

# We are children, hear us out!

Children speak out  
about age assessment

Report on consultations with  
unaccompanied children  
on the topic of age assessment



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French edition:  
*On est des enfants, mais on a des choses  
à dire ! La détermination de l'âge  
vue par les enfants*

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## Introduction

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One of the most vulnerable and exposed populations in Europe today, refugee and migrant children are confronted with particularly challenging and complex procedures to have their claims assessed and access the protection to which they are entitled. This is particularly the case for unaccompanied children who not only cope with the hardships endured on the way, the challenges of adapting to a new culture and society that they may not even know beforehand, and of having to fend for oneself alone, but must also navigate particularly intricate procedures that aim to ascertain their status as minors as well as their rights as regards residency status.

Age assessment procedures, the methods used in their framework, the rights of persons whose age is being assessed, and the possibilities to ask for the review of decisions made by the various authorities involved in the process, are indeed complex to understand, even if they can be legitimate in a democratic society. Yet they are frequently the first experience children have of the country they are asking for protection from, and these are children who might not speak the country's language and may have been through particularly difficult experiences, including abuse and exploitation, on the way.

All adults involved in processing these persons' claims and providing accommodation and care, be it in a temporary fashion, are therefore entrusted with a crucial duty to explain, to adapt their everyday processes to the comprehension levels of children according to their age and maturity. Providing children information that they can really use and make theirs allows them to become actors of their own rights, even in complicated processes such as age assessment.

Yet, as important as it is to convey information to children about their rights, it is also essential to listen to their views, not only individually in the framework of each situation being assessed, but also more generally and collectively about the process itself, how they feel about it, and what they do or do not understand. What is most important to them in this procedure? Are they aware of their rights? Do they feel that they can refuse procedures or have their complaints taken seriously?

In the framework of the Parliamentary Assembly of the Council of Europe's Campaign to End Immigration Detention of Children (phase III), the Children's Rights Division of the Council of Europe has set out to consult children who had experienced or were experiencing age assessment in different member states. As experts from experience, their voice is particularly important to consider regarding this procedure, what it means for children, and how to go about making it more compliant to the rights of the child. We thank all children who took part in the workshops organized by our four partners in Cyprus, Germany, Greece and Portugal, and confided their fears and hopes to consolidate this report.

## Methodology

In the framework of the PACE Campaign to End Immigration Detention of Children, and to ensure that the views of the children concerned could be taken into account regarding age assessment, the Council of Europe's Children's Rights Division consulted NGOs and agencies working with unaccompanied migrant children to organise workshops with them, so as to collect their views and opinions. Workshops took place at the end of 2018 and in early 2019 with the support of the following partners:

	<p><b>Comissão Nacional de Promoção dos Direitos e Proteção das Crianças e Jovens (CNPDPJ)</b></p> <p>National commission for the promotion of rights and protection of children and youth</p> <p><i>Portugal</i></p>
	<p><b>Deutsche Kinder- und Jugendstiftung (DKJS)</b></p> <p>German Children and Youth Foundation</p> <p><i>Germany</i></p>
	<p><b>Δίκτυο για τα Δικαιώματα του Παιδιού</b></p> <p>Network for Children's Rights</p> <p><i>Greece</i></p>
	<p><b>Hope for Children CRC Policy Center</b></p> <p><i>Cyprus</i></p>

In all, 52 unaccompanied children and young persons between the ages of 9 and 21, who had experienced or were experiencing age assessment procedures were consulted in order to better understand their views and to log their recommendations on this process.

The workshops used different types of presentations and methods. In Portugal, the facilitators started with the “story of Alex”, that served as a starting point for a conversation with the children. The children were given pens and paper to express themselves individually (which some of them did, in Portuguese and French), in addition to the group conversations that took place. In Greece, conversations were started using a list of rights, and asking children to describe what these rights meant to them and how they related to their experiences. For those children who could read and write English, an interactive presentation software was used, which allowed them to write down their experience. However, most children preferred to record their messages on audio files, with the help of cultural mediators and interpreters (in Urdu and English). In Germany, all the children had already participated in activities regarding the rights of the child, so they had previous knowledge to build on. After an icebreaker, they were asked which rights they remembered and what these meant to them. They worked in three groups: one French-speaking, one Afghan-speaking and one mixed-language group. The facilitators collected their messages as well as the individual testimonies that the children felt particularly important to underline. In Cyprus, all the children involved in the workshop had already gone through the process of age assessment and had been explained the process at each step of the way, so the conversation started easily using their impressions and experience. Translators were present, and the languages used were Somali, Arabic, French, and English.

Because of the very different ways in which the children’s words were collected, the way they are presented in this report can also vary depending on the type of message provided (audio files, transcription, summaries of collective opinions, handwritten messages and drawings). To remain as close to the children’s views as possible, their direct quotes, have been kept and highlighted, translated into English. The main titles have also been formulated in terms of questions children could have in the process.

