

COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements by the Human Rights Centre at Ghent University*

[F.B. v. Belgium, App. No. 47836/21](#)

1. INTRODUCTION

This submission concerns the execution of the judgment of the European Court of Human Rights (hereafter: Court or ECtHR) in the case of F.B. v. Belgium, specifically concerning the violation of Article 8 of the European Convention on Human Rights (hereafter: Convention), based on a lack of sufficient safeguards in Belgian law regarding the applicant's right to private life.

In this case, the applicant F.B., an unaccompanied minor from Guinea arrived in Belgium on 2 August 2019 claiming to be 16 years old and requesting international protection. She underwent X-rays of the hand, wrist, clavicle and a dental scan, on the basis of which her age was estimated to be 21.7 years with a 2-year margin of error. In current Belgian procedure, an applicant only receives guardianship protection if minority is established, which means she was never appointed a legal guardian. The applicant claimed to be uninformed about the procedure and the possibility to refuse such tests. The Court examined the case under Article 8 of the Convention.

The judgment highlighted the importance of free and informed consent and stated that the medical examinations should be performed as a last resort only and not 'immediately when there is doubt' about a person's age, as stated in Belgian law. Furthermore, the Court highlighted the fact that the applicant was only interviewed by a specially trained employee after the tests had already been performed. For these reasons, the Court concluded that the decision-making process with regards to the guardianship and medical tests for unaccompanied minors was not accompanied by sufficient safeguards for the purposes of Article 8 of the Convention and consequently stated that there had been a violation.

The judgment, delivered by the first Section of the Court, dates from 6 March 2025. The Committee of Ministers is supervising its execution under the standard procedure.

The [Human Rights Centre at Ghent University](#) is a leading centre of expertise on international human rights law in general, and ECtHR law in particular. The Human Rights Centre valorises its expertise through constructive, impact-oriented activities. In that regard, it has submitted more than thirty third-party interventions before the European Court of Human Rights and five Rule 9 submissions to the Committee of Ministers of the Council of Europe.¹

¹ See: <https://hrc.ugent.be/clinic/third-party-interventions-before-ecthr/>.

2. EXECUTIVE SUMMARY

This submission aims to contribute to the implementation of the judgment in the Belgian legal order to prevent similar violations. First, this submission gives an overview of the judgment and the key findings of the Court. Second, the necessary general measures will be discussed, namely the use of informed consent and the access to information, the obligation to adopt a multidisciplinary approach, the consideration of less intrusive means and a mandatory interview before using medical examinations. This submission concludes with a final recommendation on how to comprehensively implement the judgment, considering the key findings of the Court and the upcoming Regulation 2024/1348.

3. JUDGMENT²

The case of *F.B. v. Belgium*³ concerns a violation of Article 8 of the Convention on account of a lack of sufficient procedural safeguards in the age assessment procedure applied to an unaccompanied minor, who submitted an application for international protection.

The Court observed that this case concerns an interference with the applicant's right to respect for her private life, resulting from the lack of sufficient procedural safeguards during the age assessment procedure, which eventually resulted in the applicant not receiving the care of a legal guardian. The Court noted in particular the following:

- The lack of written and informed consent (§ 87);
- The invasive nature of the medical examination and the failure to consider less intrusive means, such as psycho-social assessments, prior to using medical procedures (§ 90);
- The absence of an initial interview with a trained officer prior to the medical test (§ 93);
- The applicant's lack of access to understandable information regarding the testing procedure before the medical test occurred (§ 93).

The Court also noted the evolving international and European consensus on age assessments standards, particularly, the adoption of Regulation 2024/1348 by the European Union, which becomes applicable law in the Member States by 12 June 2026. Any domestic legislation that is not in accordance with this Regulation should thus be altered by said date. The Regulation, which is only applicable to unaccompanied minors who request international protection, mandates the use of multidisciplinary approaches, requires informed consent, and the presumption of minority in case of doubt (§ 59). This will be discussed further in Chapter 4b of this submission.

