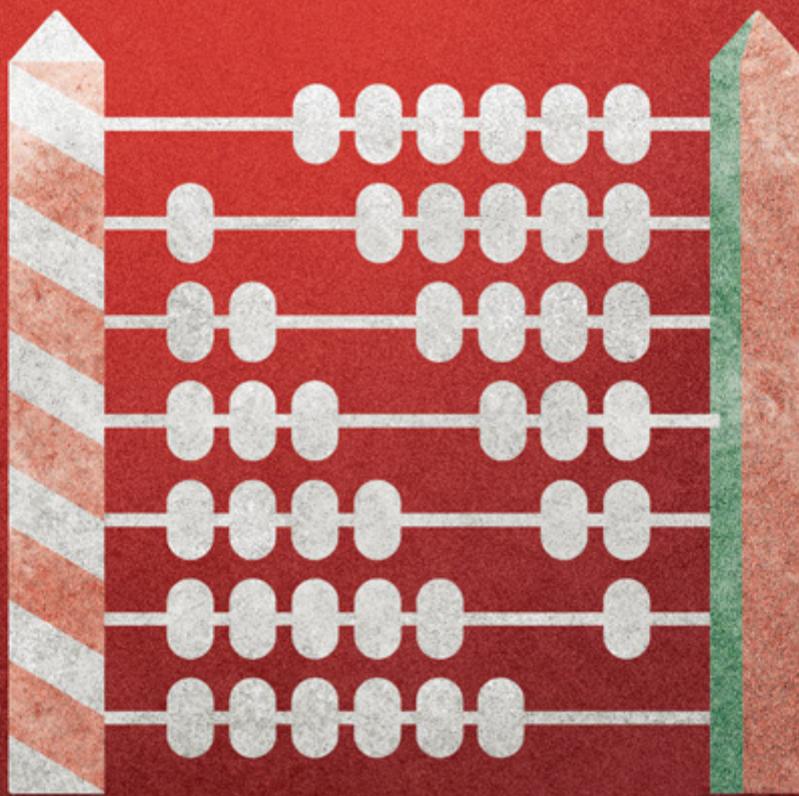


AGE AS A VERDICT

HARMFUL AGE ASSESSMENTS
OF UNACCOMPANIED MIGRANT
CHILDREN IN POLAND



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This Advocacy Brief aims to broaden knowledge about age assessment methods used in Poland to determine the age of asylum seekers and identify their far-reaching consequences. It complements the existing knowledge about children who come to Poland, focusing on those who have crossed the Polish-Belarusian border in recent years because of the heightened exposure to systemic harm. As discussions on unaccompanied children migrating to Poland have remained limited to a small circle of specialists—mainly professionals working in institutions and NGOs and largely absent from political debate—this briefing note is primarily intended for those involved in assessing the age of migrants and making decisions based on those assessments.

The information presented may be particularly useful for medical personnel conducting age assessments through medical tools, judges and public authorities who rely on their results, and policymakers shaping the migration management systems.

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The eastern route, which leads through forests and marshes of Poland's Podlasie region, has been used for years by people trying to reach the European Union. Since 2021, the route through Belarus to Poland has developed into a migratory corridor to the EU, increasingly used by people seeking protection from the Middle East, Central Asia, and East Africa. From the outset, Poland's response centred on reinforcing border controls through physical barriers and new legal measures. These policies have repeatedly drawn criticism from international and domestic human-rights organisations – including UNHCR, Amnesty International, and Human Rights Watch – for restricting access to asylum procedures and undermining the right to seek protection guaranteed under international law.

Between the gradual closure of official border crossings, the fortification of the border, and the suspension of the right to seek asylum, **the Poland-Belarus border soon became a particularly dangerous trap for those most vulnerable**. The physical design of the border deterrence system, such as the use of concertina razor wire placed on top and at the bottom of the first border fence, seems to be designed to inflict deliberate harm¹. The systematic denial of access to Polish territory, as well as the refusal of assistance to individu-

als seeking asylum, has resulted in men, women, and children being trapped within dense primeval forests, exposed to violence, and subjected to indefinite pushbacks² across the Poland-Belarus border.

Between October 2022 and August 2025, We Are Monitoring³ has documented 8,579 pushbacks carried out by the Polish State, with over 1,344 people reporting experiencing at least one. Out of those, at least 261 were children.

We Are Monitoring as well as other actors⁴ have also consistently documented testimonies that describe intentional and prolonged violent attacks against asylum seekers – including women and children – during pushbacks.

In March 2025, the Polish government suspended the right to seek international protection along the Polish-Belarusian border for 60 days. Although the measure was introduced as an exceptional and temporary response, it has already been extended three times and currently remains in force until 22 November 2025. The decision has been widely criticised by international organisations and human-rights groups⁵ for undermining access to asylum and for its incompatibility with international refugee protection stan-

¹ M. Edwards, *A bloody method of control: the struggle to take down Europe's razor wire walls*, The Guardian, 2020.

² 'Pushback' is a common term to denote the action of State representatives forcibly and in most cases collectively returning individuals seeking protection to another country in an irregular/informal manner and subsequently preventing or restricting them access to protection mechanisms. Most documented cases of pushbacks from Poland to Belarus follow a consistent pattern: crossing a 5.5-metre-high steel wall, topped with razor wire and equipped with an electronic surveillance system. Once apprehended on the Polish side, migrants are typically either first taken to the Border Guard facility or forced directly back into Belarus, where they have no access to food, water, medical assistance, or shelter in the border zone.

³ The We Are Monitoring Association is part of the Border Group coalition. Since 2021, they have been working to advocate for human rights by collecting, analysing and sharing data on the scale of movement, abuses of power and various forms of violence, including institutional violence, experienced by people on the move. They are also collecting testimonies from those who have experienced pushbacks. See more: <https://wearemonitoring.org.pl/>.

