often require validation by embassies, where available. In addition, applicants must bear the cost of obtaining and sending the documents, and there is no guarantee that they will arrive, sometimes requiring the process to be repeated.[191]

One interviewee reported that it took them nearly a year to obtain the necessary documents to challenge the age decision. Having lost contact with their family, they had no support throughout the procedure. Administrative services in their country of origin were closed for several months due to public unrest. The interviewee reported being unable to sleep for several weeks due to anxiety surrounding the situation. Once a friend was finally able to obtain and certify the documents, the applicant still had to raise the funds to send them by international courier. After eventually receiving the documents, they submitted them to the Guardianship Service to contest the decision. However, three months later, they had still received no response. In the meantime, they turned 18, which made his claim to minor status irrelevant.[192]

This example illustrates how procedural delays and administrative labyrinth may, in practice, deprive individuals of the very protections they seek to invoke. This issue may originate in the absence or weakness of civil registration systems in the countries from which applicants originate. Age assessment procedures often rely on implicit assumptions that do not reflect

[190] Fournier (n 32) 13.
[191] ibid 14.
[192] Interview with Participant 1 (n 185).

the reality of asylum seekers' countries of origin.[193] Decision-makers typically operate in contexts where birth registration systems are reliable and widely accessible, and may therefore expect applicants to provide official proof of age. However, many asylum seekers come from countries where civil registration systems are weak or largely non-existent.[194] For example, birth registration rates have been reported at around 6% in Afghanistan and as low as 3% in Somalia.[195] In such contexts, it is often unrealistic to expect individuals to produce official documents, yet the burden of proof is frequently placed on the applicant. This creates a structural imbalance, as individuals from these countries are not in a position to substantiate their age in the same way as those from countries with functioning administrative systems. This lack of reliable civil registration also undermines the scientific basis of medical age assessment. Radiological methods rely on comparison with reference populations whose ages are known and verified. However, in countries where births are not systematically recorded, it is impossible to establish such reference groups. As a result, age estimation methods are used on populations from different socio-economic and geographic backgrounds, assuming uniform biological development across populations. This assumption is scientifically unfounded and risks producing unreliable results.[196] More broadly, deficiencies in civil registration systems affect both administrative and medical approaches to age determination, highlighting the structural limitations of current practices.

3.3.3. The Role and Independence of the Guardianship Service

The obligation imposed on the Guardianship Service to carry out medical age assessment following doubts emitted by other authorities raises important concerns from a procedural perspective. According to the applicable framework, when the IO or the police express doubts regarding the age of an individual, the Guardianship Service is required to initiate a medical examination in order to determine whether the person is under 18.[197] As an institution operating under the Federal Public Service Justice, it is mandated to ensure the protection of unaccompanied minors and to safeguard the best interests of the child. In principle, this role presupposes a degree of neutrality and independence in the identification process. However, the obligation to act upon doubts formulated by other institutions, such as the IO or law

[193] Crawley and Association (n 185) 21.
[194] Noll (n 31) 237.
[195] ibid 238.
[196] ibid 38–39.
[197] See section 3.1.1 "Overview of the Asylum Procedure"

enforcement authorities, raises the risk of a structural tension within the procedure. These actors do not necessarily share the same child protection mandate and may pursue objectives related to migration control. As a result, the Guardianship Service may be required to initiate medical procedures on the basis of doubts that it has not independently been formulated. This situation may undermine its role as a neutral actor and create potential conflicts of interest.[198]

Furthermore, the absence of systematic provisional guardianship further weakens the procedural safeguards surrounding age assessment. In principle, an individual who declares themselves to be an unaccompanied minor should be treated as such until proven otherwise by the Guardianship Service. However, Belgian legislation only provides for the possibility of appointing a provisional guardian in cases of duly justified extreme urgency, and such appointments remain rare in practice. As a result, the vast majority of individuals undergoing medical age assessment are not accompanied by a guardian during this crucial stage of the procedure.[199] This situation has been confirmed by interviewees, none of whom reported having been assigned a temporary guardian while awaiting the results of their age assessment.[200] Moreover, the opinions of social workers and guardians are not systematically sought or taken into account in the assessment process. This absence of multidisciplinary input further limits the consideration of the individual's situation and reinforces the predominantly medical approach to age determination.[201]

3.3.4. Variation in Medical Practice and Interpretation

The cooperation between the Guardianship Service and the hospitals responsible for conducting age assessments is governed by a formal collaboration agreement. This framework aims to ensure a degree of consistency and transparency in the medical evaluation process. However, evidence from practice and interviews suggests that significant variations persist between institutions.[202] In particular, the different hospitals involved do not apply a uniform methodology when conducting age assessments. Variations exist in the interpretation of results, including the margins of error associated with each test and the manner in which combined results are calculated. While some institutions provide a precise estimated age, others limit their conclusions to a binary assessment of whether the individual is a minor or

[198] Fournier (n 32) 14.
[199] ibid.
[200] Interviews with Participants 1–4 (n 145).
[201] Fournier (n 32) 12.
[202] Interviews with Participants 1–4 (n 145).

an adult.[203] This variation reflects broader differences in how results are interpreted. Indeed, the interpretation of age assessment results requires an interdisciplinary understanding, combining knowledge from fields such as epidemiology, psychiatry, traumatology, and paediatric radiology. Such a level of interdisciplinarity arguably exceeds the expertise of an ordinary radiologist providing an expert opinion.[204]

3.3.5. Access to Medical File

Another irregularity related to hospital practice in Belgium is the access to the full medical file. This guarantee constitutes a fundamental procedural safeguard in the context of age assessment. Individuals subjected to medical age determination undergo medical examinations and must therefore be considered patients, entitled to the rights associated with medical care. In particular, patients have the right to receive complete information regarding their health status, the examinations performed, and the methods used, as well as the right to access their medical file and obtain a copy of it. This right is essential to ensure informed consent and to enable individuals to understand and, where necessary, challenge the results of the assessment. However, evidence from practice indicates that access to the medical file remains difficult in the context of age assessment procedures. Individuals who have undergone these examinations often encounter obstacles in obtaining their records, thereby limiting their ability to verify the methods used, assess the reliability of the results, or effectively exercise their right to appeal.[205] This research has shown that none of the interviewees have had access to their medical file.[206]

3.3.6. Informed Consent

The requirement of informed consent constitutes a key procedural safeguard in the context of medical age assessment. Prior to being subjected to medical examinations, including exposure to radiation, individuals must provide free and informed consent.[207] Both the Guardianship Service and the medical professionals involved are responsible for ensuring that such consent is obtained. In theory, individuals should be provided with explanations through an interpreter, supported by written information in their language, and the procedure

[203] Fournier (n 32) 15.
[204] Noll (n 31) 244.
[205] Fournier (n 32) 15.
[206] Interviews with Participants 1–4 (n 145).
[207] Crawley and Association (n 185) 35.

may be further explained within reception centres. However, in practice, these safeguards are not always effectively implemented.[208] As an illustration, 3/4 of the interviewees reported that they did not have access to interpretation in their mother tongue.[209] In some cases, the agent attempted to provide explanations using visual aids instead.[210]

It remains unclear to what extent the understanding of the individual is effectively verified. Informed consent not only requires that information be communicated in an accessible manner and in a language the person understands, but also that the individual genuinely comprehends the nature, purpose, and potential consequences of the examinations.[211] In the absence of such verification, the validity of consent may be called into question, particularly given the difficulty for newly arrived individuals, who may be unfamiliar with the host country, its language, and its procedures, to provide genuinely informed consent.[212]

Interviews go in that sense: None of the interviewees reported that they fully understood the purpose or content of the medical age assessment they were asked to undergo, and none indicated that they were given a real opportunity to ask questions.[213]

One interviewee explained: “I wanted to ask questions, but since it was something I had never experienced in my life, I accepted without asking any. I didn’t know it would be like this. If I had known, I wouldn’t have agreed. It was very bad”.[214]

Another stated: “I didn't understand at all, because there were things they were talking about there that I never heard before. I just said I accepted, but I didn’t know what it meant”.[215]

A third interviewee similarly reported: “No, they didn’t explain anything to me. They told me I was going to take an age test to check whether the age I gave was true or false. I said OK”.[216]

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[208] Fournier (n 32) 16.
[209] Interviews with Participants 1–4 (n 145).
[210] Interview with unaccompanied minor who underwent an age assessment procedure in Belgium, ‘Interview with Participant 2’ (29 March 2026).
[211] Fournier (n 32) 16.
[212] Crawley and Association (n 185) 61.
[213] Interviews with Participants 1–4 (n 145).
[214] Interview with Participant 1 (n 185).
[215] Interview with unaccompanied minor who underwent an age assessment procedure in Belgium, ‘Interview with Participant 3’ (29 March 2026).
[216] Interview with Participant 2 (n 210).

Moreover, the voluntariness of consent must be carefully assessed. While individuals are formally free to refuse medical age assessment, such refusal is not without consequences. In practice, it is taken into account in the overall evaluation of the case and may be interpreted as an indication against the individual's claim to minor status. This creates a form of implicit pressure, as individuals may feel compelled to consent to the examination in order to avoid negative inferences.[217]

3.3.7. Access to an Effective Remedy

In principle, age assessment decisions taken in Belgium may be challenged before the Council of State.[218] However, this remedy presents significant limitations. The appeal is confined to a review of legality and does not allow for a reassessment of the merits of the case. As a result, the Council of State does not examine the substantive elements underlying the decision, such as the grounds for raising doubt, the evidentiary value of identity documents, or the reliability of the medical tests and methods used. Nor does the procedure provide for any form of independent counter-expertise. The review is therefore limited to verifying whether the Guardianship Service acted within the bounds of the law when ordering and relying on medical examinations. In addition, the effectiveness of this remedy is further undermined by its duration and lack of suspensive effect. Proceedings before the Council of State may take more than a year, during which the individual continues to be treated as an adult. In many cases, the applicant reaches the age of 18 before a decision is issued, thereby significantly reducing the practical relevance of the appeal. These factors raise concerns as to whether the remedy can be considered both effective and meaningful in practice.[219] These concerns are further illustrated by interview data, in which 3/4 participants turned 18 before the appeal decision. The fourth one was recognised as a minor.[220]

3.4. Future Developments: The Impact of the New Pact on Migration and Asylum

Building on the previous analysis of Belgian law and practice, this section assesses the extent to which the New Pact on Migration and Asylum, and in particular the Asylum Procedures

[217] Belgian Red Cross (n 179).
[218] See section 3.1.1 "Overview of the Asylum Procedure"
[219] Fournier (n 32) 17.
[220] Interviews with Participants 1–4 (n 145).