4. GENERAL MEASURES

This part of the submission gives a detailed description of the necessary general measures to ensure a comprehensive implementation of *F.B. v. Belgium*. It starts with an overview of the root causes of the violation, followed by an overview of Regulation 2024/1348. This is useful due to the Court's reference to this regulation and Belgium's obligation to implement this European legislation into its own regulatory framework, hence the added value of implementing both the judgment and the regulation in a holistic manner.

² Derluyn, I., Desmet, E. and Lembrechts, S., 'A mixed assessment on age assessment: *F.B. v. Belgium*', Strasbourg Observers, 9 May 2025, <https://strasbourgobservers.com/2025/05/09/a-mixed-assessment-on-age-assessment-f-b-v-belgium/> accessed 30 August 2025.

³ ECtHR 6 March 2025, *F.B. v. Belgium*, no. 47836/21.

a. Root causes of the violation

The UN Committee on the Rights of the Child⁴ addressed Belgium's handling of unaccompanied minors in 2019 already, stating their concern on the lack of effectiveness in the current medical age assessment procedure. The Committee described the utilised three-phase test as 'intrusive and unreliable'. It advised Belgium to 'develop a uniform protocol on age-determination methods that is multidisciplinary, scientifically-based, respectful of children's rights and used only in cases of serious doubt about the claimed age and in consideration of documentary or other forms of evidence available',⁵ an assessment which the Court follows in the present case of *F.B. v. Belgium*. Furthermore, it also advised the Belgian authorities to 'ensure access to effective appeal mechanisms', which will be further discussed in chapter 4b of this submission. The issue is not yet resolved, despite several recommendations and guidelines, which demonstrates the need for strict scrutiny by the Committee of Ministers and the Department for the Execution of Judgments in monitoring Belgium's adoption of legislation in conformity with the findings of the Court.

The relevant legal framework consists of the Program Law of 24 December 2002 regarding the guardianship of unaccompanied foreign minors⁶ and the Royal Decree of 22 December 2003 regarding the execution of title XIII, chapter 6 of the Program Law of 24 December 2002.⁷ Article 7 of the Program Law stipulates that a medical examination should be conducted immediately in case of doubt as to a person's age. This is not in line with the requirements under Article 8 of the Convention as specified by the Court. Article 3 of the Royal Decree states that the medical examination in Article 7 of the Program Law *can* include psycho-affective tests. Obviously, this does not pose an obligation for the competent authorities to first and foremost use psycho-affective tests, which implicitly reinforces the primacy of radiological examinations as the default method. Article 3 could be used as an effective safeguard; however, it is currently not applied in a Convention-compliant manner.

The routine practice for the Belgian authorities is to use Article 7 of the Program Law and perform a medical examination. This is published in the Guidelines for the age assessment of unaccompanied foreign minors by Vluchtelingenwerk Vlaanderen, stating that 'psycho-affective tests are not used in practice'.⁸ This is also evidenced by the informational videos⁹ on the medical age assessment procedure on the website of the Belgian Federal Department of Justice and the brochure¹⁰ currently used by the Commissioner General for Refugees and

⁴ UN Committee on the Rights of the Child (CRC), Concluding observations on the combined 5th and 6th periodic reports of Belgium, GRC/C/BEL/CO/5-6/EN, 28 February 2019, <https://digitallibrary.un.org/record/3793448?ln=en&v=pdf> accessed 30 August 2025.

⁵ *Ibid.*, Paragraph 42,a.

⁶ Program Law of 24 December 2002 regarding the guardianship of unaccompanied foreign minors, https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2002122445&table_name=wet accessed 30 August 2025.

⁷ Royal Decree of 22 December 2003 regarding the execution of title XIII, chapter 6 of the Program Law of 24 December 2002, https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2003122261&table_name=wet accessed 30 August 2025.

⁸ Vluchtelingenwerk Vlaanderen, 'Guidelines for the age assessment of unaccompanied minor foreigners', 17 March 2021, <https://vluchtelingenwerk.be/sites/default/files/media/documenten/Leidraad%20leeftijdsonderzoek.pdf> accessed 9 December 2025.