⁴ See also: *Poland: Brutal pushbacks at Belarus border*. Human Rights Watch, Brussels, December 10, 2024; *Brutal Barriers: Pushbacks, violence and the violation of human rights on the Poland-Belarus border*, OXFAM, March 18, 2025

⁵ See also: *Country Report: Access to the territory and push backs*, Asylum Information Database (AIDA), 15 July 2025, <https://asylumineurope.org/reports/country/poland/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs>; Amnesty Public Statement, 1 May 2025.

dards. The legislation suspending the right to protection stipulates that the suspension does not apply to some categories of individuals – including unaccompanied minors; pregnant women; persons who may require special treatment, in particular due to their age or state of health. So far there is no effective mechanism for identifying individuals belonging to those vulnerable groups. Moreover, reports from civil society organisations and migrants confirm that the use of pushbacks is still indiscriminate and widespread⁶. In the case of minors, a decisive issue is the initial need to recognise them as individuals under the age of 18 – posing a significant challenge when the individual does not hold a travel document. This at the moment lies within the sole discretion of officers carrying out the apprehension, which is particularly challenging in situations where apprehensions occur in forests, without witnesses, and under conditions of language barriers and stress. Effectively, since March 2025 Border Guards have exercised even greater authority over an individual's trajectory and they are the ones who in practice decide whether a person will be allowed to undergo full age assessment procedure and apply for asylum. They may as well decide to initiate immediate pushback or refer an individual to health facilities for age assessment procedures, neither of which is subject to effective appeal procedures or any other transparent control mechanism. Multiple testimonies account to the fact that minors intercepted in the border area are in most cases pushed back along with the rest of their group and receive no differential tre-

atment. Only if a person is even considered as a potential minor (the practice of 'triaging people' based on visual cues and outside any known formal procedural framework) at this first step are they referred for a further age assessment. Visible vulnerability has in practice become the sole criterion guiding protection-related decisions, with far-reaching implications for procedural pathways and the extent of access to further protective measures.

” No, no. They didn't beat me every time. Once they asked how old I was. I said fourteen. They let me go without beating, but they destroyed my phone.

Adil, from Sudan*. He was subjected to multiple pushbacks in 2024. He is traveling unaccompanied

The practice of age assessment at the border is situated within the broader context of suspension of the right to seek asylum and the denial of access to asylum procedures for individuals not recognised as belonging to a “particularly vulnerable group” and their arbitrary expulsion to Belarus. Moreover, medical personnel involved in conducting such assessments are frequently kept unaware of the potentially severe consequences of their determinations. According to multiple observers, **these practices undermine the right to seek asylum, compromise medical ethics, and distort the intended purpose of age assessment within asylum procedures** – with serious consequences for many individuals denied access to protection.

* name intentionally changed, testimony collected by We Are Monitoring Association.

⁶ According to data gathered by Natalia Ciastoń, Centre of Migration Research UW, only based on decision ordering departure from Polish territory, the Polish Border Guards pushed back 172, 5, and 69 children in 2022, 2023 and 2024 respectively. All were accounted for traveling with guardians. There is no data on how many children were pushed back based on the Regulation of the Ministry of the Interior and Administration of 13 March 2020, which, according to the Border Guard statistics, is used more commonly, with 70 020 pushbacks carried out based on the Regulation of the Ministry of the Interior and Administration of 13 March 2020 and only 8 009 based on decision ordering departure from Polish territory between August 2021 and December 2024. There is also no data on how many pushbacks concerned unaccompanied children, who - according to We Are Monitoring data - constituted approximately 75 % of all minors in the last two years. See also: *Children and Unaccompanied Children at the Polish-Belarusian border*, We Are Monitoring 2025.

Introduction:

Context and current legal framework in Poland

A Data and statistics – overall arrivals and unaccompanied children

Poland has, in recent years, experienced a reversal in migration patterns, becoming a country of net immigration.

- **After the outbreak of the war in Ukraine**, Poland received millions of refugees who were granted temporary protection. Currently, 997,000 people hold this status⁷. In 2025, 7,060 refugees from Ukraine applied for international protection so far, giving up their temporary protection status⁸.
- **At the same time**, people from other countries continue to arrive in Poland in search of international protection. In 2024, just over 10,000 people applied for protection⁹.
- **Of this number**, about 16% of applications concerned children, including 297 unaccompanied minors¹⁰.
- **According to data collected by activists from We Are Monitoring**, around 7% of people on the migration route through Belarus are unaccompanied minors¹¹. However, it often happens that these individuals are

not identified as minors, or—in the face of violence from the Polish authorities—decide to continue their journey without applying for protection in Poland.

Data on unaccompanied minors unfortunately remain incomplete; however, publicly available information¹² indicates that the number of children arriving in Poland without adult caregivers is relatively low—particularly in comparison with other EU countries. Importantly, on other migration routes leading to Europe, we observe that — despite a recent decline in overall arrivals — the proportion of unaccompanied minors is increasing¹³. It can therefore be expected that the challenges related to the proper identification and reception of these children are, and will continue to be, pressing for Poland as well.

B Data and statistics – age assessment

Because the regulations for granting the right to enter and to stay in the country are different between minors and adults, governments are eager to ascertain the age of the asylum seekers who declare themselves to be minors. **Chronological age and documented date of birth**

⁷ Polish Government Open Data Portal, *Zarejestrowane wnioski o nadanie statusu UKR* <https://dane.gov.pl/pl/dataset/2715,zarejestrowane-wnioski-o-nadanie-statusu-ukr> [accessed 10 October 2025].

⁸ Portal Gov.pl, *Official Government Publication* <https://www.gov.pl/attachment/d0237fcc-a57b-4dab-a4d9-2904a2b54206> [accessed 10 October 2025].

⁹ Portal Gov.pl, *Official Government Document* <https://www.gov.pl/attachment/5c497e06-0903-42cb-970c-3f64ae036f52> [accessed 10 October 2025].

¹⁰ Portal Gov.pl, *Official Government Document* <https://www.gov.pl/attachment/5c497e06-0903-42cb-970c-3f64ae036f52> [accessed 10 October 2025].