Regulation (EU) 2024/1348, may influence age assessment procedures for unaccompanied minors in Belgium.

As we know, Member States are required to implement this new legal framework by June 2026 and to prepare national implementation plans outlining the necessary legislative and administrative adaptations. These plans were expected to be submitted to the European Commission by December 2024 and developed in coordination with relevant stakeholders, including administrative authorities and civil society actors.[221] Belgium did submit this plan, and in this context, on 6 March 2026, the Council of Ministers approved, at second reading, two draft bills aimed at implementing the New Pact.[222] Among the changes expected in Belgian practices, the age of children in families could also be assessed, rather than being limited to UAMs. Another significant change is the introduction of a mutual recognition system across the EU, allowing Belgium to recognise age assessment decisions taken in another Member State.[223] But the most important change for the country may lie in the adoption of a "waterfall system" for age assessment. Under this approach, medical examinations must be used only as a measure of last resort, after other non-medical methods have been considered.[224] This would, in principle, require Belgium to substantially review its practice, as the country has a more medical based approach to age assessment. In addition, the Regulation requires that all relevant available documents be taken into account, thereby reinforcing the role of non-medical methods in the assessment process.[225]

Despite these notable improvements, several concerns remain and new ones arise, particularly regarding Belgium's ability to effectively implement the new Regulation and bring about real changes in practice. First, the Regulation does not explicitly prohibit the use of the most invasive techniques. Although medical examinations are framed as a measure of

[221] Platform for International Cooperation on Undocumented Migrants (PICUM), 'Children's Rights in the 2024 Migration and Asylum Pact: Analysis of the Screening Regulation, the Asylum Procedures Regulation, the Return Border Procedure Regulation and Eurodac' (2024) 14.
[222] European Migration Network Belgium, 'Belgian Council of Ministers Approves Draft Legislation for the Implementation of the European Pact on Migration and Asylum' (6 March 2026) <https://emnbelgium.be/news/belgian-council-ministers-approves-draft-legislation-implementation-european-pact-migration> accessed 14 April 2026.
[223] Platform for International Cooperation on Undocumented Migrants (PICUM) (n 218) 27.
[224] Coordination et Initiatives pour Réfugiés et Étrangers (CIRE), 'Pacte européen sur la migration et l'asile : décryptage' (2025) 27.
[225] Alejandra Fernández de Angulo, 'The EU's New Age Assessment Legislation: A Persistent Threat to the Fundamental Rights of the Child?' (*Refugee Law Initiative*, 18 February 2026) <https://rli.blogs.sas.ac.uk/2026/02/18/the-eus-new-age-assessment-legislation-a-persistent-threat-to-the-fundamental-rights-of-the-child/> accessed 14 April 2026.

last resort, the preference for less intrusive methods is not formulated as a strict legal obligation. As a result, medical age assessment is likely to remain a central component of the procedure, on which Belgium currently relies heavily.[226]

Beyond the medical component of the assessment, which is intended to be used only as a last resort, concerns also arise regarding the initial stages of the evaluation. In particular, the inclusion of visual assessment based on physical appearance, as reflected in Recital 37, creates a risk that age determination may rely, at least in part, on subjective criteria.[227] This risks reproducing practices already observed in Belgium under the previous framework. Another component of the initial non-medical assessment is the consideration of any documentation provided by the applicant. However, as discussed in the previous section, this does not resolve the structural issue of weak or non-existent civil registration systems in many countries of origin. As a result, this approach risks reproducing existing inequalities and may limit the extent to which Belgian practice will meaningfully change.[228]

With regard to the psychological component of the initial assessment, studies highlight a lack of research evidence on the validity of using psychological tests to estimate chronological age in adolescents and young adults. The APR does not provide guidance on which psychological methods should be used. In addition, as noted above, medical tests alone are widely recognised as having limited accuracy in determining age. Beyond their individual limitations, these methods are often inconclusive and typically need to be combined. However, the Regulation offers no clear guidance on how different methods should be weighed against one another or how margins of error should be taken into account. As a result, multidisciplinary assessments may fail to produce conclusive outcomes in practice. In such cases, there is a risk that medical examinations, although formally presented as a measure of last resort under Article 25, may be used more frequently than intended.[229] This risk is particularly relevant in the Belgian context, where the use of multidisciplinary approaches has remained limited. In practice, psycho-affective assessments provided for in the Guardianship framework have never been implemented. Moreover, in response to concerns raised by the Committee on the Rights of the Child in 2019, Belgian authorities

[226] Platform for International Cooperation on Undocumented Migrants (PICUM) (n 218) 28.
[227] ibid.
[228] Alejandra Fernández de Angulo (n 222).
[229] ibid.

explicitly rejected the development of a multidisciplinary approach to age assessment and confirmed their continued reliance on medical examinations.[230]

As discussed above, while the Regulation promotes a more interdisciplinary approach, it does not prescribe a specific methodology and leaves significant discretion to Member States. This lack of precision may limit harmonisation and lead to uneven implementation across the Union, potentially allowing existing practices to persist. These risks are further amplified by the introduction of a system of mutual recognition across the EU. In the absence of harmonised or standardised methodologies, divergent age assessment practices may nonetheless be recognised between Member States, as authorities may rely on assessments conducted in other countries.[231] As a result, unaccompanied minors in Belgium could be affected by decisions based on practices that differ significantly in terms of reliability and safeguards. This outcome appears counterproductive, given that one of the core objectives of the Regulation is to promote greater harmonisation

Important concerns also remain regarding the right to an effective remedy and access to guardianship, both of which already present significant challenges in Belgian practice under the current framework. The Asylum Procedures Regulation does not explicitly provide for a right to appeal against age assessment decisions. Notably, a proposal by the European Parliament to introduce such a right was not retained in the final text.[232] As a result, the Regulation is unlikely to improve the situation in Belgium, where appeal procedures are already lengthy and limited in scope. In addition, the Regulation introduces more detailed rules regarding the representation of UAMs, including the requirement to appoint a guardian within fifteen days. However, the practical feasibility of this obligation remains uncertain in the Belgian context, where structural shortages of qualified personnel already hinder the timely designation of guardians. Furthermore, the Regulation allows, pending such appointment, for the minor to be assisted by a person with the necessary competence and expertise, without clearly defining the status or qualifications of such a person.[233] These

[230] Plate-Forme Mineurs en exil and Défense des Enfants International Belgique, 'Tierce Intervention Auprès de La Cour Européenne Des Droits de l'Homme Dans l'affaire Barry C. Belgique, Requête N°47836/21: L'évaluation de l'âge Des Mineurs Étrangers Non Accompagnés (MENA)' (2022) 11.
[231] Alejandra Fernández de Angulo (n 222).
[232] Platform for International Cooperation on Undocumented Migrants (PICUM) (n 218) 29.
[233] 'Coordination et Initiatives Pour Réfugiés et Étrangers (CIRE), Pacte Européen Sur La Migration et l'asile : Décryptage' (n 21) 27.

ambiguities, combined with existing implementation challenges, raise doubts as to whether the new framework will effectively strengthen procedural safeguards in Belgium.

3.4.1. Concluding remarks

In conclusion, the extent to which Belgian authorities will implement the new framework and therefore, the impact it will have on age assessment practices remains uncertain. Although Belgium submitted its national implementation plan in December 2024, concerns have been raised regarding the lack of transparency and the limited involvement of civil society, despite recommendations at EU level.[234] In response, several organisations from different Member States, including Belgium, addressed a joint letter to the European Commission highlighting these shortcomings.[235] As civil society has no visibility over the process, and the action plan has not been made public at either EU or Belgian level, the implementation process lacks transparency. The very few data available was published in March 2026 in a mapping report by the European Union Agency for Asylum.According to it, Belgium does not intend to develop an entirely new age assessment system under the New Pact, but rather to adapt its existing procedures. In this context, responsibility for age assessment in asylum cases is expected to shift from the Guardianship Service to the CGRS.[236] The reform also emphasises the strengthening of a multidisciplinary approach, involving professionals such as psychologists, anthropologists, sociologists, pedagogues, and social workers, alongside additional training for asylum decision-makers and newly recruited staff.[237] Although these changes are expected to be implemented by 2026, no detailed information has been provided regarding the concrete modalities of implementation or a clear timeline, leaving significant uncertainty as to how these reforms will operate in practice.

Uncertainty is reinforced by the current political context in Belgium, characterised by a restrictive approach to asylum policy. The country has repeatedly been criticised by courts for shortcomings in its asylum system and has previously struggled with the effective implementation of the CEAS. For example, in April, Belgium was found to be in violation of

[234] 'Détenir, trier, expulser, des valeurs européennes ?' (*CNCD-11.11.11*, no date) <https://www.cncd.be/-pacte-europeen-asile-migration-> accessed 20 April 2026.
[235] MIGREUROP, 'Access to the national plans for implementing the European Pact on Migration and Asylum' (31 January 2025) <https://migreurop.org/article3343.html> accessed 20 April 2026.
[236] 'European Union Agency for Asylum, Age Assessment Practices in EU+ Countries: A Baseline for Pact Implementation' (Publications Office of the European Union 2026) Mapping report 24.
[237] ibid 28.

Article 3 of the ECHR for failing to provide accommodation to single male asylum seekers, leaving them homeless.[238] Recent developments further illustrate these tensions, as reports indicate that the Belgian migration authorities have continued to apply restrictive asylum measures despite a suspension by the Constitutional Court, raising serious concerns regarding respect for the rule of law and the effective protection of fundamental rights.[239]

Taken together, these elements raise serious doubts as to whether the new Regulation will lead to meaningful and consistent improvements in age assessment practices in Belgium. Without substantial changes in practice, it risks reproducing the very shortcomings it seeks to address, leaving the gap between legal standards and implementation as the central challenge.