In Greece and Germany, the children consulted were all boys, even though the facilitators also contacted structures working with girls. In Portugal, girls participated in some of the workshops. In Cyprus, there was only one girl participant, despite efforts to achieve a gender-balanced group at the planning stage. As only some groups in half of the countries involved girls, and even then, in much smaller numbers (girls only represent 4 out of a total 52 participants), the gendered dimension of age assessment cannot be adequately interpreted in this report. However, the simple fact that attempts to create mixed-gender groups in Cyprus, Greece and Germany was difficult indicates that there is little communication between girls-only and boys-only accommodation structures, which could be seen to point to gender-specific tracks of institutions and personnel for accommodation and care. Due to the low proportion of girls among newly-arrived unaccompanied children in general, however, it should be noted that the overall sex ratio of participants is less disproportionate than it would be compared to the general population of children.

The groups of children consulted were also different in terms of age groups. The young people in Cyprus were older, ranging between 17 and 21, as the facilitators there chose to focus on persons who had already undergone age assessment and had been declared children at the time. The children in Germany were all between the ages of 16 and 18. In Greece, most (about two thirds) of the children were also in this age group, but there were also children between the ages of 13 and 15. Finally, in Portugal, there was a more balanced representation of these two age groups; a few 19-year-olds, one 12-year-old and one 9-year-old were also involved. The average age among participants in the 4 workshops organised in Portugal is slightly under the age of 15. In this report, respondents are referred to simply as “children”, as they were or claimed to be under the age of 18 upon arrival in the host country.

Other structures in other member states also answered the Council of Europe’s call for consultations. However, they found it very difficult to set up the workshops. Participation is a particularly difficult issue for unaccompanied children, who are usually obliged to repeatedly recount their stories in the framework of migration and care proceedings. This proved to be a challenge even in the countries where the workshops did manage to take place. In all countries but Cyprus, facilitators reported that some children who had volunteered to attend ostensibly did not take part actively to begin with, but eventually engaged once they had understood what was at stake. In Portugal, the facilitators noted that each child engaged at his or her own rhythm, was more attentive and outspoken during some parts of the conversation than others.

**The Council of Europe thanks the children who participated and the adults who facilitated the workshops, as well as those who tried to set up similar workshops in other countries or who wanted to participate.**

# I have rights?

## Children as holders of rights, right to information

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### International standards and principles

*“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”*

UN Convention on the Rights of the Child, Article 2.1

The [United Nations Convention on the Rights of the Child](#) (UNCRC) was signed in 1989. It has been ratified by 113 of the 195 member states of the United Nations and is therefore one of the most widely accepted human rights texts in the world. All 47 Council of Europe member states have signed and ratified it.

Thanks to the UNCRC, children have specific rights that correspond to their particular situation. But they also hold human rights like anybody else. They are therefore also protected by the [European Convention on Human Rights](#) (ECHR). Other international texts and conventions can also apply to specific situations of some of these children, particularly when they are asking for international protection (1951 [Convention on the status of refugees](#)), when they are stateless (1961 [Convention on the reduction of statelessness](#)), when they are victims of trafficking (2005 [Council of Europe Convention on Action against Trafficking in Human Beings](#)) or when they have disabilities (2006 [Convention on the rights of persons with disabilities](#)).

The Council of Europe has issued a number of Recommendations and guidance tools to help Member states fulfil the rights of the child in their national legislation and in their policies. In particular, the [Strategy for the Rights of the Child](#) (2016-2021) makes it clear that these rights concern *all* children:

*“Children in Council of Europe member States are entitled to enjoy the full range of human rights safeguarded by the European Convention on Human Rights, the United Nations Convention on the Rights of the Child (UNCRC) and other international human rights instruments. These include civil, political, economic, social and cultural rights. This Strategy seeks to encompass all these categories of human rights and sets out the Council of Europe’s and its member States’ commitment to make these rights a reality for all children.”*

Council of Europe Strategy for the Rights of the Child (2016-2021), paragraph 4

### Children’s experience

Children interviewed in the framework of the workshops did not know for the most part that they had rights, or what these rights were. The Cyprus workshops proved the exceptions, as children had regularly received explanations of their rights. As a result, it was problematic in setting up and conducting the workshops: many children, before and during the workshops, expressed doubts and incomprehension concerning the topic of rights.



In all countries, the facilitators began by giving real-life examples to explain the overall concept of children's rights, using different methods. In Portugal, the facilitators used a story to illustrate the rights of the child and what they could mean in a child's life. In Greece, facilitators, accompanied by cultural mediators, gave a visual presentation to present the main rights of the child. In Germany, the children who participated in the workshop had already been part of a group activity on children's rights. Even there, some of the children realised for the first time that they had rights even during age assessment. All children were unsure what these were and how they related to their current situation. After an icebreaker, the facilitators asked the children what rights they remembered and what difference they could make to their current situation.

All facilitators reported that the children, once they understood about these rights and what their application in practice, agreed that the rights presented to them were very relevant and started engaging actively. In Portugal, this moment of realisation was reported as being very clear for the facilitators, even though this may have occurred at a different point in time for each child. In Germany, the facilitators reported that the children expressed "anger" at not having been told about their rights. They felt that being aware of their rights would have helped them upon arrival and during procedures.