¹¹ *We Are Monitoring, Children and Unaccompanied Children at the Polish-Belarusian Border, January – May 2025*, p. 2; *So I told myself I couldn't stay here... Unaccompanied children at the Belarusian border and in Polish alternative care system in 2024*, published by Save the Children Poland, June 2025, p.19

¹² See footnotes 7-10, referring to data collected by public institutions.

¹³ *Crossing lines. Realities of migrant children at the EU external borders*, Save the Children, 2025, p.7-8.

are critical determinants in migration procedures; however, due to fear of persecution in the country of origin, loss of documents, incomplete birth registration systems, armed conflicts, and poverty, many refugees lack verifiable proof of age. As a result, European states routinely question their age and subject them to harmful and unreliable age assessment procedures.

Figures from age verification procedures conducted at the Polish-Belarusian border highlight the scale and outcomes of such practices in Poland. In 2024 alone, 286 individuals were referred for age assessment in medical facilities near the Polish-Belarusian border. Only 17% (48 individuals) were recognised as minors¹⁴. The largest group consisted of Somali nationals—over 190 individuals, of whom only 15 were recognised as minors. In the first half of 2025, 17 individuals were referred for

age assessment in the same region of Poland. Only 14% (4 individuals) were recognised as children—the rest were denied access to asylum procedures and pushed back to the State border. The largest groups were nationals of Somalia and Afghanistan¹⁵.

The determination of whether an individual is a minor or an adult carries significant implications, influencing procedural pathways and the scope of further protection. Although no scientifically validated method currently exists for precisely determining biological age, in Poland—as in many other EU countries—such procedures are regulated by national legislation and are becoming an increasingly integral component of border and migration policies. These procedures are deliberately designed to restrict access to protection and rights.

	2024	2025 (JAN-JUN)
Number of individuals referred for age assessment in medical facilities located near the Polish-Belarusian border	286	17
Number of people recognized as minors as a consequence of those procedures	48	4
Number of individuals referred for age assessment in medical facilities located near the Polish Germany border	42	77
Number of people recognized as minors as a consequence of those procedures	11	1

Data was acquired via Poland’s Access to Public Information mechanism, following official requests directed to the Podlaskie and Nadodrzańskie Border Guard Units.

¹⁴ Czerwińska, K. and Geller, A.M. (eds), *So I Told Myself I Could Not Stay Here: Unaccompanied Children at the Belarusian Border and in the Polish Alternative Care System in 2024*, Save the Children Poland, Warsaw, 2025, p. 11.

¹⁵ Podlaskie Border Guards Office, *Access to Public Information response*, reference number PD-OI-V.0180.50.2025.

C Legal frameworks for age assessment

In the Polish legal system, issues related to the assessment of the age of persons with migration experience are regulated by two acts: the Act of December 12, 2013, on foreigners¹⁶, and the Act of June 13, 2003, on granting protection to foreigners on the territory of the Republic of Poland¹⁷. In cases where there is doubt regarding the age of a person seeking protection, these two acts define the legal basis, procedure, and purpose of conducting age assessments, and designate the authority responsible for ensuring medical examinations—namely, the Border Guard.

The existing legal framework lacks comprehensive provisions in several key areas.

The legislation does not specify whether age assessment should be used as a measure of last resort, nor does it outline the methodology beyond the general term “medical examination”. Even though the Act on Foreigners as well as the Act on granting protection to foreigners allow for medical examination only “in the case of doubt” as to the person’s declared age, they do not require the Border Guard to justify, in any way, that there indeed exists any objective “doubt”. The legislation also fails to require consideration of the individual’s declaration (presumption of minority), the presence of legal representation and an interpreter for the person concerned, psychological observation of psychosocial development, or even submitted documents—inc-

cluding photographs or scans. Further, it does not provide any appeal procedure or mechanism to challenge the outcome of a medical age determination, although such decisions have far-reaching consequences for realising children’s rights.

The laws also lack detailed implementing regulations governing the age assessment procedure, including methodological standards or the involvement of qualified specialists such as radiologists, paediatricians, paediatric endocrinologists, psychologists or dentists.

Both acts stipulate only that refusal to undergo the examination results in the automatic recognition of the individual as an adult, which consequently excludes them from access to rights afforded to minors. As a result, **many aspects of the procedure remain unregulated, leading to inconsistent and arbitrary practices.** This legislative structure raises concerns about coherence and compliance with the principle of the best interests of the child, particularly in a context where migration strategies are becoming increasingly restrictive and often result in routine violations of fundamental rights, deprivation of liberty, or even disappearances due to the practice of pushbacks¹⁸.

Importantly, some of the Polish courts have noted that the X-ray of the wrist is not an appropriate method to determine a person’s age, or at least it is not sufficient to undermine copies of the documents presented by an

¹⁶ The Act of December 12, 2013 on Foreigners, Art. 397 sec. 4–5 – refers to situations where a foreigner claiming to be a minor is admitted to a guarded centre or detention facility. The text says that in case of doubt as to age, medical examinations may be carried out with the consent of the person or their legal representative. The Act also emphasizes that the results of medical examinations should indicate the margin of error. Failure to give consent results in the person being considered an adult.

¹⁷ The Act of June 13, 2003, on granting protection to foreigners within the territory of the Republic of Poland, Art. 32 directly concerns the procedure for determining age in the context of proceedings for granting international protection. It includes, among other things, provisions on the need to obtain the consent of the foreigner, the obligation to provide information, and the essence of using the least invasive examination technique possible. Although the Act states that “If it is not possible to obtain an unambiguous result of the medical examination, the applicant shall be considered a minor,” it does not mention the need to present the margin of error of the examination.