⁹ Federal Department of Justice, 'Video's', 11 September 2024, https://justitie.belgium.be/nl/nbmv_videos accessed 9 December 2024.

¹⁰ Office of the Commissioner General for Refugees and Stateless Persons, 'Guide for unaccompanied minors who apply for asylum in Belgium', August 2025, https://www.cgvs.be/sites/default/files/brochures/asiel_asile_-_nbmv_mena_-_unaccompanied-foreign-minor_-_eng_2_0.pdf accessed 9 December 2025.

Stateless Persons (Hereafter: CGRS) to inform unaccompanied foreign minors about their rights during the asylum procedure. It has no mention of an interview or a multidisciplinary approach. Furthermore, the Guardianship Service, which is currently responsible for determining an applicant's age, has experienced an increased workload after the COVID-19 pandemic in 2020.¹¹

Soutien Belge OverSeas, a Belgian organisation that supports young refugees living in Brussels, produced a report¹² in 2020 about the lives of young asylum seekers in Brussels with a chapter dedicated to the age assessment of applicants. This report gives an overview of the concrete impact on young asylum seekers as well as valuable insights on the magnitude of the issue. For example, the report discusses the (mental) health of the applicants and gives statistics on the number of applicants in Brussels. It calls for using medical age tests only as a last resort and to change the philosophy of the current procedure, by which the Belgian authorities adhere to a very strict age-oriented asylum policy, and instead opt for a vulnerability-oriented procedure, where trust is placed in the applicants' statements and declarations of age. Furthermore, Platform Kinderen op de Vlucht has published an extensive, in-depth report which covers every aspect of the age assessment procedure and proposes possible enhancements.¹³

Belgium has submitted a communication on 9 September 2025 under Rule 8.2a of the Rules of the Committee of the Ministers with implemented measures.¹⁴ However, these do not include a change in legislation, which is necessary for the implementation of F.B. v. Belgium. In order to implement the judgment of the Court, the legislation needs to be adapted to make sure that the multidisciplinary approach becomes the first step and not just an option. Practice shows that the optionality of the multidisciplinary approach results in the primacy of the medical examination. The necessary legislative changes will be discussed further in this submission.

b. Implementation of Regulation 2024/1348¹⁵

The European Union has adopted a new Regulation, aiming to create a new common procedure for international protection in the Union, which will be applicable as of 12 June 2026 and will replace Regulation 2013/32/EU, as part of the European Pact on Migration and Asylum.¹⁶ Member states must bring their domestic law and procedures in line with the Regulation by said deadline. The Regulation is only applicable for unaccompanied minors who apply for asylum, which leaves unaccompanied minors who try to earn right of residence through other means out of the protection of the Regulation. This is an important consideration

¹¹ Guardianship Service, 'Statistieken dienst Voogdij: Jaar 2024', <https://justitie.belgium.be/sites/default/files/statistiques/2024%20Gloaal%20Stat%20ST-DV.pdf> accessed 9 December 2025.

¹² Soutien Belge Overseas, 'Report: Young Refugees living in reception and accommodation centres in Brussels', 2020, <https://sboverseas.org/en/report-young-refugees-living-in-reception-accommodation-centres-in-brussels/> accessed 30 August 2025.

¹³ Platform Kinderen op de Vlucht, 'Leeftijdsschatting van niet-begeleide minderjarigen (NBMV) in vraag: Probleemstelling, analyse en aanbevelingen', 2017, <https://www.kinderenopdevlucht.be/files/Image/mena-Cadre-juridique/Leeftijdsschatting-as-printed.pdf> accessed 9 December 2025.

¹⁴ Council of Europe, Committee of Ministers 1537th meeting, 'Communication from the authorities concerning the case of F.B. v. Belgium', (Rule 8.2a Communication, 9 September 2025), no. DH-DD(2025)1020.

¹⁵ Regulation (EU) 2024/1348 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, 14 May 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32024R1348> accessed 9 December 2025.