Even when not expressed in terms of anger, the sense of not having information, and of being helpless as a result, was widely reported in all countries. As some of the children in Portugal put it:

"I know that I have rights but I don't know them"

"No one ever told me about my rights as a child. I do not know any children's rights. I do not know what age assessment is. I do not know if I'll have to go through this"

Some children did report that efforts had been made to give them information, but these were limited. Overall, even when children mentioned adults who had helped (whose name or capacity was usually unknown to them), they did not recall being explained their rights or what was going on. A child in Germany pointed out that some efforts had been made, but that he was unable to fully understand the information provided at the time due to the language barrier:

"The information was only in German and a little English"

More fundamentally, even after the workshops, the overall impression of the children was that in their experience, these rights were not respected, and that "reality looks very different" (Germany). In Greece, some children reportedly were:

"more pessimistic [and] didn't believe there is a chance for their rights to be respected based on their personal experience".

## Recommendations from the children

Children cannot be actors of their own rights, i.e. speak out or engage actions to have these rights respected, if they are unaware of these rights or what they mean. As the workshops in the different countries attest, they overwhelmingly do not know much about their rights.

Conveying information to children is much more challenging for adults and authorities because children, depending on their age and maturity, will not understand all words or take notice of them in the same way as adults, or even in the same way at different ages. This is particularly true regarding abstract notions such as rights, and even more so for those rights that can be challenging to grasp, such as the best interest determination and the balance of protection and freedom that the rights of the child carry. This difficulty is compounded when the children involved don't speak the country's language, or can't read at all, and have a very limited understanding of what procedures and everyday life are like in that country. In addition, some children in migration may have additional vulnerabilities related to their individual situation, such as disabilities, that make communication even more challenging (this was the case for one child in Portugal, who was helped by a sign language interpreter).

Yet, the fact remains that all adults working with these children have a duty not only to know about the rights of the child, but also to explain them as best they can to children who may not be aware that they have rights.

Age-adapted documentation should be provided on their rights in a language they master. Additionally, specially adapted materials should be provided to pass information to those children who cannot read. There is ample guidance to be found in education sciences, pedagogy, and psychology. To help adults working with children in migration in this task, examples of how to impart information to children about their rights

in a child-friendly manner can be found in [How to convey child-friendly information to children in migration. A handbook for frontline professionals](#), published by the Council of Europe and available online.

Other guidance on how to make services child-friendly can be found in various documents issued by the Council of Europe such as the Guidelines [on child friendly justice](#) and [on child-friendly health care](#), the Recommendation [on child-friendly social services](#). These can give general pointers to adapt the professional and volunteer practice of adults working with children.

Overall, the main takeaway on this issue from all the children consulted, is that they would have liked to have more information on their rights before the process started and recommended that this be done in future. They insisted that the adults themselves should be informed about the rights of the child, as they realised that these rights are meaningless if the adults do not respect them.

An important additional aspect that was highlighted concerned the role of other children. In the Greek workshop, the child participants said that they themselves would inform other children in future, because other children would be more likely to listen to them. In all countries, they mentioned themselves and/or other children as sources of information and action.

# In whose best interests? The best interests principle and child participation

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## International standards and principles

*“1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

*2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

*3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision”.*

UN Convention on the Rights of the Child, Article 3

The UNCRC says that all decisions concerning children must favour “the best interests of the child” in the balance of interests and considerations that are at play in any decision that affects a child, and that this is particularly true in care institutions and services. But how are these “best interests” determined? International standards have set two main principles: the best interests consideration cannot be used to negate other rights of the child, and it needs to take into account each situation according to its specificities ([General Comment No. 14 of the United Nations Committee on the Rights of the Child](#)), as opposed to one-size-fits-all.

More crucially, another element that must be taken into account for all decisions is the opinion of the child. Article 12 of the UNCRC says that when a decision is made regarding a child or children, their views should be collected if possible and given due consideration “*in accordance with the age and maturity of the child.*” This does not mean that the decision will always be the one the child would make, but it does mean that his or her views must be collected, and each child’s personal situation examined, when a decision is taken by migration or child protection authorities, for example.

The Council of Europe Strategy for the Rights of the Child (2016-2021) identifies child participation as one of the 5 priority areas for action. Frequently overlooked, child participation is nonetheless a crucial guarantee for children to be considered as rights holders in accordance with the principle of the best interests of the child.

## Children's experience

A child's interests can cover many different types of needs, and identifying the "best" interests in any given situation can be a challenge. What do the children say about the main concerns they have for themselves and the situation they are in? Receiving an education and being able to learn the language of the country are elements that frequently featured in the children's testimonies. As age assessment can take a long time, and as training and education cannot always begin before the age assessment is completed, some children, especially in Portugal and Germany, said that they had fallen behind in their education and that this should not happen to children.

"Then, I came to a shelter. I was there for 8 months until I found a caregiver who looked at my documents. Then I came to this facility. I lost one year, no school, no German course, no education."

