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Convention on the Rights of the Child

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Committee on the Rights of the Child

Follow-up progress report on individual communications*

A. Introduction

The present report is a compilation of information received from States parties and complainants on measures taken to implement the Views and recommendations on individual communications submitted under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The information has been processed in the framework of the follow-up procedure established under article 11 of the Optional Protocol and rule 28 of the rules of procedure under the Optional Protocol. The assessment criteria were as follows:

Assessment criteria	
A	Compliance: Measures taken are satisfactory or largely satisfactory
B	Partial compliance: Measures taken are partially satisfactory, but additional information or action is required
C	Non-compliance: Reply received but measures taken are not satisfactory or do not implement the Views or are irrelevant to the Views
D	No reply: No cooperation or no reply received

* Adopted by the Committee at its eighty-eighth session (6–24 September 2021).

B. Communications

D.D. v. Spain (CRC/C/80/D/4/2016)

Date of adoption of Views:	1 February 2019
Subject matter:	Deportation of a Malian unaccompanied child from Spain to Morocco. The author claimed that he was summarily deported to Morocco without being subjected to any form of identity check or assessment of his situation, which exposed him to the risk of violence and cruel, inhuman and degrading treatment in Morocco.
Articles violated:	Articles 3, 20 and 37 of the Convention
Remedy:	The State party is under an obligation to provide the author with adequate reparation, including financial compensation and rehabilitation for the harm suffered. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future, in particular by revising the Organic Act No. 4/2015 of 1 April 2015 on safeguarding the security of citizens. The State party is requested to revise the tenth additional provision of that law, on the special regime applicable in Ceuta and Melilla, which would authorize its practice of indiscriminate automatic deportations at the border. The State party is also requested to publish the Views and to have them widely distributed.
State party's response:	In its submission dated 12 August 2019, the State party observes that the Directorate General for International Legal Cooperation, Interfaith Relations and Human Rights assumed new responsibilities in August 2018 for "the best promotion of human rights by ensuring their effectiveness through the proposal of measures, which takes into account the decisions of the international bodies competent to safeguard human rights". It includes among its specific functions "the proposal of normative measures or administrative practices to address the issues repeatedly highlighted in the opinions to Spain by the human rights treaty bodies whose competence to consider individual communications has been accepted by Spain" (Royal Decree No. 1044/2018 of 24 August 2018 developing the basic organizational structure of the Ministry of Justice).

D.D. v. Spain (CRC/C/80/D/4/2016)

	The State party notes that the Directorate General is currently considering the measures that should be adopted in order to implement the recommendations of the Committee. It also notes that, due to the political situation in the State party, pending the establishment of new government administrations at the central, regional and local levels, the process is currently delayed. The State party requests that the Committee extend the deadline for reporting on the measures taken to comply with the decision until the new government administrations are established. The State party will nevertheless undertake to report back to the Committee on the state of the follow-up to the Views before 31 December 2019.
Author's comments:	In his comments dated 11 November 2019, the author notes that, on 31 July 2019, a request for reparation was submitted to the Subdirectorate for International Legal Cooperation, within the Ministry of Justice of Spain, to no avail. The author also draws attention to a shadow report submitted in the context of the universal periodic review of the State party, jointly by Fundación Raíces, the European Center for Constitutional and Human Rights and the Spanish organization Andalucía Acoge, which focuses on the continued practice of summary expulsions at the Ceuta and Melilla land borders with Morocco. The author adds that, in the past six months, there have been three instances in which indiscriminate summary group expulsions, with no assessment regarding the possible presence of unaccompanied children within the groups, have taken place: on 16 May 2019, 15 unidentified persons were reported to have been returned to Morocco from Melilla; on 19 July 2019, 25 persons were returned also from Melilla to Morocco; and, on 30 August 2019, 7 persons were returned from Ceuta to Morocco.
Decision of the Committee at its eighty-fifth session:	The Committee decides to maintain the follow-up dialogue and to request regular updates from the State party on the status of implementation of the Committee's Views. The State party's compliance with the Views will be assessed in the light of future information from the State party and the author's comments in that regard.