¹⁸ Human Rights Watch, *Poland: Brutal Pushbacks at Belarus Border – Border Guards Use Force, Deny Access to Asylum Procedures*, 2024, available at: <https://www.hrw.org/news/2024/12/10/poland-brutal-pushbacks-belarus-border> [accessed 25 August 2025]. It is worth mentioning that in the Polish law there are no provisions allowing for medical age assessment procedure for the purpose of pushbacks. The existing provisions are related only to the asylum-seekers and foreigners in detention. Nevertheless, such procedures are performed and may lead to a pushback.

unaccompanied minor. The Regional Court in Grójec, decision of October 9, 2024, II Ko 3184/24, noted that bone age development studies are not always reliable. Furthermore, they indicate biological age, not chronological age. „As we know, human developmental stages can be disrupted, and the interpretation of test results must always depend on the knowledge of the person reading the radiological examination. Finally, the examination did not indicate the margin of error.” Such rulings, however, seem to have little impact on the practice of the Border Guard.

The observed practice of the Border Guard and medical personnel (often being unknowingly instrumentalised) raise questions regarding the application of standards related to the use of radiation.

While the EU legislation (EU Directive 2013/59/EURATOM¹⁹) allows for the use of radiation for non-medical purposes, including for age assessment, there are numerous safeguards that must be met. The Directive 2013/59/EURATOM was implemented into Polish law in the Act of 29 November 2000 - Atomic law²⁰, which in Article 33zh requires that the use of radiation for non-medical purpose be justified, taking into account the characteristics of the exposed individual. There are additional information requirements for the exposed individual, as well as a provision, that such radiation may be performed solely on the basis of a written request by an authorised medical professional²¹.

What is more, currently, the domestic legislation and practice do not meet minimal standards set out in the EU Pact on Migration and Asylum²², which gives priority to a multi-disciplinary assessment, including a psychosocial assessment, which shall be carried out by qualified professionals. Also, according to the Pact, the assessment shall not be based solely on the applicant’s physical appearance or behaviour. Documents that are available shall be considered genuine, unless there is evidence to the contrary, and statements by minors shall be taken into consideration²³.

Crucially, this practice contravenes the jurisprudence of the European Court of Human Rights, as established in *Darboe and Camara v. Italy*²⁴. In that case, the Court found a violation of the applicant’s right to private life stemming from the authorities’ failure to uphold the presumption of minority—a fundamental principle that, when disregarded, led to the denial of essential procedural safeguards.

Despite numerous recommendations from international and non-governmental organisations (referred to and quoted in further sections) advocating for the abandonment of radiological methods—or their use only as a last resort—in favour of a holistic approach to age assessment, single-disciplinary medical examinations, with all their ambiguities and imprecisions, remain the predominant practice in Poland.

¹⁹ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, OJ L 13 (17 Jan 2014) 1, <https://eur-lex.europa.eu/eli/dir/2013/59/oj/eng> [accessed: 31 October 2025]

²⁰ Act of 29 November 2000 - Atomic Law (consolidated text: Journal of Laws 2024, item 1277) <https://eli.gov.pl/eli/DU/2024/1277/og1> [accessed 31 October 2025].

²¹ Template of the request is contained in a Regulation of the Minister of Internal Affairs and Administration of 22 April 2021 on the scope of information covered by the order to carry out non-medical exposures using radiological devices related to immigration, assessment of the age of persons and identification of objects hidden in the human body (Journal of Laws, item 817).

²² European Commission, “Pact on Migration and Asylum” (DG Home Affairs) (21 May 2024) https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en [accessed 31 October 2025].

²³ Article 25 of Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

²⁴ A European Court of Human Rights, *Darboe and Camara v Italy* (21 July 2022) <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-218424%22%7D> [accessed 31 October 2025].

Ethical and Medical concerns in the use of medical examinations for age assessment procedures

Internationally, medical and paediatric professional institutions, including international medical organisations such as *Médecins Sans Frontières*²⁵, have consistently raised serious concerns over the use of medical procedures for non-medical purposes, such as for the chronological age assessment in the context of migration procedures. This criticism is grounded in significant ethical reservations and the lack of scientific precision.

A International medical consensus against non-clinical use of age assessment

International medical organisations and paediatric professional associations have consistently warned against the use of medical age assessments for non-clinical purposes, citing both ethical violations and scientific unreliability.

As early as 2015, the *European Academy of Paediatrics* (EAP) explicitly recommended that paediatricians refrain from participating in age determination processes for asylum seekers who declare themselves to be minors²⁶. Similarly, the *International Society for Social Pedia-*

trics and Child Health (ISSOP), in its 2017 position statement, emphasized that healthcare professionals should not be involved in such procedures unless scientifically and ethically acceptable methods are developed²⁷. The *European Society of Paediatric Radiology* (ESPR), in its educational materials and guidelines on the use of radiation in children, stresses the importance of minimizing exposure and restricting imaging procedures to clinical purposes—implicitly excluding their use for administrative tasks such as age assessment²⁸. The *World Medical Association* (WMA) underscored that any medical methods that could involve a health risk for the applicant, e.g. radiological examinations without medical indication, must be avoided²⁹. Although the *Standing Committee of European Doctors* (CPME) has not issued a dedicated statement on age assessment, it has repeatedly affirmed that physicians must not be used to advance political objectives and that their actions must align with medical ethics and serve the best interests of the patient³⁰. In the United Kingdom, both the Royal College of Paediatrics and Child Health and the British Dental As-

²⁵ Benvenuti, B., Marshall-Denton, C. and McCann, S., *Death, Despair and Destitution: The Human Costs of the EU's Migration Policies*, Médecins Sans Frontières, 21 February 2024, DOI: 10.57740/JVOW8383, available at: <https://www.msf.org/sites/default/files/2024-02/Migration%20Report%20-%20D01%20URL.pdf>, p. 71.

²⁶ Sauer, P., Nicholson, A. and Neubauer, D., 'Age Determination in Asylum Seekers: Physicians Should Not Be Implicated', *European Journal of Paediatrics*, 175 (2016), p.299.