A child in Germany

The children in Cyprus reported that one of their main fears about age assessment was being determined an adult which would put an end to the possibility of attending school.

Access, where feasible to family members was also very important to all children. In Germany, children reported that authorities refused to move them to a place where relatives were nearby. Precisely because unaccompanied children have left their home environment and therefore have no parent to help and protect them, existing ties with relatives in the host country are all the more meaningful to them. In Cyprus, the children were enthusiastic about the possibility of being reunited with family members in other countries through the Dublin procedures. The age assessment procedure was a source of anguish for them during their wait. One child in Cyprus, as yet unable to appeal an age assessment declaring him to be an adult despite his claims to be 17 and a half, bitterly regretted not being able to reunite with his sister in Germany.

A thread running through children's comments in connection with their best interests and the element of participation concerned their right to be listened to and heard during age assessment. Feedback from all workshops reflected that most children felt that adults around them (mainly professionals from the different authorities) either did not pay attention to them or actively mistrusted them. Particularly in Portugal, many of the children's recommendations were geared towards adults and their interaction with children:

### Recommendation:

- 1 Education for the professional
- 2 Information for children and youth
- 3 Also listen to the children. One can be a minor but grown up in spirit

Mistrust from adults, being left out of the proceedings and not receiving any explanations are key aspects of the children's experience that can be addressed through training and awareness-raising among professionals and volunteers. The more substantial elements that constitute, in the children's own view, their best interests, are very dependent on any given child's situation, though family ties and education are central. The feeling of being left out was expressed with overwhelming consensus.

## Recommendations from the children

There are many inspiring practices and tools for professionals and adults helping children in migration that help assess the child's situation and collect his or her views during migration procedures. Of the multitude of available resources and good practices, the Council of Europe's [Recommendation on Life Projects](#) presents a useful methodology.

A key tenet highlighted in international standards concerning the particular situation of children in migration is that the "detention of children on the sole basis of their migration status or that of their parents" is never in the child's best interest (UNCRC, *Report of the 2012 day of General Discussion on the Rights of all Children in the Context of International Migration*).

Despite the challenges in determining the best interests of the child in any given situation, let alone that of an unaccompanied migrant child confronted by an age assessment procedure, it is important to bear in mind that their best interests can be undermined by inaction during the wait for results. Compensating for subsequent delays in schooling can be particularly problematic. Considering that children's physical and mental development goes at a faster pace than adults', it is important to avoid delays in important areas for their current and future well-being and inclusion, even before the lengthy process of age assessment is over.

Common complaints of the children also concerned the lack of information regarding waiting periods during age assessment: they felt disrespected, were not listened to and were not told what was happening. This type of situation is detrimental to the participation of children, their capacity to trust adults and to tell them about their life, which are all essential elements to determine the child's best interests and respect his or her right to participate in matters of direct concern to them.

As one child in Portugal said:

“Besides, I've been waiting for the results for over 5 months. I'm waiting for someone to do their job so I can continue with my life. Is this freedom?”

This illustrates the frustration and anxiety that children left without information can feel. Not being given any information on the duration of the process, or on why it is taking longer than anticipated, increases the sense of having been forgotten and disregarded. Taking the time to explain, even in a group setting, what is going on and what is taking so long, or about children's rights, and especially to listen to the children's concerns is a prerequisite to regain some form of trusting interaction between adults and the children.

Child's best interests. Is it respected or not ?		
No	No	No
No	No	No
No	Yes	No because they put me handcuffs

Responses by the 9 participants to one of the workshops in Greece to the question "Is the best interest principle respected or not?"

# To have or not to have identity documents

## Presumption of minority and principle of swift process

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### International standards and principles

*"1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*

*2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing his or her identity."*

UN Convention on the Rights of the Child, Article 8

*"To make an informed estimate of age, States should undertake a comprehensive assessment of the child's physical and psychological development, conducted by specialist paediatricians or other professionals who are skilled in combining different aspects of development. Such assessments should be carried out in a prompt, child-friendly, gender-sensitive and culturally appropriate manner, including interviews of children and, as appropriate, accompanying adults, in a language the child understands. Documents that are available should be considered genuine unless there is proof to the contrary, and statements by children and their parents or relatives must be considered. The benefit of the doubt should be given to the individual being assessed."*

Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

Being registered at birth is important because many procedures and rights depend on being able to show administrative documents proving a person's identity, nationality, and age. This is a right of the child according to Article 7 of the UNCRC. But there are still areas and communities in the world in which not all children are registered at birth. There are also countries whose public records are not considered trustworthy by other countries' immigration authorities. Finally, migration authorities sometimes consider that the documents presented by the children are fake or invalid. In all cases, a child's age cannot be determined by these documents alone which is where age assessment steps in.

The age of an unaccompanied child is extremely important as it determines access to education and support and has implications for the way in which their asylum claim is processed. [General Comment No. 6 of the United Nations Committee on the Rights of the Child](#), sets out: *"in the event of remaining uncertainty, [age assessment] should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, s/he should be treated as such"*.