D.D. v. Spain (CRC/C/80/D/4/2016)	
State party's second response:	In its submission dated 19 October 2020, the State party refers to the judgment of the Grand Chamber of the European Court of Human Rights of 13 February 2020 in the case of *N.D. and N.T. v. Spain* (Applications No. 8675/15 and No. 8697/15). In that judgment, which was delivered after the issuance of the Views by the Committee, the Grand Chamber declared, unanimously, that neither article 4 (concerning the prohibition of collective expulsions) of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), nor article 13 (concerning the right to an effective remedy) of that Convention, taken together with article 4 of Protocol No. 4, had been violated. The Court recognized that Spanish law offered several possibilities to apply for admission to the national territory, therefore providing a real and effective means of gaining access to Spanish territory. The State party considers that the author did not make use of the legal means at his disposal to enter Spain: he could have applied for asylum in the transit countries (Mauritania and Morocco); he could have applied for asylum in Spain at the International Protection Office at the Beni Enzar border post instead of illegally storming the border; or he could have applied for a visa to enter and work legally in Spain. Once in Spanish territory, the author had effective judicial remedies against the administrative decision ordering his expulsion. The author submits that, during the events that occurred on 2 December 2014, he made no statement to the Spanish authorities indicating that he was a child. In accordance with the decision of the European Court of Human Rights in the aforementioned judgment, the actions of the Spanish authorities cannot be considered to have entailed a violation of the provisions of articles 3, 20 and 37 of the Convention on the Rights of the Child. The State party considers that the aforementioned judgment endorses the actions of the national authorities and, therefore, with all due respect to the Committee, considers that it is not appropriate to accept its recommendations, including its request to provide reparations to the author. The State party further submits that the Committee's Views have been published on the website of the Ministry of Justice.

D.D. v. Spain (CRC/C/80/D/4/2016)

	The State party indicates that the Directorate General for International Legal Cooperation, Interfaith Relations and Human Rights of the Ministry of Justice has also drawn up a framework protocol on the follow-up to Views issued by the independent experts serving on the committees established under the United Nations human rights treaties. That framework protocol was currently in the approval phase. Finally, the State party requests the Committee to conclude these follow-up proceedings.
Author's comments:	In his comments dated 20 February 2021, the author submits that the adequate reparation requested by the Committee has not taken place, nor has he been compensated or rehabilitated for the harm suffered. The author recalls that, on 31 July 2019, he requested the Directorate General to implement the Views, to no avail. On 12 February 2020, the author filed a claim before the Ministry of the Interior for administrative liability in the amount of 29,225.42 euros. The author explains that, even though the legal term for a response by the authorities had elapsed and even though he already had the possibility to submit a contentious administrative appeal, he decided to wait for a response. The author also submits that no action has been taken by the State party to implement the Committee's recommendation that the State party should prevent similar violations from occurring in the future, in particular by revising Organic Act No. 4/2015 of 1 April 2015 on the protection of citizen security and reviewing the provision of that law on the special regime applicable in Ceuta and Melilla, which authorizes the State party's practice of indiscriminate automatic deportations at the border. The author refers to decision No. 172/2020 of 19 November 2020 of the Constitutional Tribunal on the matter of summary returns giving an implicit mandate to the legislator to adjust the challenged rule, even though it has not been declared unconstitutional.