¹⁶ European Commission, 'Pact on Migration and Asylum: A common EU system to manage migration', 21 May 2024, https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en accessed 30 August 2025.

for the Committee of Ministers during its assessment of the implementation measures of F.B. v. Belgium, as this implementation requires at least the protection standards established in the judgment for all unaccompanied minors. The Regulation shifts the responsibility for the age assessment procedure for unaccompanied minors who apply for asylum from the Guardianship Service to the CGRS, which is the 'determining authority' in Belgium.

Article 25 of Regulation 2024/1348 provides a *modus operandi* with regard to age assessments, which considers the best interests of the child as primary throughout the procedure.¹⁷ First, the age assessment should use a multidisciplinary method, which could include a psycho-social assessment and other non-medical methods (e.g. interview, visual assessment based on physical appearance or assessment of documentation). This first step should always be performed by a professional with expertise in age estimation and child development.¹⁸

If the result of the multidisciplinary approach is inconclusive, a second step for the governing authorities should remain possible in order to determine the age of the applicant. The governing authority can request a medical examination, as a measure of last resort and with full respect for the individual's dignity. Furthermore, these medical examinations should prioritise the least invasive procedures before proceeding to more invasive equivalents. If the unaccompanied foreign minor refuses medical examinations, they cannot automatically be considered an adult. Finally, if the result remains inconclusive, the member states should assume that the applicant is a minor.

Informed consent is also included in Article 25 of Regulation 2024/1348, more specifically the obligation for the competent authorities to provide the applicant and their parents or guardians with information about the goal of the examination, the methods of examination, the possible consequences of the result and the possible consequences of a refusal to undergo a medical examination. This information should be provided in a comprehensible manner to the applicant, i.e. in a language they understand and in a child-friendly and age-appropriate way.

As previously stated, Belgium is obliged to implement this Regulation as well as the judgment of the Court. Both documents have a similar intention, but partially different scope (Cf. *supra*). They both demand the use of:

- Informed consent before proceeding with a medical age assessment and other important procedural safeguards, such as clear information on the extent of the procedure;¹⁹
- A prior interview with a trained officer, entailing an obligatory multidisciplinary approach;²⁰
- The presumption of minority;²¹
- Medical age assessment methods only as a last resort, thus considering less intrusive means first and foremost.²²

Requirements imposed by Regulation 2024/1348 go further than those required by F.B. v. Belgium. It demands a specific *modus operandi* on how the age assessment procedure should happen. However, this also means that the implementation of F.B. v. Belgium automatically fits within the implementation of Regulation 2024/1348 with regards to unaccompanied minors

¹⁷ Recital 37, Regulation 2024/1348.

¹⁸ Article 34(3), Regulation 2024/1348.

¹⁹ § 87 & 93, F.B. v. Belgium & article 8, 2 Regulation 2024/1348.

²⁰ § 93, F.B. v. Belgium & article 12 Regulation 2024/1348.

²¹ § 73, F.B. v. Belgium & article 25, 2 Regulation 2024/1348.

²² § 90, F.B. v. Belgium & article 25, 2-3 Regulation 2024/1348.

applying for asylum. The implementation of *F.B. v. Belgium* entails adequate safeguards for all unaccompanied minors and should be addressed accordingly. The following parts of this chapter will discuss the necessary measures in further detail.

c. Use of written and informed consent and distribution of clear and accessible information prior to the medical examination

The Belgian Guardianship Service currently distributes information to unaccompanied minors in the form of videos²³ and an information brochure²⁴. This brochure is only relevant for applicants after they are determined to be a minor. The videos provide a clearer explanation about the procedure, although they lack an emphasis on the importance of informed consent. Informed consent not only implies that the information is provided in an accessible manner, in a language the person understands, but also that it is verified whether the person has truly understood that information.²⁵ This is not adequately guaranteed by showing the applicant an informational video. The official guide by the Commissioner General for Refugees and Stateless Persons,²⁶ which has a chapter dedicated to what happens if there is doubt about an applicant's age, is distributed to the applicant during the request for international protection and has no direct link to the age assessment procedure; the CGRS follows the decision made by the Guardianship Service. This guide is distributed to asylum applicants in several languages. It states that, in case of doubt, an X-ray of the wrist, collarbone and teeth will be taken. None of these informational tools ensure explicit and informed consent, nor do they adequately explain the right to refuse or the potential consequences of the medical intervention.