Indeed, the reasons for which identity documents are not considered valid or are simply not in the possession of the person claiming to be a child are mostly not in the person's control: not having identity documents or not having identity documents that conform to the host country's requirements proves nothing either way.

This all means that, even in situations where age assessment is not complete, the persons whose age has not been assessed should be given the protections that unaccompanied children are entitled to. This is also stressed in the [Explanatory memorandum to the Recommendation CM/Rec \(2007\)9 on life projects](#).

Article 8.2 of the UNCRC also underlines the importance of speed as a key factor in proceedings: not only is being deprived of documentation not grounds for dismissing a person's claims, it is also a detrimental situation that needs to be remedied as quickly as possible, in the interests of the child and his or her capacity to exercise his or her rights.

## Children's experience

In all the workshops organised except Cyprus, where this question was not raised, children reported that either their identity documents had not been trusted, or children could offer no documents on arrival (birth certificates, passports, identity cards...). In both cases, they felt that authorities had treated them with suspicion. They felt that whatever their situation, with or without documents, there was no tangible difference in the general negative attitude of the authorities, and this was a source of bewilderment and frustration for the children.

One child in Germany expressed discomfort at the way authorities had spoken of his parents, who hadn't had him registered at birth, and felt torn by what he felt was a culturally insensitive question:

*"My parents don't know my date of birth, we don't have birth certificates. It is very important here. Sometimes we feel we should be ashamed of our parents, because they are so ignorant not even to know our birth date. But they are our parents and we want to respect, not be ashamed of them".*

When the children presented documents, these were not accepted, and without documents, they were blamed: many children felt helpless and did not know how to react, especially since they did not feel that the embassies were taking their requests for documents seriously. The concept of having to prove one's age through other means than their birth certificate was also sometimes difficult to comprehend or even absurd to some of them:

*"The age I acknowledge is the age on my birth certificate. This is the age I acknowledge".*

A child in Portugal

Another child in Germany, had documents that were dismissed and not even looked at:

*"The police asked how old I am. There were two women there as well, I don't know who that was and what they wanted. They didn't believe my age. I had documents and gave them to the translator. She said documents from Afghanistan are often fake and didn't show them to the police".*

In Greece, some of the children reported that the legal documents they had with them were not respected, and they all agreed that this was unacceptable. They advised children embarking on migrating to make sure that they show these documents to authorities: as this advice was expressed directly to other children, not adults who should be checking for them, it can be construed as a flagrant sign of the lack of hope and trust they have regarding adults.

Likewise, in Cyprus, though there is no mention of identity documents, children reported anger at being treated as though they are "lying" about their age or were "liars" in general (in their own words). This anger was focused on those adults who abused the system and made it necessary to undergo checks. However, as in the other countries, their primary recommendation was targeted at a child or young adult from their own country finding themselves in this type of situation, to explain the process to them. This would indicate that they mostly relied on each other, not on the authorities or adults.

## Recommendations from the children

Trusting identity documents or not can be a matter of policy regarding certain countries in general, when there is reason to doubt public records from a given country. It is also sometimes a question of having doubts on a case-by-case basis, based on the appearance of a person or of the documents they provide. In both cases, though, professionals should remember that this may have nothing to do with an action by the child, and that it is not enough to disregard the person's rights during age assessment – or to treat them as adults.

Respecting the presumption of innocence of the person claiming to be a child in the framework of age assessment is not just a symbolic question. A child with no valid identity documents is in a situation of vulnerability that should end as soon as possible, and as such should not delayed the provision of help and care, particularly when it is of a time-sensitive nature. This principle also corresponds to the insistence set forth by paragraph 23 of the [Recommendation on life projects for unaccompanied migrant minors](#) that "*Asylum procedures should not affect the effective preparation and implementation of life projects for these minors, for whom enhanced protection is necessary*". In the case of refugee children in particular, the need for protection is immediate and should not be delayed by procedure. It is no surprise that children feel contradicted about the accommodation and care they receive while their documents are being checked: on the one hand, they are given shelter and some form of protection, but on the other, this is fraught with mistrust, frequently with no end in sight that they know of, and very tied to documents that they may not be familiar with.

And the very concept of “demonstrating” one’s age, even beyond identity documents, is confusing to them. For instance, an element that children often underlined (in Portugal and Germany) was that doubts regarding a person’s age could go both ways, but authorities were not inclined to doubt persons who claimed to be older than they actually were. A child in Portugal illustrated this:

“A person can be small, but not know their real age and be older or a person think they are adults but really be smaller then they think. These things can happen because of family, because of the life story of the person or what happened to them”

The impact of life events on how people look is a factor that children frequently remarked on with multiple examples given of how their journey changed them:

“The woman from the youth department says I don’t look 16. I had bomb splinters in my face. How does she want to know what a bombed face looks like when you are 16? I would prefer having my old face back as well.”

A child in Germany

Taking into account the experience of trauma and the wider background of the child is important for age assessment, even in the preliminary stages. And even when professionals have doubts, it is important for children to be respected and listened to, even while the age assessment procedure is underway.