²⁷ International Society for Social Pediatrics and Child Health (ISSOP), *ISSOP Position Statement 8: Migrant Child Health*, 30 January 2017, available at: https://issop.org/wp-content/uploads/cmdm/862/issop_position_statement_8_%20migrant_child_health_2017-01-30.pdf [accessed 25 August 2025].

²⁸ European Society of Paediatric Radiology (ESPR), *Radiation Protection Guidelines for Paediatric Imaging*, ESPR Publications, available at: <https://www.espr.org/publications/radiation-protection/> [accessed 25 August 2025].

²⁹ World Medical Association (WMA), *WMA Statement on Medical Age Assessment of Unaccompanied Minor Asylum Seekers*, Adopted by the 70th WMA General Assembly, Tbilisi, Georgia, October 2019, available at: <https://www.wma.net/policies-post/wma-statement-on-medical-age-assessment-of-unaccompanied-minor-asylum-seekers/> [accessed 12 September 2025]

³⁰ Standing Committee of European Doctors (CPME), *Statement on the Independence of the Medical Profession*, CPME, March 2024, available at: <https://www.cpme.eu/api/documents/adopted/2024/03/cpme.2024-019.final.statement-on-the-independence-of-the-medical-profession.pdf> [accessed 25 August 2025].

sociation have unequivocally condemned the use of X-rays and other biological methods for age determination, citing their low reliability, lack of clinical relevance, and the risk of violating children's rights³¹. At the *European agency level*, the *European Union Agency for Asylum* (EUAA) recommends a holistic approach to age assessment³², beginning with non-medical and non-harmful methods (such as psychological interviews), and allowing medical methods only as a last resort—provided that full ethical and procedural safeguards are in place³³.

B The unreliability of current age assessment methods in Poland across diverse populations

The catalogue of medical examinations to estimate the age of a minor includes: atlas-based methods, single bone analysis, dental age estimation using X-ray imaging, as well as techniques involving computed tomography (CT) or magnetic resonance imaging (MRI). In Poland, standard radiological methods—primarily wrist X-ray—are the most commonly used³⁴. This method, used for non-clinical

indications, has long been questioned and openly criticised by the medical and scientific community, including paediatric and radiological specialists, as unreliable for various reasons³⁵. Two crucial aspects must be considered regarding age determination in cases when the age of an asylum seeker is in doubt.

From a medical ethics perspective, any procedure must be carried out solely to benefit the patient's health, in accordance with the principles of autonomy, dignity, and bodily integrity. The use of potentially harmful methods to determine age for administrative purposes stands in direct opposition to these values and undermines the ethical obligations outlined in both the Physician's Pledge³⁶ and the Polish Code of Medical Ethics³⁷.

In particular, the general principle of *primum non nocere*—"first, do no harm"—requires physicians to avoid actions that may inflict harm without offering medical benefit. Radiological procedures performed on children without clinical justification are therefore disproportionate and ethically indefensible. These assessments serve no therapeutic function

³¹ Royal College of Paediatrics and Child Health, *College Statement on the Role of Paediatricians in the Age Assessment of Unaccompanied Young People Seeking Asylum*, 2009, available at: <http://www.rcpch.ac.uk/Policy> [accessed 7 August 2025]. The RCPCH states that exposure to radiation through x-ray imaging for non-medical purposes is unethical, and that current methods proposed by the Government lack sufficient evidence to accurately determine the age of this population of children.

³² European Asylum Support Office (EASO), *EASO Age Assessment Practices in EU+ Countries: Updated Findings*, July 2021, p. 8, fn. 4. EASO notes that a multidisciplinary approach to age assessment should consider physical, psychological, developmental, environmental and cultural factors, and that a process relying solely on medical methods cannot be considered multidisciplinary.

³³ European Council on Refugees and Exiles (ECRE), *Legal Note: Age Assessment in Europe – Applying European and International Legal Standards at All Stages of Age Assessment Procedures*, 13 January 2023, available at: <https://ecre.org/legal-note-age-assessment-in-europe-applying-european-and-international-legal-standards-at-all-stages-of-age-assessment-procedures/> [accessed 25 August 2025].

³⁴ Poszytek, M. and Sługocki, M., *Methods for Assessing Chronological Age in Proceedings Involving Foreigners*, Warsaw: Helsinki Foundation for Human Rights, 2023. Available at: <https://hfhr.pl/upload/2024/03/metody-oceny-wieku-chronologicznego.pdf>, p.15. (accessed August 25, 2025).

³⁵ World Medical Association (WMA), *WMA Statement on Medical Age Assessment of Unaccompanied Minor Asylum Seekers*, Adopted by the 70th WMA General Assembly, Tbilisi, Georgia, October 2019, available at: <https://www.wma.net/policies-post/wma-statement-on-medical-age-assessment-of-unaccompanied-minor-asylum-seekers/> [accessed 12 September 2025]; International Society for Social Pediatrics and Child Health (ISSOP), *ISSOP Position Statement 8: Migrant Child Health*, 30 January 2017, available at: https://issop.org/wp-content/uploads/cmdm/862/issop_position_statement_8_%20migrant_child_health_2017-01-30.pdf [accessed 25 August 2025]; European Society of Paediatric Radiology (ESPR), *Radiation Protection Guidelines for Paediatric Imaging*, ESPR Publications, available at: <https://www.espr.org/publications/radiation-protection/> [accessed 25 August 2025].

³⁶ Polish Chamber of Physicians and Dentists, *Code of Medical Ethics*, adopted by Resolution No. 5 of the Extraordinary XVI National Medical Assembly, 18 May 2024, available at: <https://nil.org.pl/izba/naczelnarada-lekarska/komisje-i-zespoly/komisja-etyki-lekarskiej-667/8927-code-of-medical-ethics> [accessed 19 September 2025].