[238] *AFFAIRE MV ET AUTRES c BELGIQUE* (2026) ECtHR App no 52836/22.
[239] Helene Asselman, 'OP-ED: Belgian Migration Minister Ignores Constitutional Court Ruling…and Is Met with Almost No Political Resistance' (*European Council on Refugees and Exiles (ECRE)*, March 2026) <https://ecre.org/op-ed-belgian-migration-minister-ignores-constitutional-court-rulingand-is-met-with-almost-no-political-resistance/> accessed 4 May 2026.

4. Belgian Age Assessment Practices: Compatibility with the CRC and the Best Interests of the Child

4.1. F.B. V Belgium: Procedural safeguards in Age Assessment

As discussed in Chapter 2.2, the ECHR forms part of the European human rights framework relevant to age assessment. The judgment in *F.B. v Belgium* is therefore used here to identify procedural shortcomings in Belgian practice before examining their compatibility with the CRC and the best interests of the child. Delivered by the European Court of Human Rights in March 2025, the case exemplifies broader criticisms directed at Belgian age assessment practices, particularly in relation to procedural safeguards and respect for private life.

In this case, the ECtHR examined the compatibility of Belgian age assessment procedures with the right to respect for private life under Article 8 ECHR. The case concerned a Guinean national who claimed to be a minor upon arrival in Belgium but was subsequently assessed as an adult following a triple bone test. As a result, her entitlement to protection and support as an unaccompanied minor was terminated.[240] It is important to note that the Court did not assess the scientific reliability of the medical methods used, nor did it determine whether the applicant was in fact a minor. Instead, it focused on the procedural framework surrounding the age assessment decision.[241] The Court found that the procedure lacked sufficient safeguards, in particular with regard to informed consent and the use of medical examinations. It noted that there was no clear evidence that the applicant had been properly informed of the need for her consent prior to undergoing the medical tests, despite the invasive nature of such procedures.[242] Furthermore, the Court emphasised that medical age assessment should only be used as a measure of last resort, after less intrusive methods, such as interviews conducted by trained professionals, have been explored. In this case, however, the bone tests were carried out immediately after doubts were raised, without prior use of

[240] ECtHR, Registrar of the Court, 'Insufficient Safeguards Surrounding Age Assessment of Foreign National Claiming to Be a Minor' *Press release* (6 March 2025) <https://hudoc.echr.coe.int>.
[241] Isabelle Rorive, 'Arrêt F.B c. Belgique. De nouvelles garanties procédurales pour encadrer les tests osseux destinés à déterminer l'âge des personnes en situation de migration, sans remise en cause de leur usage' (*Centre Perelman*, 1 June 2025) <https://centreperelman.be/arret-f-b-c-belgique-de-nouvelles-garanties-procedurales-pour-encadrer-les-tests-osseux-destines-a-determiner-lage-des-personnes-en-situation-de-migration-sans-remise-en-cause-de-leur/> accessed 2 May 2026.
[242] *FB v Belgium (2025) ECtHR App no 47836/21 paras 87-90.*

alternative methods.[243] As a result, the Court concluded that the decision-making process leading to the termination of the applicant's protection as a minor was not accompanied by adequate safeguards and therefore violated Article 8 of the Convention.[244]

The judgment in *F.B. v Belgium* illustrates that the main challenges surrounding age assessment practices lie not only in the scientific reliability of the methods used, but also in the lack of procedural safeguards governing their implementation. In this respect, the Court adopts an approach similar to that reflected in the APR 2024/1348, emphasising the need for a multidisciplinary assessment and the use of medical examinations only as a measure of last resort.[245] In Belgium, the decision initially raised significant expectations of reform. However, the impact of the judgment remains limited: the legal framework has not been fundamentally altered, the age assessment procedure continues to operate largely unchanged, and the applicant was ultimately awarded financial compensation.[246] The limited practical impact of the judgment should be situated within a broader political context in which the role of the ECtHR in migration-related matters has become increasingly contested. This context was illustrated, for example, by the open letter signed in May 2025 by Belgium and eight other European states calling for a renewed debate on the interpretation of the ECHR in migration cases.[247] While this letter was not a direct response to *F.B. v Belgium*, it reflects a political climate in which Strasbourg supervision over migration policy is increasingly questioned.

4.2. Compatibility of procedural safeguard with CRC

Building on the findings of *F.B. v Belgium*, which highlighted the insufficient safeguards surrounding age assessment procedures, this section further examines the compatibility of Belgian procedural practices with the Convention on the Rights of the Child, with particular emphasis on the principle of the best interests of the child.

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[243] ibid para 91-93.
[244] ECtHR, Registrar of the Court (n 237).
[245] Ellen Desmet, Sara Lembrechts and Ilse Derluyn, 'A Mixed Assessment on Age Assessment : F.B. v. Belgium' (2025) Strasbg Obs 4.
[246] Rorive (n 238).
[247] Agathe Decleire, 'Politique migratoire : la lettre signée par Bart De Wever s'attaque-t-elle à l'Etat de droit ?' (*Le Soir*, 23 May 2025) <https://www.lesoir.be/677484/article/2025-05-23/politique-migratoire-la-lettre-signee-par-bart-de-wever-sattaque-t-elle-letat-de> accessed 2 May 2026.

4.2.1. The emission of doubt and lack of transparency in age assessment procedures

As outlined in the previous chapter, the emission of doubt as to an individual's age constitutes the starting point of the age assessment procedure and, as such, represents a decisive moment in determining access to protection. In the Belgian context, this initial step is particularly significant, as it may trigger the age assessment process and, in practice, lead to the suspension or granting of safeguards normally afforded to children. However, the conditions under which such doubt is emitted give rise to important concerns in light of the procedural requirements stemming from the Convention on the Rights of the Child.

As discussed in Chapter 1, under the article 3 CRC, decisions affecting children must be guided by the BIC principle and conducted through fair, transparent, and child-sensitive procedures. This implies that any decision initiating a process with potentially far-reaching consequences, such as age assessment, should be based on clear, objective, and reasoned criteria. Moreover, States are required to regulate and supervise institutions and services responsible for the care and protection of children.

However, as outlined in Chapter 3 in relation to the emission of doubt, practice is characterised by a lack of clear criteria and procedural safeguards. No precise standards govern when or how doubt should be raised, allowing it to rely on subjective assessments such as physical appearance or perceived maturity, without any requirement for formal justification. Despite its significant consequences for access to protection, this decision is not accompanied by clear guarantees of transparency, reasoning, or review. In addition, the absence of a defined temporal framework allows doubt to be raised at any stage of the procedure, reinforcing the discretionary nature of this mechanism. Taken together, these elements raise serious concerns regarding the objectivity, consistency, and predictability of the process. In practice, doubt also appears to be raised disproportionately in cases where individuals claim to be minors, revealing an asymmetry that risks undermining the protective purpose of the system.

Additional concerns arise with regard to the treatment of evidence, as previously examined in chapter 3. Doubt may be raised even where individuals present identity documents, which are frequently dismissed where they have not been legalised by Belgian authorities. This approach contrasts with the Joint General Comment No.4 cited in chapter 2, according to

which available documentation should be presumed authentic unless there is evidence to the contrary, and due weight must be given to the statements of the child and their relatives.[248] The systematic questioning of such evidence, combined with the absence of clear criteria for raising doubt, contributes to a broader imbalance in the assessment process.

Moreover, doubt may be raised by different asylum authorities, while the Guardianship Service is responsible for carrying out the age assessment. This raises procedural concerns, as it may blur responsibilities and weaken the independence of the process, especially where the initial doubt is neither clearly motivated nor reviewable.

Taken together, the absence of clear criteria, formal reasoning, and effective safeguards surrounding the emission of doubt raises serious concerns regarding the fairness, consistency, and accountability of the procedure, and calls into question its compatibility with the CRC, in particular the principle of the BIC. It further calls into question whether the State effectively fulfills its obligation under Article 3(3) of the CRC to regulate and supervise the institutions and mechanisms responsible for the protection of children.

4.2.2. Absence of Presumption of Minority

Beyond the emission of doubt, the absence of immediate protective measures during the age assessment procedure raises further concerns in light of the CRC. In particular, the failure to ensure the appointment of a guardian and to treat the individual as a child pending the outcome of the assessment appears difficult to reconcile with the BIC principle.

As examined in Chapter 2 regarding the procedural safeguards required under international law, General Comment No. 6 specifies that, in cases of uncertainty, the principle of the benefit of the doubt must apply, meaning that where there is a reasonable possibility that an individual is a child, they should be treated as such.[249] Similarly, the Joint General Comment No.4 emphasises that age assessment procedures must be conducted in a child-sensitive manner, including through appropriate support and the consideration of the child's views.[250] Taken together, these standards suggest that individuals should be treated as children from the beginning of the procedure, rather than only after their age has been established.

[248] Joint General Comment No 4/23 (n 64) para 4.
[249] General Comment No 6 (n 82) para 31.
[250] Joint General Comment No 4/23 (n 64) para 4.

But as discussed in Chapter 3 in relation to the implementation of age assessment procedures in Belgium, practice appears to diverge from these requirements. Individuals who declare themselves to be unaccompanied minors are not systematically treated as such during the age assessment procedure and are often not appointed a guardian at this stage. As a result, they may undergo key steps of the procedure, including age assessment examinations, without appropriate support or representation. This absence of immediate protection places individuals in a particularly vulnerable position, especially given their recent arrival and limited understanding of the asylum procedure.

Such practice raises serious concerns in light of the principle of the benefit of the doubt. By failing to treat individuals as minors pending the outcome of the assessment, the procedure effectively reverses the logic of this principle, exposing potentially vulnerable children to the risks associated with adult status. In this respect, the absence of a guardian and the lack of presumption of minority suggest that Belgian practice does not fully comply with the procedural safeguards required under the CRC, particularly the obligation to prioritise the child's best interests.