A medical test may not be performed without the applicant's consent, as previously highlighted by the Court in *Pindo Mulla v. Spain*.²⁷ In this judgment, the Court highlighted the importance of informed consent when it comes to medical interventions and prescribed consent to be prior, free and informed. The importance of informed consent is also highlighted by ECRE, which has published a legal note²⁸ on the issue of age assessment procedures in Europe, and by the UN Committee on the Rights of the Child.²⁹

In their communication of 9 September 2025, the Belgian authorities acknowledge the lack of sufficient procedural safeguards and note that part of the procedure has been adapted 'in order to better ensure that young people are informed, to protect their rights and to strengthen legal certainty.' In this Communication, Belgium claims that it has altered the process of obtaining Convention-compliant consent. The authorities now use an official consent form and that, in case of refusal, the decision will be made based on the other available elements.

²³ Federal Department of Justice, 'Video's', 11 September 2024, https://justitie.belgium.be/nl/nbmvm_videos accessed 9 December 2024.

²⁴ Federal Department of Justice, 'Brochure', https://justitie.belgium.be/sites/default/files/downloads/Brochures%20NBMV-MENA/EN_Brochure_MENA-NBMV_online.pdf accessed 9 December 2024.

²⁵ Platform Kinderen op de Vlucht, 'Leeftijdsschatting van niet-begeleide minderjarigen (NBMV) in vraag: Probleemstelling, analyse en aanbevelingen', 2017, <https://www.kinderenopdevlucht.be/files/Image/mena-Cadre-juridique/Leeftijdsschatting-as-printed.pdf> accessed 9 December 2025.

²⁶ Office of the Commissioner General for Refugees and Stateless Persons, August 2025, https://www.cgvs.be/sites/default/files/brochures/asiel_asile_-_nbmv_mena_-_unaccompanied-foreign-minor_-_eng_2_0.pdf accessed 30 August 2025.

²⁷ ECtHR 17 September 2024, *Pindo Mulla v. Spain*, no. 15541/20.

²⁸ European Council on Refugees and Exiles, 'Age assessment in Europe', December 2022, <https://ecre.org/wp-content/uploads/2023/01/Legal-Note-13-FINAL.pdf> accessed 30 August 2025.

²⁹ UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6, 1 September 2005, <https://www.refworld.org/legal/general/crc/2005/en/38046> accessed 30 August 2025.

However, the same informational tools are still published online, which do not clearly explain the process of obtaining consent. The communication by the Belgian authorities also do not mention whether informed consent is obligatory or will be expressly documented.

The Belgian legislation needs to be adapted, by adding a comprehensive definition of consent and a clear obligation to obtain written and informed consent before proceeding with medical age assessment methods. This consent needs to be documented and stored. Applicants also need access to the information regarding the procedure, which should be addressed accordingly in the legislation.

d. Obligation to consider less intrusive means

The Court found a violation of Article 8 of the Convention because an invasive radiological age assessment was performed before considering whether less intrusive means could be used to determine the applicant's age. The Court emphasised that medical examinations of this nature affect bodily and personal integrity, must be a last resort and must be preceded by sufficient procedural safeguards, which ensure the exploration of less intrusive alternatives. Those requirements are best met by a multidisciplinary approach combining psycho-social, legal and medical expertise.

