



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of communication No. 54/2018\*, \*\*

<i>Communication submitted by:</i>	M. I. M.
<i>Alleged victim:</i>	The author
<i>State party:</i>	Spain
<i>Date of communication:</i>	24 September 2018
<i>Subject matter:</i>	Subjection of an alleged unaccompanied child migrant to a medical age-determination test

1. The author, a national of Algeria born on 26 June 2001, was travelling on board a small boat that was intercepted on 27 July 2018 near the Spanish coast. Upon his arrival, the author claimed to be a minor and to have the documents to prove it. Nonetheless, on 28 July 2018, he was taken to a hospital where an X-ray test was performed on his left hand while he was unaccompanied and without legal counsel. The results of the test, which were not made known to him, showed that his age was between 18 and 19 years according to the Greulich and Pyle atlas. On 29 July 2018, expulsion proceedings were initiated against him and on 30 July 2018 he was transferred to a holding centre for (adult) foreign nationals in Madrid. Upon his entry in the centre on 1 August 2018, the author requested in writing that he be recognized as a minor. On 10 August 2018, the author requested that the expulsion order issued against him be suspended and that he be transferred to a child protection centre. However, he did not receive a reply to these requests.

2. On 24 September 2018, the Working Group on Communications, acting on behalf of the Committee, decided to register the communication and to request that the State party suspend the expulsion of the author and transfer him to a child protection centre while the communication was pending consideration.

3. On 7 January 2019, the State party informed the Committee that on 19 September 2018 a meeting had been held with the Algerian authorities, who confirmed that the author was a minor, for which reason they refused to grant safe passage. The same day, the author was referred to the juvenile prosecution service. On 27 September 2018, further age-determination X-ray tests were conducted on the author's left hand. The results of these

\* Adopted by the Committee at its eighty-second session (9–27 September 2019).

\*\* The following members of the Committee participated in the examination of the communication: Suzanne Aho Assouma, Amal Salman Aldoseri, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Philip Jaffé, Olga A. Khazova, Cephas Lumina, Gehad Madi, Faith Marshall-Harris, Benyam Dawit Mezmur, Clarence Nelson, Mikiko Otani, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Aïssatou Alassane Sidikou, Ann Marie Skelton, Velina Todorova and Renate Winter.



tests showed that the author was 17 years old, with a margin of error of 12 months, when compared against the Greulich and Pyle atlas. The same day, the juvenile prosecution service issued a decree recognizing that the author was a minor. On 28 September 2018, he was entered in the register of unaccompanied minors. On 14 October 2018, the author left the children's centre where he was housed and his current whereabouts are unknown.

4. In her observations of 16 July 2019, the author's representative claims that he was not recognized as a minor until 28 September 2018, prior to which he had been detained for 51 days, and that after his release he slept in the street for nine days. She notes that the author was subjected to the same test twice, with different results. She adds that, during the age-determination procedure, the author was not heard and his best interests were not taken into consideration. On this basis, the author's representative objects to the discontinuance of the communication.

5. Meeting on 27 September 2019, the Committee on the Rights of the Child, having considered the request for discontinuance made by the State party, observed that the author's status as a minor has been recognized and that he has been placed under the protection of the authorities. Although this fact does not in itself amount to full reparation for the alleged violations of the Convention, and although it does not endorse the age-determination procedure followed by the State party, the Committee considered that the recognition of the author's status as a minor leaves the present communication bereft of purpose and decided to discontinue the consideration of communication No. 54/2018, in accordance with rule 26 of its rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

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