4.2.3. Procedural fairness and participation

Beyond the absence of immediate protection, concerns also arise regarding the procedural fairness of age assessment procedures and the effective participation of children throughout the process. These elements are particularly important in light of the CRC, which requires that children be heard and able to participate meaningfully in decisions affecting them.

As highlighted in Chapter 2, the General Comment No.6 requires that such procedures be conducted in a child-friendly and culturally appropriate manner, in a language that the child understands, and in conditions that enable their effective participation.[251] Joint General Comment No.4 further emphasises that due weight must be given to the statements of the child and their relatives, and that informed consent must be free, informed, and explicit.[252] In addition, Article 12 of the Convention guarantees the right of the child to be heard, requiring that their views be meaningfully taken into account in all decisions affecting them.

[251] General Comment No 6 (n 82) para 31.
[252] Joint General Comment No 4/23 (n 64) para 4.

In contrast, the examination of Belgian practice in Chapter 3 highlighted important concerns regarding the effective implementation of these safeguards. Interviews conducted as part of the age assessment procedure often take place only after key stages of the process, limiting the effective exercise of the right to be heard. Further issues arise in relation to informed consent and the individual's understanding of the procedure. In practice, applicants may not always have access to interpretation in a language they fully understand, and may therefore be unable to grasp the nature and consequences of the assessment. Moreover, it remains unclear to what extent authorities effectively verify the individual's understanding of the procedure, including their ability to ask questions or challenge the process. And although individuals may formally refuse to undergo age assessment, such refusal may have consequences for their asylum procedure, thereby placing them in a constrained position. This situation undermines the validity of consent, as it raises doubts as to whether such consent can truly be regarded as free and informed.

Collectively, these elements suggest that individuals undergoing age assessment are not in a position to effectively understand, participate in, or challenge the process. This raises serious concerns regarding procedural fairness and the effective exercise of participation rights, and calls into question the compatibility of such practices with the CRC, particularly the right to be heard and the BIC principle.

4.3. Lack of effective remedy

Ultimately, beyond the issues relating to participation and consent, the availability of an effective remedy constitutes a key procedural safeguard in the context of age assessment. It allows individuals to challenge decisions that may have significant consequences for their rights, protection, and legal status.

International standards mentioned in chapter 2 require that age determination decisions be subject to review or appeal before an independent and competent authority. In particular, the Joint General Comment of the Committee No.4 on Migrant Workers emphasises the importance of ensuring effective access to such remedies.[253]

[253] Joint General Comment No 4/23 (n 64) para 14.

However, Chapter 3 highlighted important shortcomings in the Belgian system in this regard. In practice, the scope of appeal appears to be limited, as it is generally confined to a review of legality rather than allowing for a full reassessment of the merits of the case. As a result, the ability of individuals to effectively challenge the outcome of age assessment decisions remains restricted. Further concerns arise from the duration of appeal procedures and the absence of suspensive effect. Proceedings may take a considerable amount of time, during which the individual continues to be treated as an adult, with all the associated consequences in terms of access to protection and support. In many cases, the applicant may reach the age of majority before a final decision is issued, thereby significantly reducing the practical relevance of the appeal and reinforcing the potentially irreversible nature of the consequences attached to age assessment decisions.

Overall, these limitations suggest that the remedy available in practice does not constitute a fully effective mechanism for correcting potential errors in age assessment. In this respect, the absence of a meaningful and timely review process undermines the procedural safeguards required under the CRC and calls into question the compatibility of these practices with the BIC principle.

To conclude this subchapter, the elements examined throughout this section reveal significant shortcomings in the safeguards surrounding age assessment practices in Belgium. The lack of transparency in the emission of doubt, the absence of immediate protection during the procedure, the limited ability of children to effectively understand and participate in the process, and the weaknesses affecting access to effective remedies all raise important concerns regarding the child-sensitive nature of the system. In light of the vulnerability of the individuals concerned and the potentially severe consequences attached to age determination, these shortcomings appear difficult to reconcile with the protective approach and procedural standards required under the CRC, particularly the obligation to ensure that the BIC constitutes a primary consideration throughout the procedure.

4.4. Medical Age Assessment and the Best Interests of the Child

Following the procedural critique developed in the previous section, this subchapter examines the compatibility of the forensic methods used in the Belgian asylum system with the

Convention on the Rights of the Child, especially on the principle of the best interests of the child.

4.4.1. Medical Methods as a Measure of Last Resort and the Absence of Multidisciplinary Approach

International standards outlined in Chapter 2 clearly limit the use of medical methods in age assessment. The Joint General Comment No. 4 emphasises that States should refrain from relying on medical examinations such as bone or dental tests, as these methods may be inaccurate, present wide margins of error, and risk causing harm or unnecessary legal consequences. Accordingly, medical age assessment should only be used where strictly necessary and as a measure of last resort.[254] International standards further stress that age assessment should involve a comprehensive and multidisciplinary evaluation of the child's development, taking into account not only physical indicators, but also psychological and social dimensions.[255]

However, as discussed in Chapter 3 and illustrated by the *F.B. v Belgium* case, Belgian practice appears to diverge from these standards. Medical methods are used systematically once doubt is raised and are often given disproportionate weight compared to other forms of evidence, such as identity documents or the individual's statements. In practice, they are frequently applied at an early stage of the procedure, rather than after less intrusive methods have been exhausted. Furthermore, although Belgian legislation formally refers to a multidisciplinary approach, this has not been effectively implemented in practice, where radiological examinations keep constituting the primary method of assessment.

This over-reliance on medical testing calls into question the exceptional and subsidiary role that such methods should have within age assessment procedures. By treating medical examinations as a primary rather than a last resort tool, the Belgian system promotes a reductionist approach to age determination, focused predominantly on biological indicators while failing to sufficiently consider the broader psychological and social circumstances of the individual. In this respect, such practices appear difficult to reconcile with the CRC, thereby weakening the child-centred approach required under the Convention.

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254 Joint General Comment No 4/23 (n 64) para 14.
255 General Comment No 6 (n 82) para 31.

4.4.2. Scientific Limitations and Reliability

As outlined in Chapter 2, international standards require age assessment procedures to be conducted in a scientific, fair, child- and gender-sensitive manner.[256] The Joint General Comment No.4 further specifies that such assessments should be multidisciplinary and carried out by qualified professionals trained in evaluating different dimensions of development.[257]

In contrast, the analysis developed in Chapter 3 showed that the scientific reliability of the medical methods used in Belgium remains highly contested. Authorities continue to rely heavily on the triple medical test, combining dental examination, wrist X-ray, and clavicle analysis, despite the significant limitations associated with these techniques. These methods were not designed to determine chronological age, but rather to assess stages of skeletal and dental development. Furthermore, they are based on Western populations and are not representative of the majority of UAMs assessed in Belgium. As discussed in Chapter 3, physical development may vary considerably depending on factors such as sex, ethnicity, socio-economic conditions, environmental influences, or trauma, yet these elements are not adequately taken into account within the Belgian procedure. Consequently, they cannot establish an exact age and are characterised by substantial margins of error, particularly around the age of 18, where even a difference of a few months may have decisive legal consequences.

Additional concerns arise from the technical and interpretative dimensions of the examinations themselves. Differences in imaging quality, positioning, and scientific interpretation between experts may lead to divergent conclusions. This degree of variability undermines the consistency and predictability of the procedure, particularly given the significant legal consequences attached to the determination of age. In this respect, the absence of clear and standardised methodologies raises serious concerns regarding the fairness and reliability of the Belgian age assessment system.

To conclude, scholarly literature largely converges on the view that medical age assessment cannot provide certainty regarding an individual's chronological age. Several authors

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256 ibid.
257 Joint General Comment No 4/23 (n 64) para 14.

emphasise that every assessment necessarily "involves some degree of inaccuracy,"[258] while others underline that "there is no method that can determine the age of a child".[259] Similarly, estimated ages cannot provide exact dates[260], even though asylum procedures depend on strict chronological distinctions that determine access to child-specific rights and protections. Taken together, these observations highlight the inherent limitations of medical age assessment and, combined with the over-reliance on such methods observed in practice, further call into question the appropriateness of relying on them for decisions carrying significant legal and protective consequences.

4.4.3. Invasiveness and proportionality

As outlined in Chapter 2, international standards, notably General Comment No. 6, require age assessment procedures to be conducted in a manner that is safe, respectful of the child's dignity, and protective of their physical integrity. These requirements further imply that such procedures should remain as minimally invasive as possible and avoid unnecessary exposure to radiation.[261]

Conversely, the medical methods described in chapter 3 raise important concerns in this regard. The Belgian procedure relies on multiple radiological x-rays examinations of the wrist and clavicle. It exposes individuals to medical procedures that are not performed for therapeutic purposes, but solely for administrative objectives. This practice has itself been questioned by medical authorities. In 2010, reaffirmed in 2017, the Belgian National Council of the Order of Physicians highlighted the ethical concerns raised by the use of X-rays for medico-legal purposes, particularly given the exposure of young individuals to ionising radiation despite the absence of any medical benefit.[262] It declares that: " X-rays are ionizing radiation that can pose a risk to health…Radiation therapy should only be administered with caution, especially to young patients. It should be as low-dose and brief as possible".[263] And

[258] Erik Malmqvist and others, 'Ethical Aspects of Medical Age Assessment in the Asylum Process: A Swedish Perspective' (2017) 132 Int J Leg Med 815, 818.
[259] Peter W Thevissen and others, 'Ethics in Age Estimation of Unaccompanied Minors' (2012) 30 J Forensic Odonto-Stomatol 85, 89.
[260] Malmqvist and others (n 245) 97.
[261] General Comment No 6 (n 82) para 31.
[262] Conseil national de l'Ordre des médecins, 'Tests de Détermination d'âge Des Mineurs Étrangers Non Accompagnés' (*Ordomedic*, 20 February 2010) <https://ordomedic.be/fr/avis/deontologie/consentement-eclaire/tests-de-determination-d-age-des-mineurs-etrangers-non-accompagnes> accessed 7 May 2026.
[263] ibid.