The Court puts an implicit emphasis on the use of a multidisciplinary approach during the age assessment process, which would require that medical findings are not treated as dispositive in isolation and that other, non-medical evidence would be meaningfully considered before a final decision regarding the applicant's age is taken. This is in anticipation of Regulation 2024/1348 and in line with several authoritative views cited throughout this submission. For example, the CRC General Comment No. 6 describes how states should protect unaccompanied children outside their country of origin. It emphasises the need for a multidisciplinary approach to age assessments, respecting the children's dignity and rights. According to the General Comment, medical and radiological testing can be used, if at all, as a last resort and can never be invasive and should never be solely relied upon. The Commissioner for Human Rights also stated in 2017 that, when performing age assessments, the procedure should be multidisciplinary instead of solely relying on medical evidence.³⁰

The Belgian legislation needs to be amended to clearly establish the primacy of less intrusive means, such as an interview or the assessment of the applicant's personal documents. Article 3 of the Royal Decree's current optional use should be altered to an obligatory use to ensure that medical examinations are only used as a last resort. Furthermore, Article 7 of the Program Law should be brought in accordance with Regulation 2024/1348 to implement the mandatory *modus operandi*. This sequencing of events would ensure that less intrusive means are used and thoroughly considered before advancing to medical examinations. The communication by the Belgian authorities does not mention this aspect of the judgment. This needs to be clearly established in legislation.

The European Union Agency for Asylum has developed a Practical Guide³¹ which compiles best practices on age assessment, with the latest edition published in November 2025. It focuses on Regulation 2024/1348, while also referencing *F.B. v. Belgium*. The guide describes how adequate procedural safeguards should be guaranteed for unaccompanied minors and gives guidance on how to use a multidisciplinary approach to age assessments.

³⁰ Commissioner for Human Rights, 'Issue Paper: Realising the right to family reunification of refugees in Europe', 2017, <https://rm.coe.int/commdh-issuepaper-2017-1extracts-familyreunification-commhr-recommenda/168072701d> accessed 30 August 2025.

³¹ European Union Agency for Asylum, 'Practical Guide on age assessment', November 2025, https://www.euaa.europa.eu/sites/default/files/publications/2025-12/2025_Practical-Guide-on-Age-Assessment_EN.pdf accessed 9 December 2025.

The Court steers clear from assessing whether classic medical and radiological age assessment tools are still useable or relevant today. However, this submission would like to address the unreliability of such tools and explain why they preferably should be avoided altogether, due to the availability of other means. The standard method is the Greulich and Pyle-method, where a standard bone age Atlas is used to compare the applicant's bones to the bones shown in the Atlas. The Atlas' X-rays of the hand and wrist were taken in the United Kingdom between 1931 and 1942, while the latest edition of the Atlas itself was published in 1959. This method is today widely recognised as inherently flawed and outdated, as published by the European Society of Paediatric Radiology musculoskeletal task force group³², the European Economic and Social Committee³³ and Platform Kinderen op de Vlucht.³⁴ Current practice of this method uses a standard deviation³⁵ of two years³⁶ to counteract biological differences. This broad 'standard' deviation and the lack of cultural and biological diversity awareness at the time of the creation of the Atlas showcase the unreliability of the tool. Therefore, if medical age assessment methods continue to be used today (although as a means of last resort), this submission calls upon the Belgian authorities, supported by the European Union, to invest in creating a new medical method of assessing the age of unaccompanied minors. The current method is not up to today's standards and should be thoroughly revised and adapted, while taking biological differences into account.

e. Obligatory prior interview with an officer from the Guardianship Service

F.B. v. Belgium requires several concrete, procedural changes. An age assessment process requires a specific sequencing of events and a guardianship interview; a multidisciplinary assessment should ordinarily occur before any invasive medical testing, in line with previous ECtHR case law, such as Darboe and Camara v. Italy³⁷ and A.C. v. France.³⁸ In F.B. v. Belgium, the Court specifically noted that the guardianship interview occurred only after the medical test and that this sequencing undermined procedural safeguards. Furthermore, the Court stated that a prior specialised interview could have identified whether doubts could be handled by other means, such as document verification via the consulate, psycho-social testing and reports from the handling officers and thereby could have avoided invasive testing. A prior interview with a trained officer is an explicit demand from the Court. It falls within the scope of the use of a multidisciplinary approach and the obligation to first consider less

³² Ording Müller, L. & Others, 'Bone age for chronological age determination: statement of the European Society of Paediatric Radiology musculoskeletal task force group', 26 March 2019, <https://link.springer.com/article/10.1007/s00247-019-04379-4> accessed 29 November 2025.

