



Presidency of Italy
Council of Europe
November 2021 - May 2022

Présidence de l'Italie
Conseil de l'Europe
Novembre 2021 - Mai 2022

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Istituto Nazionale
per la promozione
della salute
delle popolazioni Migranti e per il contrasto
delle malattie della Povertà

INMP



NIHMP

National Institute for Health
Migration and Poverty

AGE ASSESSMENT OF UNACCOMPANIED MIGRANT CHILDREN: promoting a human rights and multidisciplinary approach

VALUTAZIONE DELL'ETÀ DEI MINORI STRANIERI NON ACCOMPAGNATI: promuovere un approccio multidisciplinare e rispettoso dei diritti umani

30 March 2022 - 30 marzo 2022

Hybrid meeting - Riunione ibrida

INMP, Via di San Gallicano 25/a - 00153 Rome, Italy

Ensuring a strong child rights approach in age assessment

Giusy D'Alconzo, Save the Children Italy

Age assessment before Law 47/2017

- Prohibition of deportation of UASC in 1998 Immigration Law: who are the children?
- Sketchy procedures and excessive administrative discretion
- Non-holistic approach: wrist x-ray exams often the only deciding factor
- Weak procedural guarantees
- The long path of civil society organisations and institutions for a change in UASC registration policies

Law 47 as a turning point

- A strong child protection approach in the context of migration controls as a key element for the enjoyment of human rights by migrant children and for a correct application of national migration law
- Presumption of minority until final age determination, benefit of the doubt, holistic approach, cultural mediation, involvement of legal guardians and role of juvenile courts
- Immediate improvements in the practice and positive initiatives at the local level (e.g. Protocols in Milan and Lazio)

Risks entailed in incorrect age determination in the practice

- Risks of rejection of UASC at land border (forbidden by Law 47)
- Inadequate reception arrangements upon arrival
- Risks of migration detention and deportation of UASC (forbidden by Law 47)
- Risks of inadequate procedures at the maritime border
- Risks of insufficient protection of minors victims of trafficking (e.g. cases of girls under age declaring to be adult)

The Protocol on age assessment as a key element of a system of guarantees: the way forward

- Avoiding excessive administrative discretion over age assessment by dissemination of operational guidelines and training on the Protocol to all institutional actors involved in identification, including public prosecutors' offices and border police
- Ensuring main assessment through ID documents whenever they are available
- Ensuring that authorisation of youth public prosecutors is considered a pre-condition of the age assessment

The Protocol on age assessment as a key element of a system of guarantees: the way forward

- Presumption of minority throughout age assessment procedure --> no age assessment in hotspots and other centres for adults
- Careful application of the benefit of the doubt
- Not all doubts are necessarily well-founded: a single element uncertainty or lack of ID documents are not enough; regarding physical aspect, the presence of elements that strongly and reasonably argue against minor age are needed

**'Anyone claiming to be a child should be treated as such'.
UN Committee on the Rights of the Child
Joint General Comment 3/22, Para 32(h)**