further add: “Interpreting an X-ray is not a foolproof method for determining a person's age… Bone age determination only allows for the determination of skeletal age; its correlation with the individual's chronological age is a diagnostic assessment…The estimate always contains a factor of imprecision…Exposure to ionizing radiation is ethically justified only if it offers more benefits than disadvantages”.[264]

Scholarly literature has similarly questioned the ethical compatibility of medical age assessment with fundamental healthcare principles. In particular, authors have argued that such practices may conflict with the principles of beneficence and non-maleficence, as healthcare professionals are expected to act in the patient’s best interests and avoid causing harm. This concern is especially significant where medical examinations contribute to decisions that may result in the denial of protection or asylum.[265] These ethical tensions may generate moral conflicts and psychological stress for practitioners themselves, particularly where these practices are perceived as incompatible with their professional ethos of care or as part of a broader migration control system.[266]

Finally, As previously discussed, medical age assessment methods do not eliminate uncertainty, given the significant scientific and methodological limitations associated with them. Yet international standards envisage their use precisely in situations where doubt remains and only as a measure of last resort. This creates an important tension within the procedure: although medical examinations are intended to resolve uncertainty, they themselves produce results characterised by substantial margins of error and interpretation. Taken together, the elements examined throughout this subchapter raise significant concerns regarding the compatibility of the medical age assessment methods used in Belgium with the CRC. The systematic reliance on medical examinations despite their contested scientific reliability, intrusive and non-therapeutic nature, and the absence of a genuinely multidisciplinary approach all weaken the child-centred safeguards required under the convention. Consequently, given that these methods cannot fully eliminate uncertainty despite the significant consequences attached to their results, their necessity and proportionality appear difficult to justify in light of the principles of fairness, dignity, and best interests protected under the CRC.

[264] ibid.
[265] Malmqvist and others (n 245) 821.
[266] ibid 822.

4.5. Consequences of Age Assessment and the Best Interests of the Child

As demonstrated in the previous two subchapters, both the procedural shortcomings of the Belgian assessment system and the reliance on medical examination techniques raise important concerns regarding their compatibility with the Convention on the Rights of the Child. Beyond these legal and procedural tensions, age assessment procedures may also have significant consequences for the individuals concerned. While some of these impacts have already been mentioned throughout the analysis, this subchapter further examines the concrete and potentially irreversible effects that age assessment may have on unrecognised children and evaluates them in light of the principle of the best interests of the child in order to assess their compatibility with the CRC.

4.5.1. Immediate loss of protection

One of the most immediate consequences of age assessment concerns access to child-specific protection. Within the Belgian asylum system, the recognition or denial of minority determines whether an individual benefits from the safeguards granted to unaccompanied children. As a result, individuals recognised as adults may immediately lose access to these protections, even where uncertainty regarding their age persists. This raises important concerns in light of the CRC's protective approach towards vulnerable children.

As discussed in Chapter 3 in relation to the Belgian asylum procedure, UAMs benefit from a number of procedural safeguards and protection measures throughout the process. This includes, in particular, the appointment of a guardian responsible for accompanying the child during the procedure, representing their interests, and safeguarding their rights. Minors also benefit from adapted reception conditions, including accommodation in centres specifically designed for children and access to specialised support intended to address their particular vulnerability, such as assistance provided by staff dedicated to UAMs. Consequently, when an individual is assessed as being over the age of 18, they immediately lose access to these child-specific protections and are integrated into the ordinary adult reception system.

The consequences attached to age assessment decisions take effect immediately, often on the basis of rapid and predominantly medical evaluations conducted before any comprehensive multidisciplinary assessment has taken place. By contrast, remedies against possible

misclassification remain considerably slower in practice. As a result, decisions depriving individuals of child-specific protection may produce irreversible effects before they can be effectively challenged.

In this respect, the immediate consequences attached to age assessment decisions highlight the particularly sensitive nature of these procedures. Given the uncertainty surrounding the assessment process, the exclusion of potentially vulnerable children from protection before their situation has been fully assessed raises serious concerns under the CRC. In this regard, a mechanism intended to identify and protect vulnerable children may simultaneously function as a mechanism of exclusion.

4.5.2. Impact on fundamental rights

Beyond the immediate loss of child-specific protection, age assessment decisions may also affect the effective enjoyment of fundamental rights. While the previous section focused on the immediate protective consequences of age determination, the analysis developed here examines the broader and potentially longer-term effects that misclassification may have on children's rights. For the purposes of this section, "fundamental rights" refers to the rights and safeguards guaranteed to children under the CRC and the broader European human rights framework, including access to education, healthcare, appropriate reception conditions, procedural guarantees, and protection from detention or removal.

Among the rights and safeguards granted to UAMs, as discussed in Chapters 2 and 3, is the right to education. Children seeking asylum in Belgium are subject to compulsory schooling and therefore have the right to access education.[267] Another important safeguard concerns access to healthcare. UAMS may also benefit from the Belgian health insurance system free of charge, thereby ensuring access to medical care adapted to their needs and vulnerability.[268] Children benefit from enhanced protection against detention as well, particularly in the context of return procedures under the Dublin Regulation, where the detention of minors is subject to strict limitations. In this context, children are further protected by the principle of non-refoulement, which requires particular consideration of their vulnerability and best interests before any removal decision is carried out.[269]

[267] Fournier (n 32) 9.
[268] ibid 11.
[269] ibid 9.

In this respect, the consequences of misclassification extend far beyond the age assessment procedure itself. Since access to a wide range of rights depends directly on the recognition of minority, errors within the assessment process may result in the effective deprivation of safeguards specifically intended to protect children. Moreover, because a single age evaluation may simultaneously affect access to education, healthcare, reception conditions, procedural guarantees, and protection from detention or removal, misclassification may place already vulnerable individuals in situations of compounded insecurity. In light of the potential consequences such situations can have on fundamental rights, it appears difficult to consider it as in the child's best interest.

4.5.3. Psychological and Social consequences

Other consequences that have not yet been fully discussed, but which remain equally important, concern the psychological and social impacts of age assessment procedures. As developed in the theoretical framework in chapter 1, the art 3(2) of the CRC obliges states to ensure that children receive the protection and care necessary for their well-being. Well-being itself is understood broadly, encompassing not only the child's physical protection but also their overall development, including emotional, social, and psychological dimensions. This broader understanding of children's well-being will serve as the framework through which the consequences of age assessment procedures are analysed and evaluated in this section.

As discussed in Chapter 3, asylum seekers are particularly affected by traumatic experiences endured before or during migration. However, studies have shown that the age assessment process can become an additional source of stress for young asylum seekers, intensifying existing psychological distress. Legal uncertainty, separation from family members, may contribute to the development or worsening of mental health difficulties within an already particularly vulnerable group.[270] Further analysis shows that individuals whose age were disputed presented higher levels of psychological distress than those who were not.[271] The medical analysis in itself can also be quite frightening.[272] All persons interviewed affirmed they were stressed or afraid during their age assessment at the hospital. One of them said "I

[270] Marianne Jakobsen and others, 'The Impact of the Asylum Process on Mental Health: A Longitudinal Study of Unaccompanied Refugee Minors in Norway' (2017) 7 BMJ Open e015157 1–2.
[271] Angeliki Argyriou and Ryan Holmes, 'The Psychological Impact of the Age Dispute Process on Unaccompanied Children Seeking Asylum in the UK' (2024) Helen Bamber Found 6.
[272] Malmqvist and others (n 245) 818.

was stressed because I didn't know these machines".[273] Another confessed: "I still think about it".[274]

The emission of the doubt can also be a triggering step of the asylum procedure. Study showed that sharing their personal history with professionals may place UAMs in a position of vulnerability and require a significant degree of trust. When their statements are met with scepticism, this may further affect their mental well-being and their relationship with others. These difficulties may be intensified by the repeated need to recount personal and sometimes traumatic experiences throughout the asylum and age assessment procedures.[275] This can be illustrated by one of the testimonies collected: "What hurt me most was being told to be a liar. They have to believe what we say. Instead of listening to what I was saying they looked at my teeth".[276] Additionally, the "culture of disbelief" described in the previous chapter may also undermine the trust UAMs place in social workers, institutions, and the asylum system as a whole.[277] Several interviewees reported feeling treated with suspicion throughout the procedure, which negatively affected their relationship with the institutions responsible for their protection. As two interviewees stated, "I don't trust Fedasil anymore".[278] Moreover, the suspicion surrounding age disputes may contribute to feelings of criminalisation among some individuals, associating it with threats of arrest, detention, or removal.[279] As one interviewee explained: "I felt like a criminal".[280]

Other than the process, the non-recognition of minorities and the consequences that it implies have significant consequences for the mental health and well-being of unaccompanied minors. Studies show that limited support during the asylum process is associated with greater psychological distress, while stable and supportive reception environments are linked to fewer psychological symptoms.[281] In this context, consequences linked to misclassification, such as accommodation with adults, lack of access to education, or having to navigate the asylum procedure alone, may further undermine the child's sense of safety, stability, and

[273] Interview with Participant 2 (n 210).
[274] Interview with unaccompanied minor who underwent an age assessment procedure in Belgium, 'Interview with Participant 4' (12 April 2026).
[275] Argyriou and Holmes (n 257) 8.
[276] Interview with Participant 1 (n 185).
[277] Argyriou and Holmes (n 257) 9.
[278] Interview with unaccompanied minor who underwent an age assessment procedure in Belgium, 'Interview with Participant 2-3' (29 March 2026).
[279] Argyriou and Holmes (n 257) 13.
[280] Interview with Participant 1 (n 185).
[281] Jakobsen and others (n 256) 4–5.

social connection.[282] The exclusion from school and other child-specific environments may also have longer-term effects. Difficulties in continuing education, building social relationships, participating in extracurricular activities, or learning the language of the host country may reinforce isolation and vulnerability. Over time, these factors may negatively affect both integration and mental health.[283] One interviewee said "All I wanted was to be with children of my age, and be able to continue my education".[284] Another one stated: "I couldn't register for the football club because registration requires the signature of a legal guardian, which I don't have, and besides, I'm considered an adult and therefore can't play with children".[285] The mental well-being of unaccompanied minors may also be affected by the broader social implications of age assessment. When these procedures are routinely linked to suspicion about asylum seekers' credibility, they may reinforce perceptions of migrants, including children, as untrustworthy. In this way, age assessment may contribute to discrimination, social exclusion, and a weakened sense of belonging among already vulnerable children.[286]