³⁷ Supreme Medical Chamber (Naczelna Izba Lekarska), *Code of Medical Ethics*, adopted at the Extraordinary 16th National Assembly of Doctors in Łódź, 2024. Available at: https://nil.org.pl/uploaded_images/1723037323_kel-2305.pdf (accessed 25 August 2025).

and expose young individuals to unnecessary risks, including radiation from X-ray imaging. Children are especially vulnerable to such exposure due to their heightened sensitivity to adverse effects of ionising radiation and longer life expectancy, which raises the likelihood of long-term harm and increases the window of opportunity for the damage to emerge. Crucially, these children are not patients in the traditional sense, and this distinction matters. Unlike clinical care, which is guided by the goal of diagnosing or treating illness, these procedures are conducted solely for administrative evaluation, lacking both consent-based engagement and holistic medical oversight.

Moreover, the radiological methodologies used for age assessment fail to account for critical individual factors such as ethnic background, underlying health conditions, metabolic and genetic traits, social circumstances, and both acute and chronic pathologies—including hormonal imbalances—which are especially relevant for individuals from regions affected by conflict, malnutrition, and famine³⁸.

This concern is amplified by the fact that commonly used techniques in Europe, such as wrist X-rays, are based on reference populations of Caucasian descent and **consistently yield inaccurate results when applied to individuals from non-Caucasian backgrounds**, particularly those of African or Middle Eastern origin, due to significant differences in physiological and developmental characteristics. A notable example is the Greulich and Pyle anatomical atlas³⁹, developed in the United States in the 1950s and still used in some Polish hospitals.

Originally intended to identify deviations from typical, averaged developmental patterns in healthy, well-nourished American children of that era, the atlas was never designed to determine chronological age.

Its use in age assessment is, therefore, fundamentally flawed: it merely compares an individual's bone development to that of a mid-20th-century Caucasian child from the U.S., offering no reliable insight into the actual age of individuals from diverse backgrounds. Another widely used atlas was compiled by Jadwiga Kopczyńska-Sikorska in 1969⁴⁰, based on the population of Polish children. Even updating the atlases with contemporary data would not resolve this issue, as the methodology is based on statistical averages and standard deviations that are especially unreliable during adolescence—a period marked by wide variability in growth rate. Simply put – the method is a way to estimate an individual's bone age and relate it to *known* chronological age and thus estimate growth acceleration or retardation. It is *not* a reliable method of approximating chronological age – the core idea of the method is for the chronological age to be known to the physician beforehand – it cannot be applied in reverse.

C Margin of error in age assessment

Critically, the margin of error in age estimation using this tool can reach up to five years⁴¹, making it unsuitable for high-stakes decisions such as determining legal adulthood. In clinical settings, physicians would require additional diagnostic data (e.g. psychological and physical examination) to improve accuracy, but such nuance is often disregarded in administrative contexts.

³⁸ Cavallo, F., Mohn, A., Chiarelli, F. and Giannini, C., 'Evaluation of Bone Age in Children: A Mini-Review', *Frontiers in Pediatrics*, 9 (2021), article 580314, available at: <https://doi.org/10.3389/fped.2021.580314> [accessed 25 August 2025].

³⁹ Greulich, W.W. and Pyle, S.I., *Radiographic Atlas of Skeletal Development of the Hand and Wrist*, Stanford University Press, Stanford, CA, 1959.

⁴⁰ J. Kopczyńska-Sikorska, *Radiological Atlas of the Development of the Bones of the Hand and Wrist* (State Medical Publishing House, 1969).

⁴¹ Sauer, P., Nicholson, A. and Neubauer, D., 'Age Determination in Asylum Seekers: Physicians Should Not Be Implicated', *European Journal of Pediatrics*, 175 (2016), 299.

This issue is particularly evident in migration procedures in Poland, where age assessments are typically reduced to a binary judgment—whether an individual is under or over 18 years of age.

The forms submitted by the Border Guard to medical facilities reflect this oversimplification, requesting only a categorical determination without accounting for the significant margin of error inherent in the methods used. Bone and dental maturity assessments are probabilistic tools, not precise measurements, and their reliability decreases during adolescence. **Using these methods as definitive indicators of legal adulthood—without corroboration from other specialists or alternative techniques** and without the appropriate safeguards in place, including the presumption of minority — **risks misclassifying minors as adults.** Such errors can have serious consequences, potentially placing vulnerable individuals at increased risk of harm to their physical and mental well-being, and raising concerns under Article 6 of the Polish Code of Medical Ethics, which emphasizes that medical procedures should rely on scientifically verified and safe methods.

D Ethical boundaries for physicians in age assessment

In conclusion, the involvement of physicians in legal determinations regarding the age of asylum seekers raises complex ethical and professional concerns that have been echoed by statements and positioning of leading medical institutions worldwide.

Asylum decisions are fundamentally legal and political in nature, and there is no medical justification for physicians to participate in such processes, particularly when the individual's health is not directly at risk. **Medical interventions should only be undertaken when**

clinically justified, respecting the principles of autonomy, dignity, and bodily integrity. When used for non-medical purposes, such as determining legal responsibility or age in migration procedures, these practices violate core tenets of medical ethics, including the principle of *primum non nocere* ("first, do no harm"). Furthermore, if a physician's assessment based on unreliable tools contributes to further harm to people, such as pushbacks of an adolescent, would they then be accountable for any resulting physical or psychological harm? These issues underscore the need for clear boundaries between medical practice and legal adjudication in migration contexts.

Médecins Sans Frontières therefore calls on the medical community to refrain from participating in chronological age assessments that lack clinical justification and risk contributing to harm being implemented as part of a wider system of mass refoulement. **The role of healthcare professionals should remain rooted in the ethical obligation to serve the health and well-being of their patients.**

Moreover, physicians should also be assured that they cannot be coerced into taking part in age assessment using radiological methods in the context of their ethical and scientific shortcomings. As stated above, the radiological methods used in migrants' age assessment are not grounded scientifically and have been heavily undermined and exposed as ineffective and imprecise by many publications of individual authors and medical societies. The Polish Code of Medical Ethics also explicitly states that physicians should be guaranteed freedom of medical actions in accordance with their conscience and the latest medical knowledge, applying only those means which they deem necessary for the well-being of the patient (articles 4 and 6).

