

WMA STATEMENT ON MEDICAL AGE ASSESSMENT OF UNACCOMPANIED MINOR ASYLUM SEEKERS

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PREAMBLE

Population displacement resulting from war, violence or persecution has wide-ranging implications for the entire global community. Refugees – that is, individuals who have been forced to flee their respective countries of origin for these reasons – generally must undergo rigorous procedures for determining their legal status according to the national legislation of the country in which they are seeking asylum.

An increasing number of refugees fall under the category of unaccompanied minors, which are defined as people under the age of 18 who have been separated from or who have fled their countries of origin without their families. In light of their unique vulnerability, unaccompanied minor refugees are eligible for special protections, as outlined in the United Nations' Convention on the Rights of the Child, which states that the best interests of the child must be the primary consideration in all stages of the displacement cycle.

Given the differences in how adults and unaccompanied minors are processed and protected when seeking asylum, recipient countries have an interest in verifying the age of applicants outside the context of criminal proceedings. However, some asylum seekers either do not have access to documentation confirming their age or originate from countries in which there is no central birth registry. In cases where there is doubt as to whether an asylum seeker is a child or an adult, e.g. if the authenticity of available documentation is called into question or if there is reason to believe the applicant's physical appearance suggests a discrepancy between the reported age and the actual age, the competent authorities may resort to medical and/or non-medical methods for assessing the applicant's age.

Medical age assessments carried out by medical professionals may take the form of X-ray scans of the jaw, hand or wrist; CT scans of the collarbone; MRI scans of the knee; or the examination of secondary sex characteristics to determine the applicant's stage of puberty. However, ethical concerns have been raised about these and other forms of examination, as they can potentially endanger the health of those being examined and violate the privacy and dignity of young people who may already be severely traumatized [1]. Furthermore, there is conflicting evidence about the accuracy and reliability of the available methods of medical age assessment, which may generate significant margins of error [2]. For example, some available studies do not appear to take into account potential delays in skeletal maturation caused by malnutrition, which is just one factor that could translate into a risk of age misclassification among asylum seekers [3]. Comparative assessments are further impeded by a lack of standard images from certain world regions and limited representation in age assessment reference data, much of which was compiled on the basis of European and North American populations [4]. An imprecise assessment of an individual's age can have far-reaching administrative, ethical, psychological and other significant consequences, including potential breaches of children's rights.

The following recommendations apply explicitly and exclusively to cases outside the context of the criminal justice system.

RECOMMENDATIONS

1. The WMA recognizes that there is sometimes a need to assess the age of asylum seekers to ensure that all unaccompanied minors receive the protections afforded them under international and national law.
2. The WMA recommends that medical age assessments only be carried out in exceptional cases and only after all non-medical methods have been exhausted. The WMA recognizes that non-medical methods, e.g. questioning children about traumatic events, may also have a negative impact and must therefore be carried out with great care. Each case must be evaluated carefully based on the totality of circumstances and the preponderance of available evidence.
3. The WMA asserts that, in cases where medical age assessment is unavoidable, the health and safety and dignity of the young asylum seeker must be the highest priority. Physical examinations must be carried out

by a qualified physician with appropriate pediatric examination experience in accordance with the highest medical and ethical standards, in observance of the principles of proportionality, in adherence to the standards of prior informed consent and with consideration of cultural and religious sensitivities and potential language barriers. The asylum seeker must always be made aware that the examination is carried out as part of the age assessment procedure and not to provide healthcare.

4. The WMA underscores that any medical methods that could involve a health risk for the applicant, e.g. radiological examinations without medical indication, or that infringe upon the dignity or privacy of an already potentially traumatized asylum seeker, e.g. genital examinations, must be avoided.
5. The WMA stresses that medical certificates indicating the results of medical age assessment examinations should include information concerning the accuracy and reliability of the methods used and the relevant margins of error.
6. The WMA urges constituent members to develop or promote the development of internationally accepted interdisciplinary guidelines which outline the scientific basis, as well as ethical and legal or regulatory principles of medical age assessment of asylum seekers, including the potential health risks and psychological impact of specific procedures.
7. The WMA emphasizes that, in cases where doubts regarding the age of an asylum seeker cannot be resolved or confirmed with absolute certainty, any remaining uncertainty should be interpreted in favor of the asylum seeker.

References:

- [1] Zentrale Ethikkommission der Bundesärztekammer (2016): Stellungnahme "Medizinische Altersschätzung bei unbegleiteten jungen Flüchtlingen. Deutsches Ärzteblatt 2016; A1-A6. / German Medical Association's Central Ethics Committee: Statement on Medical Age Assessment of Unaccompanied Minor Refugees.
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- [3] Sauer PJJ, Nicholson A, Neubauer D, On behalf of the Advocacy and Ethics Group of the European Academy of Paediatrics (2016): Age determination in asylum seekers: physicians should not be implicated. *European Journal of Pediatrics* 175, (3): 299-303.
- [4] Aynsley-Green et al. (2012): Medical, statistical, ethical and human rights considerations in the assessment of age in children and young people subject to immigration control. *British Medical Bulletin* 2012; 102: 39.