A final factor resulting from age assessment procedures that can undermine mental health and wellbeing of UAMs is the upheaval in family structures. Some UAMs have brothers and sisters. When one or more siblings undergo bone age evaluation, their dates of birth are called into question and might be changed. This may create identity-related difficulties, and family separations. A younger brother or sister may suddenly become the "older" sibling, and vice versa. Becoming the eldest sibling overnight may profoundly disrupt family dynamics and personal identity.[287] One interviewee stated: "They gave me an age older than my aunt, who already has three children. It's not serious".[288]

As previously discussed, the CRC understands the best interests of the child as closely linked to the child's overall well-being, including emotional, psychological, and social development. In this respect, the consequences associated with age assessment procedures are capable of affecting several dimensions of children's well-being. The uncertainty surrounding the procedure, experiences of distrust and exclusion, the loss of support structures, and the

[282] Argyriou and Holmes (n 257) 10.
[283] ibid.
[284] Interview with Participant 1 (n 185).
[285] Interview with Participant 3 (n 215).
[286] Malmqvist and others (n 245) 821.
[287] Fournier (n 32) 11.
[288] Interview with Participant 4 (n 274).

broader social consequences linked to misclassification may all contribute to increased vulnerability and psychological distress among an already particularly vulnerable group of children. Considering these psychological and social consequences, age assessment procedures may ultimately undermine some of the protective objectives they are intended to serve. This raises important concerns regarding the compatibility of current practices with the broader understanding of children's well-being protected under the CRC.

Overall, this subchapter has shown that age assessment procedures extend far beyond the determination of chronological age. A single decision may affect access to child-specific protection, fundamental rights, and support structures, while also producing psychological and social consequences. Given the central role of age assessment in the asylum system and the cumulative effects of misclassification, these consequences are difficult to reconcile with the child-centred and protective approach required under the CRC.

4.6. Concluding Remarks on Compatibility with the CRC

The analysis developed throughout this chapter demonstrates that important tensions exist between Belgian age assessment practices and the standards established under the Convention on the Rights of the Child. Through the examination of Belgian procedural and medical practices, and illustrated with testimonies, the current framework raises significant concerns regarding the extent to which the best interests of the child are effectively safeguarded throughout the age assessment process.

From a procedural perspective, the lack of transparency surrounding the emission of doubt, the absence of immediate safeguards during the assessment process, the limited ability of children to effectively understand and participate in the procedure, and the weaknesses affecting access to effective remedies all undermine the child-sensitive and protective approach required under the CRC. The analysis further showed that Belgian practice tends to rely heavily on medical examinations despite their contested scientific validity, intrusive nature, and inability to fully eliminate uncertainty. Combined with the absence of a genuinely multidisciplinary approach, this raises serious concerns regarding the compatibility of such methods with the principles of fairness, proportionality, dignity, and scientific reliability required under the Convention.

The consequences attached to age assessment decisions further reinforce these concerns. As demonstrated, a single age determination may immediately deprive individuals of protections such as guardianship and adapted reception conditions, while also affecting access to fundamental rights including education and healthcare. In addition, misclassification may generate significant psychological and social consequences for already vulnerable children. In this respect, the potentially cumulative and irreversible effects of misclassification appear particularly difficult to reconcile with the child-centred and protective logic underlying the CRC.

Taken together, these elements suggest that Belgian age assessment practices are only partially compatible with the Convention on the Rights of the Child and the principle of the best interests of the child. While the objective of identifying and protecting minors within the asylum system is itself consistent with the CRC, the procedural shortcomings, the over-reliance on contested medical methods, and the significant consequences attached to uncertain assessments indicate that the current Belgian framework does not fully ensure the level of protection, fairness, and child-sensitive treatment required under the Convention.

5. Rethinking Age Assessment Through Child Protection

The previous chapter concluded that Belgian age assessment practices are only partially compatible with the Convention on the Rights of the Child and the principle of the best interests of the child. This chapter therefore explores how the tensions identified throughout this thesis could be addressed in order to better align age assessment procedures in Belgium with the CRC, fundamental rights, and the objective of child protection. In this respect, the analysis moves beyond a purely technical critique of medical methods and procedural shortcomings, and develops a broader reflection on the underlying logic of age assessment systems themselves.

5.1. Recentring Child Protection

Throughout this thesis, age assessment has emerged as far more than a simple administrative procedure. Within the asylum system, the recognition of child status functions as a gateway to protection, determining access to guardianship, adapted reception conditions, healthcare, education, and procedural safeguards. At the same time, for public authorities, the recognition of minority also implies the mobilisation of significant institutional and financial resources. In this respect, age assessment sits at the intersection of child protection and migration governance.

The analysis developed throughout this thesis identified important tensions between these two logics. On the one hand, migration governance tends to operate through control, restriction, measurability, categorisation, and the search for administrative certainty.[289] On the other hand, the Convention on the Rights of the Child promotes a fundamentally protective and child-centred approach grounded in vulnerability, individuality, well-being, and the BIC principle.[290] Concepts such as the benefit of the doubt or the child's well-being resist objective quantification and cannot easily be reduced to rigid administrative categories.[291]

[289] Yaseen and others (n 7).
[290] Eekelaar and Tobin (n 73) 101–104.
[291] Anders Hjern, Maria Brendler-Lindqvist and Marie Norredam, 'Age Assessment of Young Asylum Seekers' (2012) 101 Acta Paediatr 4, 5.

Age assessment sits at the intersection of these two logics and is infused with legal, medical, political, institutional, psychological, and ethical dimensions.[292]

This thesis has argued that, in light of these tensions, Belgian age assessment practices are only partially compatible with the Convention on the Rights of the Child and the principle of the best interests of the child. As demonstrated throughout the analysis, the current balance between migration governance and child protection appears largely weighted in favour of control and restriction. In practice, the system seems more concerned with preventing adults from being recognised as children than with avoiding the exclusion of vulnerable minors from protection. Jacqueline Bhabha describes this imbalance as a "David versus Goliath" struggle.[293] This ultimately raises broader questions regarding whose interests are prioritised within contemporary age assessment systems. The central issue may therefore not be whether exact chronological age can be determined with certainty, but rather which logic should prevail when uncertainty persists and access to protection is at stake.

In order to better align child protection with age assessment procedures, a first step would be to question the extent to which access to protection depends predominantly on a chronological age that no method can exactly establish.[294] In this respect, greater consideration should be given to vulnerability and protection needs alongside chronological age.[295] Rather than relying predominantly on biological indicators and rigid legal thresholds, a more child-centred approach would place increased emphasis on the asylum seekers' individual needs. Such an approach would not require abandoning age assessment altogether, but rather recognising that vulnerability and protection needs cannot always be reduced to exact chronological age alone.[296] Such an approach would contribute to rebalancing the relationship between migration control and child protection. It would also allow for a more flexible framework in situations where establishing an exact age is not possible.

Taking such an approach as a starting point would not eliminate uncertainty, but it would be more consistent with the protective rationale underlying international child protection standards. The CRC initially recognised children as individuals requiring particular care and

[292] Malmqvist and others (n 245).
[293] Bhabha (n 77) ch 6.
[294] Hjern, Brendler-Lindqvist and Norredam (n 277) 6.
[295] Malmqvist and others (n 245) 817.
[296] Hjern, Brendler-Lindqvist and Norredam (n 277) 6–7.

safeguards due to their vulnerability, not their chronological age.[297] The most recent EUAA practical guide on age assessment emphasises that age assessment should be understood as part of a broader vulnerability assessment process, taking into account not only medical indicators, but also behaviour, lived experiences, protection needs, and overall well-being. In this respect, the guide states that "being a child is recognised in itself as a vulnerability".[298] UNHCR goes further ensuring that "there may be exceptional cases for which these guidelines are relevant even if the applicant is 18 years of age or slightly older…particularly when the applicant's development and psychological maturity remains comparable to that of a child".[299] Illustrated differently, some individuals above the age of 18 may experience vulnerabilities commonly associated with childhood, while some younger individuals may display different levels of maturity and autonomy.[300] Such an approach appears more consistent with the child-centred and protective logic underlying the CRC, particularly in situations where exact chronological certainty cannot be established.

5.2. Accepting Uncertainty

Reassessing age evaluation procedures may ultimately require a broader reconsideration of how credibility and uncertainty are understood within asylum systems. The emission of doubt was described in chapter 3 as a constituent of the mechanism triggering age assessment procedures. However, Chapter 4 concluded that the manner in which doubt is raised and applied within the Belgian asylum procedure does not fully align with the protective logic of the CRC, particularly the principle of the benefit of the doubt. In this respect, it becomes necessary to question not only the reliability of this method on chronological age, but also the broader assumptions through which the credibility of unaccompanied minors is evaluated and perceived.[301]

Modern legal and administrative systems tend to seek predictability and reduce ambiguity through categorisation and classification.[302] In asylum, the response to uncertainty is age

[297] ibid 6.
[298] European Union Agency for Asylum, 'Practical Guide on Age Assessment' (2025) 42.
[299] UN High Commissioner for Refugees, 'Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection' (2019) HCR/1P/4/ENG/REV. 4 147.
[300] Malmqvist and others (n 245) 817.
[301] Anna Verley Kvittingen, 'Negotiating Childhood: Age Assessment in the UK Asylum System' (2010) 67 Refug Stud Cent 31.
[302] Zygmunt Bauman, *Modernity and Ambivalence* (Polity press 1991) 7.

assessment.[303] This creates a tension between protection and suspicion, and places migrant children in an ambivalent position within asylum systems. While they are formally recognised as vulnerable individuals entitled to particular safeguards, minors are simultaneously subjected to forms of verification, disbelief, and control.[304] In this respect, uncertainty appears to be managed asymmetrically: while the uncertainty inherent in medical methods is institutionally tolerated, uncertainty associated with applicants' narratives and evidence tends to generate suspicion and disbelief.[305]

The vulnerability-centred approach to protection proposed in the last section would also imply a different approach to certainty. Such an approach would not eliminate uncertainty from age assessment procedures, but it would require reconsidering how asylum systems respond to situations that cannot be fully measured or established with certainty.[306] In this respect, the question may not ultimately be how uncertainty can be eliminated, but rather how it should be managed when access to protection and fundamental rights is at stake. This would require moving away from a logic primarily grounded in suspicion and verification towards one centred more on vulnerability and protection.