“Recommend to be quicker - Thanks”

A child in Portugal



# What are they doing to me?

## Prohibition of violence and degrading treatment; informed consent

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### International standards and principles

*"No one shall be subjected to torture or other inhuman or degrading treatment or punishment"*

European Convention on Human Rights, Article 3

*"States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes."*

Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return

Children are human rights bearers. The human rights expressed in the Universal Declaration of Human Rights and in the European Convention on Human Rights (which all Member states of the Council of Europe have ratified) are also rights of children: what is unacceptable for an adult is unacceptable for a child as well. The UNCRC is also very clear about this in its Article 37: *"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment"*, and it lists obligations of the states to ensure that this is respected (Article 39 says that children who have been victims of these treatments should be helped).

Defining exactly what constitutes *"cruel, inhuman or degrading treatment or punishment"* is challenging. However, the European Court of Human Rights has issued many decisions regarding this article of the ECHR, which clearly state, for instance, that gynaecological examinations on children constitutes degrading treatment. Overall, regarding age assessment practice and medical intervention therein, the principles of least invasive or traumatic treatment and informed consent apply to children, with a requirement that everything is explained in a way the child can understand.

General Comment No. 6 of the United Nations Committee on the Rights of the Child reflects this when it lists all that age assessment should and should not be (paragraph 31):

*"Such identification measures include age assessment and should not only take into account the physical appearance of the individual, but also his or her psychological maturity. Moreover, the assessment must be conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity."*

The [Council of Europe Strategy for the Rights of the Child \(2016-2021\)](#) also mentions *"demeaning age assessment procedures"* as one of the threats to migrant children's rights (paragraph 22).

Techniques that are de facto used for age assessment are very diverse. In some cases, *"sexual maturity"* is taken into account, and this can involve asking the child to undress to be observed or even touched, which is particularly hard to deal with for the children. In other cases, medical examinations such as X-rays are carried out, even without informing or asking the child, like in this case in Germany:

*"I was 15. The translator says: You lie. The border police was there. They wanted to write 17 down. I said: No. They wrote 17 anyway. I should complain later. A man in Naumburg said I should undress for health issues. And then I was 15 again. I don't know why they suddenly believed me."*

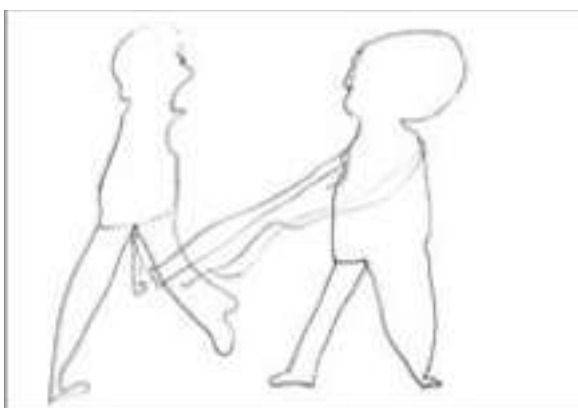
## Children's experience

Children perceive the medical examination part of the age assessment procedure as a particularly important and stressful moment. Those who had not yet undergone this part of the process expressed strong feelings on this, notably "because you don't know what kind of machines they are going to use" (as said collectively by the children in Greece and reported by the facilitators).

In Cyprus, though they underlined the responsibilities of medical professionals conducting the examinations in making sure their rights are respected, children generally stated that they were informed of their rights, had been asked for their consent to perform the medical examinations and did not feel mistreated during the entire process.

Both in Germany but especially in Portugal, the children consulted were particularly concerned about the sexual maturity examination, sometimes citing their cultural background as the reason why they were uncomfortable with it. The children's request to have a person of the same gender examine them were reportedly ignored. This caused apprehension for those waiting in line for the process to happen.

One of the children in Portugal even made a drawing to express his fears that "a woman [would] check a man".



Regardless of the gender of the examiner, children were uncomfortable with the idea of having to go through this examination. One of them, in Portugal, even pointed out the very unequal power dynamic in this procedure:

*"They did it in uncomfortable situations: imagine being told you are having this examination and in hospital they ask you to undress and stay naked, touching your privates, demeaning and humiliating you or treating you as non-human"*

Apart from the sexual maturity examination, other medical examinations were reported as traumatic by some children. In Germany and Greece, some of them were subjected to X-ray tests without explanation, and one of them refused to have this test done because of health concerns, pointing out that decisions to carry out X-ray testing should not be taken lightly.

Medical examinations form the brunt of the children's comments in reporting degrading treatment. But two children reported other experiences unconnected with medicine. One child in Germany experienced violence inside a shelter, a place that should afford protection. In Greece, one child reported being handcuffed by the police, expressing as follows:

*"The image of yourself wearing handcuffs like a criminal is devastating."*

## Recommendations from the children

Invasive procedures, medical procedures done without the child's informed consent, are very traumatising to the children, as the consultations show. Conversely, children understand the logic behind age assessment in general and the examinations that are proposed when these are explained to them and when their capacity to say no is respected, as the consultation in Cyprus shows. The same precautions and respect need to be taken for children undergoing age assessment as for children faced with medical examinations for other reasons, in line with the presumption of minority, because forced invasive or traumatic examinations are degrading and inhuman for all children. Unaccompanied children in migration, regardless of the debate on the scientific validity of the methods chosen, did not object to medical examinations per se in our consultation, but they insisted on contextualising these examinations with their own life events and, most importantly, on the necessity of receiving explanations regarding what medical professionals intend to examine and that the latter respect the boundaries set.