Unprotected and Unheard: Procedural Gaps in Age Assessment for Unaccompanied Minors in Poland

A Violations of children's rights in age verification system in Poland

Save the Children monitors the protection of the rights of migrating children, including those seeking international protection within the European Union. An analysis of Poland's current legal framework, together with the practices applied in border procedures and compared with approaches in other EU Member States, suggests that the Polish age assessment system raises significant concerns regarding the protection of children's rights⁴². The Commissioner for Human Rights and the Ombudsman for Children also pointed out the shortcomings of the current method of assessing the age of foreign minors in a joint statement to the Prime Minister. In a letter dated October 28, 2024, they emphasized the need for a comprehensive age assessment, taking into account psychological, developmental, and social factors. The methods currently in use do not guarantee an accurate age assessment, which is why it is so important to inform about the margin of error, and any doubts in this regard should be resolved in favour of the person declaring themselves to be a minor⁴³.

The Asylum Information Database AIDA report explicitly states that in Poland, unaccompanied minors applying for international protection are subjected to age assessment

procedures even when there are no reasonable grounds to doubt that they are children⁴⁴. As evidenced by publicly available documents—including correspondence from the Commissioner for Human Rights and the Ombudsman for Children addressed to the Prime Minister, the response from the Ministry of Internal Affairs and Administration dated January 30, 2025, and individual complaints submitted to both Ombudspersons—it appears that the Border Guard routinely refers unaccompanied minors for medical age assessments. This practice is applied almost automatically, particularly in cases where the individual lacks a passport, despite the well-documented margin of error associated with the radiological methods.

B Five key concerns in Poland's age assessment system

The scope of concerns can be summarized across several key areas:

- 1** First and foremost, **the violation of the principle of presumption of minority**. According to the Convention on the Rights of the Child and the UN Committee on the Rights of the Child's guidelines, any individual who declares themselves to be a minor—especially if unaccompanied—should be treated as a child until their age is conclusively determined. This means that all actions taken in relation to such individuals, including border pro-

⁴² See also: *Crossing lines: Realities of the migrant children at EU external borders*, Save the Children, 2025, <https://resourcecentre.savethechildren.net/document/crossing-lines-realities-of-migrant-children-at-eu-external-borders>

⁴³ Commissioner for Human Rights and Ombudsman for Children, *Problems of Unaccompanied Foreign Children Crossing the Polish-Belarusian Border: Letter to the Prime Minister and Response from the Ministry of Interior and Administration*, published January 30, 2025. Available at: <https://bip.brpo.gov.pl/pl/content/rpo-rpd-cudzoziemcy-dzieci-bez-opieki-premier-mswia-odpowiedz> (accessed August 25, 2025).

⁴⁴ Asylum Information Database, *Poland – Country Report*, European Council on Refugees and Exiles, July 2025, available at: <https://asylumineurope.org/reports/country/poland/> [accessed 25 August 2025].

cedures, must be guided by the principle of the best interests of the child. Additionally, the Committee on the Rights of the Child considers⁴⁵ that a child's date of birth forms part of their identity and altering a child's identity details from those they have stated and substantiated constitutes a violation of the Convention on the Rights of the Child.

2 Secondly, the absence of legal representation for the person concerned is a systemic deficiency embedded within the legal framework in Poland. The principle of presumption of minority entails the obligation to appoint a representative for an unaccompanied child even before any medical procedures are initiated. The presence of an independent guardian is essential to ensure the child's right to be heard and to safeguard their interests. In this context, reference should be made to the judgment of the European Court of Human Rights in the case *Darboe and Camara v. Italy*⁴⁶, where the applicant underwent a radiological examination of the hand and wrist. The Court found a violation of the applicant's right to private life due to the failure to respect the key principle of presumption of minority, which resulted in the denial of procedural safeguards—namely, the appointment of a representative and the opportunity for informed participation in the age assessment process.

3 Thirdly, **the absence of appeal mechanisms to challenge the assessment.** The Polish legal framework does not provide any mechanism for challenging the out-

come of an age assessment, even when it is based on methods widely recognised as inadequate. The laws governing procedures for foreigners do not include any pathway for appealing decisions related to age determination. Meanwhile, the UN Committee on the Rights of the Child clearly states that children must be guaranteed the right to appeal to an independent body or a higher court. The lack of such safeguards in Poland undermines the procedural rights of minors and increases the risk of misclassification with serious consequences for their protection and well-being. The necessity of implementing such procedures is evidenced by the story of a young Somali woman (aged 16) who underwent an X-ray examination of her wrist and, on this basis, was deemed to be an adult and placed in a detention centre despite having previously declared her age and presented a document. It was only thanks to the support of the Association for Legal Intervention in appealing the decision to extend her stay at the centre that the District Court assessed the age test as inconclusive and referred to the documents she had⁴⁷. Similarly, in 2023 the Helsinki Foundation for Human Rights informed about a Somali girl, who was erroneously declared an adult and placed in detention centre based on an X-ray examination of her wrist⁴⁸.

4 Fourthly, **the absence of guarantees for the child's active participation in the procedure.** According to Article 12 of the Convention on the Rights of the Child,

⁴⁵ Committee on the Rights of the Child, decision of 18 September 2019 in the case of R.K. v. Spain, no. CRC/C/82/D/27/2017, points 9.9.–9.10.

⁴⁶ European Court of Human Rights, *Darboe and Camara v. Italy*, Application no. 5797/17, Judgment of 21 July 2022, paras. 153–155. Available at: <https://asylumineurope.org/reports/country/poland/> (accessed August 25, 2025).

⁴⁷ OKO.press, *Underage Migrants at the Polish Border: No Rights, No Care*, published August 24, 2025. Available at: <https://oko.press/maloletni-migranci-polska-granica-ani-prawa-ani-opieki> (accessed August 25, 2025).