Such an approach would align more closely with the protective core underlying the principle of the benefit of the doubt within international child protection standards. The logic reflected in the CRC suggests that, where uncertainty persists, the risk of wrongly excluding a child from protection should weigh more heavily than the risk of temporarily treating an adult as a minor.[307] In this regard, uncertainty should be managed through protection rather than through the pursuit of unattainable forms of certainty. In practical terms, individuals whose age remains uncertain should be granted temporary access to child-specific safeguards during a vulnerability-oriented assessment. Where uncertainty persists, individuals should continue to benefit from the protection afforded to children in accordance with the principle of the benefit of the doubt.[308]

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[303] Yulia Loffe and Hedi Viterbo, 'Reassessing Age Assessment: When the Violence of Age Meets the Violence of the Border' (2026) 48 Hum Rights Q 2.
[304] Bhabha (n 77) 11.
[305] Verley Kvittingen (n 287) 30–32.
[306] Loffe and Viterbo (n 289) 3–5.
[307] UN Committee on the Rights of the Child, General comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin para 31.
[308] European Union Agency for Asylum (n 284) 38.

In this way, the objective of age assessment would shift from producing unattainable certainty regarding chronological age towards ensuring that potentially vulnerable children are not excluded from protection because of uncertainty.

5.3. Reducing Reliance on Medicalisation

The previous chapter demonstrated that the over-reliance on medical techniques to determine chronological age is difficult to reconcile with the Convention on the Rights of the Child and the principle of the best interests of the child. In light of the vulnerability-centred approach proposed throughout this last chapter, a more holistic and multidisciplinary form of age assessment appears more consistent with the protective logic underlying the CRC. While such a framework would not fully resolve the structural tensions surrounding age assessment, nor eliminate the uncertainty inherent in determining chronological age,[309] it may nevertheless constitute a less harmful and more flexible alternative to predominantly medical approaches.[310]

Multidisciplinary and holistic approaches to age assessment are increasingly recognised across international and European child protection and asylum frameworks, including the CRC framework and the new EU Pact on Migration and Asylum. Soft law from UNHCR and United Nations International Children's Emergency Fund (UNICEF) guidance similarly emphasises that age assessments should take into account developmental, psychological, social, and contextual factors alongside physical indicators.[311]

Multidisciplinary forms of age assessment are already used in countries such as the United Kingdom and Australia. While the United Kingdom primarily relies on social-work based assessments developed through the Hillingdon and Croydon approaches, Australia has developed broader multidisciplinary assessment tools integrating social, psychological, and contextual factors.[312] The latter appears particularly relevant in light of the vulnerability-centred perspective developed throughout this chapter, as it places greater emphasis on protection needs and developmental vulnerability rather than solely on the

[309] Loffe and Viterbo (n 289) 10.
[310] Fournier (n 32) 28–29.
[311] European Union Agency for Asylum (n 284).
[312] Fournier (n 32) 26–27.

determination of exact chronological age.[313] It has been found that such holistic approaches have comparable accuracy with medical methods.[314]

Holistic age assessment generally combines multiple elements, including narrative interviews, developmental and psychological evaluations, anthropometric observations, and, in some cases, limited medical indicators.[315] Unlike predominantly medical approaches, it places greater emphasis on social, developmental, psychological, and contextual factors when assessing the situation of the individual.[316] In doing so, it moves beyond a purely biological understanding of childhood and acknowledges that vulnerability, dependency, and developmental maturity cannot always be reduced to exact chronological age alone.[317] In this respect, such approaches may contribute to a more vulnerability-oriented understanding of protection needs rather than relying exclusively on the determination of exact chronological age.

Nevertheless, holistic approaches are not without limitations. They do not eliminate the uncertainty inherent in age assessment procedures, nor fully resolve the structural tensions surrounding the role of chronological age within asylum systems.[318] Furthermore, no clear consensus exists regarding non-medical assessment methods,[319] which may themselves generate forms of subjectivity and discretionary interpretation.[320] Such approaches may also require greater time, resources, and specialised professionals, raising practical challenges within already overstretched asylum systems. A further limitation is that certain stages of holistic age assessment may rely on the participation of parents, family members, or caregivers during interviews and contextual data collection. This is often impossible in the case of UAMs.

While these approaches cannot fully overcome the tensions inherent in age assessment procedures, they may nevertheless reduce some of the harms and ethical dilemmas associated

[313] ibid.
[314] Scott Sypek, 'A Holistic Approach to Age Estimation in Refugee Children' (2016) J Paediatr Child Health 52 614, 618.
[315] ibid 615.
[316] Australian Government Department of Health, Disability and Ageing, 'National Clinical Assessment Framework for Children and Young People in out of Home Care' (2011) 4–7.
[317] European Union Agency for Asylum (n 284) 53–54.
[318] Loffe and Viterbo (n 289) 10–11.
[319] Sypek (n 300) 615.
[320] Thevissen and others (n 246) 89.

with predominantly medical and biologically reductionist models, and appear better aligned with the child-centred protection promoted under the CRC.

5.4. Strengthening Safeguards

Beyond rethinking the relationship between chronological age and vulnerability, reconsidering the management of uncertainty, and reducing reliance on medicalisation, improving the compatibility of Belgian age assessment procedures with the CRC and the principle of the best interests of the child also requires stronger procedural safeguards. While the objective here is not to conduct an exhaustive procedural review, several aspects of the Belgian framework nevertheless appear especially important in order to strengthen the child-centred and protective nature of the procedure.

- **Formal Motivation of Doubt**

The authority responsible for age assessment, likely the CGRS under the New Pact framework, should be required to formally and individually justify the reasons leading to the emission of doubt regarding an applicant's declared age. This should be done by independent experts.[321] Doubt should not rely solely on physical appearance, behaviour, or subjective impressions, but on concrete and identifiable elements capable of effective judicial review.[322]

- **Benefice of the Doubt**

Belgian decision-makers involved in age assessment procedures should more openly acknowledge that such procedures cannot produce exact chronological certainty and inevitably involve margins of error. Where uncertainty persists, the principle of the benefit of the doubt should operate in favour of the applicant rather than justify exclusion from protection.[323] Individuals whose age remains disputed should therefore continue benefiting from child-specific safeguards throughout the procedure, including the appointment of a temporary guardian, adapted reception conditions, and access to child-sensitive support services.[324]

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[321] European Union Agency for Asylum (n 284) 32.
[322] Terry Smith and Laura Brownlees, 'Age Assessment: A Technical Note' (Children's Fund (UNICEF) 2013) 12–13.
[323] European Union Agency for Asylum (n 284) 38.
[324] ibid 27.

- **Free and Informed Consent**

Free and informed consent to age assessment procedures should be systematically collected in a language understood by the applicant and after clear explanation of the methods used, their limits, and their possible consequences. Refusal to undergo medical examinations should not undermine the credibility of the applicant nor negatively affect the asylum procedure.[325]

- **Medical Examinations as a Measure of Last Resort**

Medical age assessment should only be used where serious doubt persists after consideration of all available elements, including identity documents, personal history, and social and developmental indicators.[326] Greater consideration should be given to holistic and multidisciplinary approaches integrating vulnerability, developmental maturity, lived experiences, and protection needs alongside chronological age, rather than relying predominantly on biological indicators alone.[327]

- **Effective Remedy**

Applicants should have access to an effective remedy capable of challenging not only the final age assessment decision, but also the initial emission of doubt triggering the procedure itself.[328] Such remedies should be accessible, child-sensitive, and available at an early stage of the procedure in order to prevent premature exclusion from child-specific safeguards. Effective access to the case and medical files, clear reasoning of decisions, and meaningful judicial review should also be guaranteed.[329]

- **Transparency and Monitoring**

Belgian authorities should publish detailed and accessible data regarding age assessment procedures, including the number of assessments conducted, the methods used, the proportion of minority and majority decisions, and the outcomes of appeals. Particular attention should

[325] Smith and Brownlees (n 308) 13–14.
[326] ibid 12–16.
[327] European Union Agency for Asylum (n 284) 53–58.
[328] Smith and Brownlees (n 308) 17.
[329] European Union Agency for Asylum (n 284) 59–61.

be given to the number of decisions later overturned or revised, in order to better evaluate the risks of wrongful classification and the reliability of current practices.

In light of the reforms introduced under the new Pact framework, the creation of an independent multidisciplinary commission responsible for monitoring, evaluating, and periodically reviewing age assessment practices could further strengthen accountability, consistency, and compliance with child rights standards.[330]

While such safeguards cannot fully eliminate the structural tensions surrounding age assessment procedures, they may nevertheless contribute to reducing arbitrariness, reinforcing procedural fairness, and better aligning Belgian practice with the protective logic underlying the CRC.

[330] Fournier (n 32) 29.

6. Conclusions

This thesis examines how age assessment procedures are applied to unaccompanied minors within the Belgian asylum procedure. It also analyses the extent to which these practices comply with international standards, particularly the Convention on the Rights of the Child and the principle of the best interests of the child. The research reveals a significant gap between the protective legal framework in theory and the way age assessment is implemented in practice in Belgium. More broadly, it highlights the tensions between the asylum logic applied in Belgium and the protective framework of the CRC, and considers how these ones could be addressed through a more child-centred approach to age assessment.