³³ European Economic and Social Committee, 'Own-initiative opinion: The protection of unaccompanied migrant minors in Europe', 18 September 2020, <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/protection-unaccompanied-migrant-minors-europe-own-initiative-opinion> accessed 30 August 2025.

³⁴ Platform Kinderen op de Vlucht, 'Leeftijdsschatting van niet-begeleide minderjarigen (NBMV) in vraag: Probleemstelling, analyse en aanbevelingen', 2017, <https://www.kinderenopdevlucht.be/files/Image/mena-Cadre-juridique/Leeftijdsschatting-as-printed.pdf> accessed 9 December 2025.

³⁵ Black, S. and Hackman, L., 'The reliability of the Greulich and Pyle Atlas when applied to a modern Scottish population', 12 October 2012, <https://pmc.ncbi.nlm.nih.gov/articles/PMC3781705/> accessed 30 August 2025; Brackx, M. and Cools, M., 'Proving minority: the Human Rights Centre and CESSMIR submit a third party intervention regarding age assessment of unaccompanied minors', Strasbourg Observers, 23 May 2022, <https://strasbourgobservers.com/2022/05/23/proving-minority-the-human-rights-centre-and-cessmir-submit-a-third-party-intervention-regarding-age-assessment-of-unaccompanied-minors/> accessed 30 August 2025.

³⁶ Orde der Artsen, 'Testen voor leeftijdsbepaling bij niet-begeleide minderjarige vreemdelingen', 20 February 2020, <https://ordomedic.be/nl/adviezen/deontologie/consent-fully-informed/testen-voor-leeftijdsbepaling-bij-niet-begeleide-minderjarige-vreemdelingen> accessed 30 August 2025.

³⁷ ECtHR 21 July 2022, Darboe and Camara v. Italy, no. 5797/17.

³⁸ ECtHR 16 January 2025, A.C. v. France, no. 15457/20.

intrusive means. The implementation of F.B. v. Belgium should entail a legal requirement for a prior interview with a trained officer as an obligatory first step. This obligation needs to be added to the Program Law and is in line with the other key findings of the Court. It also is in accordance with the implementation of Regulation 2024/1348, although the determining authority for unaccompanied minors, who requests international protection, shifts from the Guardianship Service to the CGRS (Cf. *supra*). The Belgian authorities have changed the procedure in practice as stated in the Communication, currently an officer from the Guardianship Service is present during the first interview, although the extent of this interview is unclear and needs legal clarification and codification.

f. Provide clarity on the lack of an effective appeal or the consequences of the refusal to undergo a medical examination

The Court did not explicitly address the lack of an effective appeal or the consequences of the refusal to undergo a medical examination. However, this submission argues that the full implementation of F.B. v. Belgium should incorporate this element. The goal of the Court is to enhance the protection of unaccompanied minors, and this can only be achieved by also addressing these forms of procedural safeguards. If an applicant is found to be over the age of 18, no guardian will be appointed, which means that an applicant lacks protection from this moment on. The benefit of the doubt should be given to the applicant until the appeal procedure is finished.

There is no explicit legislative hypothesis in case the unaccompanied foreign minor refuses to undergo a medical examination. Regulation 2024/1348 addresses this issue and states that 'refusal to undergo a medical examination shall not automatically lead to the rejection of the application or the presumption that the applicant is an adult. It may be treated only as a rebuttable presumption and must be weighed with other elements.' This also means that the refusal to undergo a medical examination will not automatically end the possibility of guardianship protection, seeing that the presumption of adulthood is rebuttable and must be weighed against other elements, such as the result of the multidisciplinary approach. The new official consent form, which is not yet published on an official government website, does state that 'the refusal of a medical examination entails that the decision is made based on other available information.' This is a step in the right direction, although legislative certainty would enhance the protection of unaccompanied minors.