⁴⁸ Helsinki Foundation for Human Rights, *Somali minor released from guarded center for foreigners - court found that authorities incorrectly assessed her age*, published 1 August 2023, available at: <https://hfhf.pl/aktualnosci/maloletnia-somalijka-zwolniona-z-detencji>. [accessed 12 September 2025].

every child has the right to freely express their views on all matters affecting them and to be heard before any measures are taken that may impact on their situation. Information provided by individuals undergoing age assessment should be carefully considered and incorporated into the body of evidence. In practice, however, individuals subjected to age assessment procedures in Poland often lack any real opportunity to participate in the process.

5 Finally, the fifth and fundamental issue is **the lack of integration between age assessment procedures and the broader**

child protection system. The current model operates primarily within the logic of border control, rather than a protection-oriented approach. There is no connection to social, psychological, legal, or guardianship support systems. Instead of functioning as part of a comprehensive mechanism for identifying and protecting children, the age assessment procedure in Poland functions as a strictly technical and isolated methodology with far-reaching consequences for the lives of children—often without any possibility of review, objection, or access to support.

Recommendations and Calls to Action

In light of the arguments presented above, *Médecins Sans Frontières* and *Save the Children Poland* urge policymakers to grant all individuals access to fair asylum procedures and assistance on arrival, in line with interna-

tional obligations. Age assessments carried out within the scope of those procedures should be guided by the fundamental principle of best interest of the child and medical ethics.

Recommendations and Calls to Action – Médecins Sans Frontières and Save the Children

Médecins Sans Frontières and Save the Children Poland jointly call all stakeholders to reject one-dimensional age assessment methods—particularly those relying solely on medical evaluations—and adopt comprehensive holistic approaches with respect to the principle of presumption of minority, applying the pertinent child-related safeguards in migration settings. The use of arbitrary visual triaging as a basis for accessing asylum procedures and protection must end. Border practices must align with international human rights obligations, including ensuring access to fair asylum procedures. To realise this process, coordinated interministerial action is required across multiple sectors and levels of governance:

Médecins Sans Frontières calls

Policy makers

- to refrain from using harmful medical examinations to determine the age for non-clinical purposes, especially considering that current methodologies are unreliable and have long-term consequences for migrant children in the current migration policy contexts where this determination results in the deprivation of access to territory, protection and safety being used to uphold systematic denial of protection and rights violations.

Medical Practitioners

- to refuse participation in age assessment procedures in their current form due to violations of core principles of medical ethics and their proven unreliability for the intended purpose.

Paediatric Polish Society and Radiology Polish Society and Pediatric Endocrinology and Diabetology Polish Society

- to elaborate a position on the procedures currently used for chronological age assessment, provide reporting physicians with clear guidelines and standardized report structure, which would include disclaimer regarding the error margin and fallibility of the method. Moreover, the statement should include remarks on physician's ability to refrain from performing such assessment without legal or professional consequences, based on professional ethics and lack of scientific reliability of the age assessment methods.

Save the Children calls

The Office for Foreigners

- to ensure that minors receive reliable information in a language and child-friendly format they can understand so that informed consent is a precondition for any age assessment procedure.
- to avoid relying on a medical assessment in its current form as a decisive determination of a person's age and instead allow the applicant to refute the medical opinion with their testimony or available evidence.
- to advocate for reform of the age assessment system, with a special emphasis on establishing a monitoring mechanism grounded in the principle of safeguarding the child's best interest.
- to respect in practical terms the principle of the benefit of the doubt in favour of the child as the foundation of all administrative decisions involving age determination and to immediately request the relevant court to appoint a legal guardian each time the applicant declares themselves to be a minor.
- to ensure that age assessment procedures are applied only as exceptional measures of last resort, guided by the presumption of minority, and, if requested, are preceded by a written justification.

The Border Guard

- to ensure reliable information provision for minors in a language and child-friendly format they can understand so that informed consent is a precondition for any age assessment procedure.
- to request the relevant court to appoint a legal guardian each time a person declares themselves to be a minor and ensure that persons of concern are provided with adequate time and opportunity to consult

Save the Children calls

The Border Guard

with their guardian or representative before the initiation of any age assessment procedure.

- to respect in practical terms the principle of the benefit of the doubt in favour of the child as the foundation of all administrative decisions concerning age determination.
- to ensure that the date of birth declared by the person identifying themselves as a minor is reflected in all formal documentation and is not arbitrarily established based solely on medical examination.
- to introduce an interdisciplinary approach that incorporates psychological and psychosocial dimensions.

Policymakers

- to establish mechanisms for appeal of age assessment procedures with specific timeframes.
- to establish a monitoring mechanism for age assessment procedures in cooperation with the Commissioner for Human Rights and the Ombudsperson for Children.



Médecins Sans Frontières (MSF) is an international, independent medical humanitarian organisation that provides medical assistance to people affected by conflict, epidemics, disasters, or exclusion from healthcare in over 75 countries worldwide. MSF has been present in the border region of Poland with Belarus since November 2022, working in close cooperation with other organisations and civil society groups. Our teams respond to the most urgent medical needs of people seeking protection in Poland who find themselves stranded in the densely forested border area. Since November 2022 MSF provided direct medical assistance to 475 people.



Save the Children is the world's first and leading independent children's organisation – transforming lives and the future we share. We're proud to work with children, their communities, and our partners worldwide, discovering new solutions to help ensure that the world's most vulnerable children survive, learn and are protected. Every year, we reach tens of millions of children in more than 110 countries through our life-changing work. Since commencing operations in Poland in 2022, it has been assisting young people in areas such as education, mental health, violence prevention and poverty alleviation. To date, it has reached over 180,000 beneficiaries, primarily in smaller towns across the country.



The We Are Monitoring Association is part of the Border Group coalition. Since 2021, they have been working to advocate for human rights by collecting, analysing and sharing data on the scale of movement, abuses of power and various forms of violence, including institutional violence, experienced by people on the move. They are also collecting testimonies from those who have experienced pushbacks and other rights violations.