6.1.1. Compatibility with the CRC: Main Findings

The thesis identified two main areas where this friction becomes particularly visible. The first concerns the scientific and ethical limits of the medical techniques used in Belgium. As shown, radiological examinations remain marked by significant uncertainty, margins of error, and difficulties of applicability to the diverse population of young asylum seekers. Their focus on skeletal development risks reducing age to biological indicators, while insufficiently accounting for socio-economic conditions, trauma, nutrition, ethnicity, and other factors capable of influencing physical development.[331]

The second area of tension concerns procedural safeguards. The analysis showed that the Belgian procedure raises serious concerns regarding the way doubt is triggered, the weight given to documents and personal statements, the absence of immediate protection pending assessment, the limits of consent, and the lack of effective remedies.[332] The testimonies helped illustrate the practical relevance of the procedural shortcomings identified, particularly regarding distrust, uncertainty, and exclusion from protection. The New Pact on Migration and Asylum, particularly the Asylum Procedures Regulation, may address some of these concerns by promoting multidisciplinary assessment, medical examinations as a last resort,

[331] Loffe and Viterbo (n 289) 6–10.
[332] Fournier (n 32) 13–17.

informed consent, and the benefit of the doubt. However, its practical impact in Belgium will depend on implementation, resources, and institutional practice.[333]

This analysis leads to the conclusion that Belgian age assessment practices are only partially compatible with the Convention on the Rights of the Child and its principle of the best interests of the child. The objective of identifying minors within the asylum system is legitimate and consistent with child protection. However, the current framework makes access to child-specific safeguards heavily dependent on medical techniques whose reliability and suitability remain contested. This over-reliance on biological indicators is difficult to reconcile with the multidisciplinary, child-sensitive approach required under the CRC. Procedural safeguards also remain insufficient. In particular, the way doubt is raised, the limited verification of free and informed consent, the absence of full temporary protection pending assessment, and the limited effectiveness of remedies do not fully reflect the benefit of the doubt or the requirement that the child's best interests be treated as a primary consideration throughout the procedure. Finally, the serious and sometimes difficult-to-reverse consequences of misclassification further weaken the compatibility of the Belgian framework with the protective logic of the CRC.

6.1.2. Restructuring Age Assessment in Light of the Best Interests of the Child

In light of the tensions identified between Belgian asylum practice and the protective logic of the CRC, the thesis then considered how age assessment could be reoriented so that child protection becomes its primary objective. This required moving beyond a purely technical critique of medical methods and questioning the underlying logic of age assessment itself. Rather than treating chronological age as the exclusive gateway to protection, the thesis argued that greater weight should be given to vulnerability, developmental maturity, and protection needs. It also suggested that uncertainty should not be managed through suspicion and exclusion, but through the principle of the benefit of the doubt, understood as a safeguard against the premature denial of child-specific protection.

In this perspective, a holistic and multidisciplinary approach may offer a more child-centred direction than predominantly medical models, while procedural safeguards remain essential. Finally, the thesis argued that Belgian authorities should strengthen procedural safeguards at

[333] Alejandra Fernández de Angulo (n 222).

the key stages where exclusion from protection is most likely to occur: the emission of doubt, the assessment process, and the appeal stage.

6.1.3. Determining Age, Defining Rights: The Age Border and the Risk of Normalisation

The analysis developed in this thesis suggests that unaccompanied minors arriving in Belgium face not only a territorial border, but also an "age border".[334] While the first conditions access to the territory and the asylum system, the second conditions access to child-specific safeguards. These two borders reinforce one another because both are shaped by logics of verification, categorisation, and control.[335] The difficulty is that neither the CRC nor the protective safeguards surrounding age assessment are new[336]. This thesis has shown that principles such as the best interests of the child, the benefit of the doubt, and the need for multidisciplinary assessment have long been present in international standards and, to varying degrees, in Belgian and European asylum frameworks. Yet the Belgian case shows that the existence of legal standards does not, by itself, guarantee protection in practice. Age assessment remains shaped by institutional priorities, resources, and political choices, particularly where it operates at the intersection of child protection and migration control.[337] In this sense, the introduction of similar safeguards within the New Pact does not automatically ensure that the procedure will become more child-centred.[338] The central question is therefore not only whether protective standards exist, but whether they can effectively resist suspicion-based and restrictive migration practices in a broader context of pressure on human rights and the rule of law.

Promoting more holistic, humane, and vulnerability-oriented approaches may constitute a less harmful alternative to current practices. However, such reforms remain limited as long as access to child-specific safeguards continues to depend primarily on strict chronological categorisation. The deeper issue is therefore not only how age is assessed, but why access to protection remains so strongly conditioned by the child/adult binary. In this sense, the debate

[334] Loffe and Viterbo (n 289) 20.
[335] ibid.
[336] ibid 3.
[337] ibid 3–5.
[338] Alejandra Fernández de Angulo (n 222).

should not focus exclusively on how to assess age more accurately, but also on why age assessment has become such a decisive gateway to protection.

Further research could deepen this analysis through a more comprehensive empirical study of the experiences of individuals subjected to age assessment. Comparative research could also examine how different European states implement the age assessment provisions of the New Pact on Migration and Asylum, and whether these reforms lead to greater child protection in practice or reproduce existing tensions under a new legal framework.

As a thesis in human rights and democratisation, this research does not claim to provide a definitive solution to the tensions surrounding age assessment, nor to transform institutions or generate political will by itself. Its contribution is more modest, but nevertheless important: to make visible the legal, ethical, and practical contradictions that arise when uncertain age determination becomes the gateway to protection. The greatest danger may be that contested practices gradually become normalised through administrative repetition and political acceptance.

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Interviews

Interview with Participant 1, unaccompanied minor who underwent an age assessment procedure in Belgium (29 March 2026)

Interview with Participant 2, unaccompanied minor who underwent an age assessment procedure in Belgium (29 March 2026)

Interview with Participant 3, unaccompanied minor who underwent an age assessment procedure in Belgium (29 March 2026)

Interview with Participant 4, unaccompanied minor who underwent an age assessment procedure in Belgium (12 April 2026)

8. Annexes

8.1. Interview Material

Interview Questionnaire

1. **Background and Context**
    a. Can you tell me a little about your journey to Belgium and how you first entered the asylum process?
    b. How old were you when you applied for asylum?
2. **Information and Understanding**
    a. At what point were you informed that your age would be assessed?
    b. How was the age assessment procedure explained to you? Was it done in a language that you understood ? Was an interpreter present?
    c. Did you feel that you understood why it was being done?
    d. Did you feel you had the opportunity to ask questions or express concerns?
3. **The process itself**
    a. What kind of tests or assessments did you go through?
    b. Can you describe what happened during the process?
    c. Did you speak with someone (interview, doctor, psychologist)?
    d. Were you supported by a guardian, lawyer, or other adult during this process?
4. **The Experience of the Procedure**
    a. How did you feel before, during, and after the procedure?
    b. Did anything make you feel uncomfortable or pressured?
    c. Did you feel that your own explanation of your age was taken seriously? Do you think you were taken seriously in general? Did you feel listened to or believed?
    d. Did you feel respected during the procedure?
5. **Consequences and Impact**
    a. What was the result of the age assessment? What happened after that?
    b. Did the outcome change your situation in any way (housing, school, support)?
    c. How did the result affect you emotionally or psychologically, if at all?
    d. Did the age assessment affect your trust in the authorities?

6. **Reflexion**
    a. Do you still think about what happened?
    b. Looking back, how important was this moment in your asylum journey?
    c. Did you feel that the process was done in your interest? To protect you?
    d. If you could change something about the age assessment process, what would it be?
    e. What would you like decision-makers to understand about this experience?
    f. Do you think there is a better way to determine someone's age?

7. **Closing Question**
    a. Is there anything about this experience that you feel is important but that we have not discussed?

Information Letter

You are invited to participate in a research project conducted as part of the European Master's thesis in Human Rights and Democratisation (EMA).

The Thesis "Bone tired: Unaccompanied Minors experiencing age assessment practices in the Belgian asylum system. How can we make child protection a priority in age determination ?" (provisional title) by Loïc Bosquion is being written in Uppsala University under the supervision of Professor Rebecca Thorburn Stern. The study examines age assessment procedures applied to unaccompanied minors seeking asylum in Belgium. It aims to better understand how these procedures are carried out in practice and how they affect the individuals who undergo them. It also aims to assess whether such practices are compatible with the Convention on the Rights of the Child, as well as to propose alternative approaches to age assessment.

Your participation consists of taking part in an interview about your experience or knowledge of the age assessment procedures you have undergone. Your participation is entirely voluntary. You are free to refuse to answer any question or to stop the interview at any time, without any negative consequences.

The information you provide will be used for academic purposes only and may be included in the Master's thesis. The content of these interviews will be entirely anonymised. The information and opinions obtained during the interviews will be quoted in anonymised form. With your permission, the interview may be audio-recorded and later transcribed.

Audio recordings and transcripts will be securely stored by the researcher and used exclusively for academic purposes. These materials will not be shared with any third parties, except where required by the relevant academic institutions involved in the research, namely the Global Campus of Human Rights and the University of Uppsala. The final thesis will be submitted within this academic framework and may be published and made available online in accordance with the policies of the Global Campus of Human Rights.

If you have any questions about the research, you may contact the researcher at:
loic.bosquion@emahumanrights.org

Consent Form

Please indicate your consent by ticking the boxes below:

Participation

☐ I confirm that I have received and understood the information provided about this research.

☐ I understand the purpose of the study and what my participation entails.

☐ I understand that my participation is voluntary and that I may withdraw at any time without any negative consequences.

Data protection

☐ I understand that the content of these interviews will be entirely anonymised.

☐ I understand how my personal data will be collected, used, and stored.

☐ I consent to the audio recording of the interview.

☐ I understand that the recording will be transcribed and securely stored.

Use of data

☐ I consent to the use of my interview data for future academic work (e.g. articles, reports, or publications).

☐ I consent to the use of anonymised quotations from my interview in the thesis and related academic outputs.

Final consent

☐ I confirm that I voluntarily agree to participate in this research.

Participant	**Master Thesis Researcher**
(Full Name)	Loïc Bosquion
Contact details	Contact details loic.bosquion@emahumanrights.org
(Signature)	(Signature)
	Date & Place ----------