The AIDA Country Report on Belgium 2024³⁹ discusses in-depth the current procedure in Belgium and criticises the way of appealing the result of an age assessment, labelling it as an ineffective appeal. ECRE's legal note⁴⁰ also discusses the need for effective remedies against the result of an age assessment procedure. Practice shows that member states provide appeals that are practically inaccessible, as is the case in Belgium. An applicant can appeal the decision of the competent authorities, but the appeal does not suspend the decision, meaning that the applicant still does not receive adequate guardianship protection and must wait for the procedure to conclude, which often means that in practice, the applicant reaches the age of majority before the end of the appeal. The lack of a suspensive appeal showcases another form of an inadequate procedural safeguard, which in our view should be addressed in the implementation of F.B. v. Belgium.

Although the Court did not explicitly address these issues, we submit that the implementation of F.B. v. Belgium should incorporate these aspects to match the Court's intentions. The Belgian authorities should provide legislative clarity on the consequences of refusing a medical

³⁹ AIDA, 'Country Report: Belgium – 2024 Update', June 2025, https://asylumineurope.org/wp-content/uploads/2025/06/AIDA-BE_2024-Update.pdf accessed 30 August 2025.

⁴⁰ European Council on Refugees and Exiles, 'Age assessment in Europe', December 2022, <https://ecre.org/wp-content/uploads/2023/01/Legal-Note-13-FINAL.pdf> accessed 30 August 2025.

examination and should aim to enhance the appeal procedure to optimise the protection of the applicants.

5. CONCLUSION AND RECOMMENDATIONS

This submission identifies the necessity to change Belgian legislation and procedures to implement *F.B. v. Belgium*, while also complying with Regulation 2024/1348. The judgment in *F.B. v. Belgium* confirmed that the current Belgian age assessment framework lacks essential procedural and substantive safeguards, in violation of Article 8 of the Convention. The deficiencies identified by the Court require urgent domestic legislative and administrative reforms. The following recommendations to the Committee of Ministers are made:

- The Committee of Ministers should continue its supervision at least until Belgium has applied Regulation 2024/1348 and altered other domestic legislation and procedural guidelines to be in accordance with this European legislation.
- Demand a clear legislative and administrative reform roadmap to ensure a full, comprehensive implementation of *F.B. v. Belgium*, in line with the requirements under Regulation 2024/1348. The roadmap should set milestones for the adoption of new legal provisions, their implementation in practice and independent monitoring by relevant expertise panels.
- Demand the use of informed consent before proceeding with medical examinations. Furthermore, information about the extent of the age assessment should be given to the applicant before the use of a medical examination method. These changes should be made in the legislation as well as in practice.
- Demand a clear sequencing of age assessment tools, as prescribed by Regulation 2024/1348, with the clear and explicit obligation to consider less intrusive means before using a medical examination method.
- Demand a prior interview with a trained officer as a mandatory first step in the age assessment procedure. This obligation should be explicitly prescribed by law.
- Ensure that all unaccompanied minors can enjoy at least the protection standards established by the Court in *F.B. v. Belgium*, also those who do not fall within the scope of Regulation 2024/1348.
- Demand clarity on the consequences of the refusal to undergo a medical age assessment and the use of suspensive appeals. These changes fit in the implementation of Regulation 2024/1348 and the aim of the Court, which is to protect the rights of unaccompanied minors.
- Demand a reconsideration of the current medical age assessment tools. The outdated, ethnocentric medical age assessment techniques should be replaced with scientifically validated and culturally sensitive methods. Belgium should continue to help create and participate in EU-wide research initiatives aimed at improving age determination accuracy, as it started doing on the recent EUAA Workshop on Age Assessment Methodology in Vienna. Furthermore, Belgium should suspend default reliance on this method and, until better methods exist, ensure that radiological testing is only used when justified, with clear margins of uncertainty.