The Council of Europe [Recommendation on child-friendly healthcare](#) insists that “All children should be treated with care, sensitivity, fairness and respect throughout any health care intervention, with special attention for their personal situation, well-being and specific needs, and with full respect for their physical and psychological integrity” (paragraph 10), and lists suggestions for health care professionals that can also be useful for some age assessment procedures.

The recommendations made by children also included trying to find solutions to improving the steps taken to make this part of the procedure more acceptable to children. Some children in Portugal recommended that the adults explain to children what is going on:

*“It is very important before the child goes anywhere, to explain what you are going to do and why.”*

Similarly, in Germany, children explained that the lack of information on procedures made them feel helpless, and that they needed appropriate information and advice. In Greece, the recommendations proposed saying “no to the exam” and informing children about the examination before it was undertaken.

In Cyprus, the children also insisted that they should be told about the process beforehand, including the date of the interview, the possible results and their consequences. They also expressed appreciation for the role of guardians during interviews and medical examinations. They felt secure when a trusted adult was with them, whose purpose was to make sure that their rights were protected.

More radically, some children expressed feelings of anxiety and depression linked to the degrading treatment they had received and a few asked for this type of procedure to stop, or as this child in Portugal phrased it :

*“I would like that if there is a way to stop this, this would be very much important because today all young minors who participate to the procedure are completely depressed faced with this. We count on your understanding to find a better solution.”*

# Am I free to go?

## Right to liberty, guardianship and remedies

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### International standards and principles

“Children should never be detained for reasons related to their or their parents’ migration status and states should expeditiously and completely cease or eradicate the immigration detention of children”.

UN Committee on the Rights of the Child

“States should ensure that their determinations can be reviewed or appealed to a suitable independent body.”

Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return

One of the worst treatments mentioned by the children was being handcuffed, which was reported as very traumatic. Handcuffs mean you are being arrested for criminal offences, and to a child they mean you are guilty of something. But children in migration need protection.

Being deprived of liberty is particularly harmful for children. The UN Committee on the Rights of the Child has repeatedly asked all states to “*expeditiously and completely cease the detention of children on the basis of their immigration status*” and to “*adopt alternatives to detention that fulfil the best interests of the child*” ([The Rights of All Children in the Context of International Migration](#), paragraphs 78 and 79). The Parliamentary Assembly of the Council of Europe has made this commitment and its implications very clear through its [Campaign to End Immigration Detention of Children](#).

Unaccompanied children, as children, require some supervision by adults, but this should not impact their right to liberty. They can be housed in shelters, or in care institutions, in shared apartments with other children and educators, or with foster families in some cases, but the conditions should never be those of detention.

As they are children, they need to be helped in accessing the justice system, including for asylum and migration. This is why it is particularly important to make sure that children have professionals they can trust to help them understand the system and rules, and to receive the help they are entitled to: Article 17 of the [European Social Charter](#) recognises this when it says “*Children and young persons have the right to appropriate social, legal and economic protection*”. It is important that children receive the help of a guardian to do so. The guardian can also help the child exercise his or her right to appeal decisions, for instance when age assessment is made using demeaning or unscientific methods, or when it only considers physical appearance.

## Children's experience

Overall, even when they have not experienced detention, the children said they had not received the help and information they needed in good time, and they had mostly met authorities that did not listen to them or advise them in an effective way. In Germany, the feeling of "mistrust", of "disrespect" from the authorities is strongly expressed, and even guardians are not seen as persons of trust. Some children also complained about translators not being professional:

"The translators are bad. They translate what they want and not what we say".

In Greece, the children who used the interactive presentation software with the facilitators gave very clear opinions of how their rights to liberty and guardianship had been respected:

Right to liberty: no detention. Is it respected or not?		
It is important because I am a child	No because I was in a detention center	No because i was in police station
I was in the camp	No I was in a camp	Kemp
No i was in police station		

Right to have a guardian. Is it respected or not ?		
No	No I was alone	No
No I was alone	No I was alone	Yes

In Portugal, the children did not experience detention, but they also felt "helpless" and did not understand the procedures. An important element they mentioned in particular was the right to remedies, one child explaining that he was able to appeal to the tribunal after he was wrongly assessed as an adult. And one child expressed this as "the right to a court letter" (drawing reproduced below).

In Cyprus, the children had no experience of detention, but, as in Portugal, they put a strong emphasis on remedies, which current legislation bars them from effectively accessing (as age assessment is not considered a decision in itself). Their views of the overall process was, as in the other countries, tainted by the perceived mistrust/hostility of authorities, but it included a nuanced and distanced approach: they felt that it was meant "to intimidate the children and discredit their stories and credibility", for which they expressed anger, and "to make sure that adults do not live in shelter for children", which they thought was for the best.



## Recommendations from the children

Avoiding detention and making procedures more child-friendly are both important issues for children's rights. The Council of Europe has issued [Guidelines on child-friendly justice](#) to help professionals and policymakers, and tools on alternatives to detention.

In all countries, even in Cyprus the children felt that their right to liberty was well safeguarded, the children consulted said it was important to avoid the detention of children.

Being seen as a criminal, as having done something wrong, or even feel that the authorities were deliberately questioning credibility, was a recurring statement by children in all countries, even when there was no reported detention. In Germany, they expressed this as feeling a "lack of respect" or "lack of trust" from the authorities, both in their origin countries' embassies and in Germany. In Greece, some say they did not "believe there is a chance for their rights to be respected, based on [their] personal experience". In Portugal, being "listened to" was underlined.

This was also apparent when children were asked about the professionals responsible for their rights or who could be asked for help. In Cyprus, where the overall perception of law enforcement and public authorities was positive, the children identified "the government" as responsible for their rights. When asked, they said that this referred to the asylum services and the guardians. Their view of guardians was very positive, and

they identified them as sources of help when their rights were not respected (alongside the professionals in the shelter). The police was also listed as a source of help, but with no specific role. In Germany, the children mostly identified the border police and youth department as responsible for their rights, but they also said that these authorities behaved towards them with “*mistrust*” and “*lack of respect*”. They were moved from one facility to another without having the possibility to influence the decision or understand why. They felt “*helpless*,” and did not expect much from these professionals, whom they did not include in their recommendations.

In Greece, the children identified border guards and authorities as responsible for their rights, but, likewise, squarely focused their recommendations on information, advice from other children, and making remedies more effective. The only recommendation to other children that mentioned law enforcement was geared at the children, and somewhat negative regarding police procedures: “*Say directly to the police officer they should not put you in handcuffs*”. In Portugal, they equally did not expect much from law enforcement and insisted on information among children and from adults they could trust. Everywhere, they also expressed the need for trained professionals, including translators and guardians, to provide them with adequate help.

Overall, the impression that children had of the whole procedure was expressed as follows by one of the children in Germany:

“They didn’t believe me. I was examined, the police wanted me to undress. I didn’t want to but had to and was searched. I came into the shelter. I was beaten by adults. A translator helped me and I had a copy of my birth certificate. Two women helped, I don’t know who they were and then I was 16 again.”

One recommendation was that children themselves should inform other children. This is important, because children know what is important to a child. But this information on their rights, on the procedures, and the way to get these rights should also come from adults, authorities and professionals, to fully respect the child’s right to protection.

## Implications for policy and practice

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A few specific elements of legislation and procedures were directly questioned by the children, in each national context, based on their experience:

- ▶ In Cyprus, the main issue concerned the fact that age assessment could not be effectively appealed against. It was considered a component of the wider asylum decision, meaning that a person would need to wait until the whole procedure was over. But the results of age assessment, regardless of the asylum decision, could force a change in schooling and could imply being moved away from where they were rebuilding their life.
- ▶ In Germany, the main complaints focused on the lack of explanation of administrative decisions and respect. Even more than in the other countries, children did not understand the logic of decisions (refusal of family reunification, dismissal of identity documents), and did not feel that their complaints were considered.
- ▶ In Greece, detention in centres, police stations or camps were the most pressing concerns expressed by the children, who felt that their right to liberty was not respected. Their feeling of being treated as criminals, the anguish some of them felt, was deep-seated and repeatedly expressed.
- ▶ In Portugal, the children expressed significant fear of a possible sexual maturity examination. This practice was best avoided for children, in tandem with the [European Asylum Support Office's](#) recommendation for practice.

[Bridging the trust gap](#), however, goes beyond mere procedural adjustments. Although children recognised the positive efforts of many professionals and the respect of some of their rights, they were by and large in need of persons of trust, identifiable adults that they could rely on for explanations and protection. The children with guardians in Cyprus, for instance, were very grateful, pointing out their importance. But their interactions with other adults, except for lawyers and some social workers, were marked by the expression of mistrust: adults did not trust them, and they in turn did not trust adults.

[Information provided to the children and effectively listening to their concerns go hand in hand](#). To remedy the trust gap, it is essential to explain to children the procedures in a way that they can understand, which may involve repeating things, and to tell them about their rights using concrete, everyday examples. The Council of Europe's handbook [How to convey child-friendly information to children in migration](#) can give useful recommendations. Obtaining their participation, which is essential to uphold their rights, cannot be achieved without listening to their concerns, individually and collectively.

[Channelling solidarity between children](#) is also an important takeaway from this consultation. Children rely on each other for information and recommend support between children in this process. This means that reliable information on rights and procedures can be most effectively disseminated through peer solidarity. The capacity of children to act as defenders of their own rights and those of their peers is directly affected by the quality of information and messages they get: participatory information and awareness raising, even when few children attend, can help build a sense of solidarity and multiply access to rights among the children.





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