D.D. v. Spain (CRC/C/80/D/4/2016)

	The author considers that the State party's reading of the European Court of Human Rights judgment in *N.D. and N.T. v. Spain* and its impact on the present procedure is erroneous and misguided, as it refers to the summary expulsion of adults. He refers to another judgment of that Court, in *Moustahi v. France*, in which the Court found that the summary expulsion of two accompanied minors from France was in violation of their right to a family life and the prohibition of collective expulsions.
Decision of the Committee at its eighty-eighth session:	The Committee notes that, two and a half years after the adoption of the Views, the State party has failed to provide the author with reparation and to amend Organic Act No. 4/2015 of 1 April 2015 on safeguarding the security of citizens. The Committee also notes that the State party's response indicates that no measure will be adopted in that regard. The Committee therefore decides to discontinue the follow-up procedure on this case with a C assessment (non-compliance). A letter will be sent to the State party and to the author informing them that the follow-up procedure has been discontinued, with a C assessment. That information will be included in the Committee's next report to the General Assembly.

M.T. v. Spain (CRC/C/82/D/17/2017)

Date of adoption of Views:	18 September 2019
Subject matter:	Determination of the age of an unaccompanied asylum-seeking child using the Greulich and Pyle method.
Articles violated:	Articles 2, 3, 8, 12, 20 and 22 of the Convention and article 6 of the Optional Protocol
Remedy:	The State party must provide the author with effective reparation for the violations, including the opportunity for the author to regularize his administrative situation, giving due consideration to the fact that he was an unaccompanied child when he first submitted his asylum application.

M.T. v. Spain (CRC/C/82/D/17/2017)	
	In addition, the State party is under an obligation to prevent similar violations from occurring in the future, in particular by ensuring that all procedures for determining the age of possible unaccompanied children are carried out in a manner consistent with the Convention and that, in the course of such procedures, the documentation submitted to them by the authors is taken into consideration and, if issued or confirmed by the States that issued the documents or their embassies, be accepted as authentic and that those persons be promptly assigned a qualified legal representative free of charge or that their freely designated lawyers are recognized. The State party is also under the obligation to ensure that a competent guardian is appointed to unaccompanied asylum-seeking persons who claim to be below the age of 18 years as soon as possible so that they can apply for asylum as minors even when their age has not yet been determined. The State party must develop an effective and accessible remedial mechanism to allow unaccompanied migrant persons who claim to be below the age of 18 years to request a review of decisions regarding their age by the authorities whenever the determination was made without the necessary safeguards to protect the best interests of the child and the right to be heard. The State party must provide training for immigration officers, police officers, public prosecution officers, judges and other relevant professionals on the rights of asylum-seeking and other migrant children, in particular on the Committee's general comments No. 6 (2005), joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017). The State party is requested to publish the Committee's Views and disseminate them widely.
State party's response:	In its submission dated 14 September 2020, the State party submits that, according to the information provided by the author, he is currently over 18 years of age. His document as asylum seeker has expired. The author is pending trial for false documentation before the competent juvenile court. In view of the foregoing, the State party considers that it is not appropriate to comply with the Committee's recommendation, since the requirements for the State party to provide reparation to the author have not been met.

M.T. v. Spain (CRC/C/82/D/17/2017)	
	The State party submits that the Supreme Court's decision No. 307/2020 of 16 June 2020 is in line with the Committee's Views, highlighting that the Court considered that an immigrant whose passport or equivalent identity document shows that he or she is a minor cannot be considered an undocumented alien to be subjected to age determination tests since there can be no reasonable justification for carrying out such tests when a valid passport is available. It is therefore necessary to carry out a proportionality test and to adequately assess the reasons why the document may be considered unreliable and why the individual should undergo an age determination test. In any case, whether the person concerned is documented or undocumented, medical examinations, especially if they are invasive, must not be applied indiscriminately for the purpose of age determination. The State party also submits that, following the recommendation of the Ombudsperson in its report of 2018, the Office for Refugee Assistance treats requests submitted by persons claiming to be children as having been submitted by children, irrespective of whether they are assisted by a tutor or legal representative. The State party reports that a working group was established in July 2020 to update the protocol on unaccompanied children and that another protocol, on coordination efforts for determining the age of unaccompanied migrant children, had been promoted by the Ombudsperson of Andalucía. The State party reiterates that it is not necessary to establish a mechanism for the judicial revision of the public prosecutor's decrees on the age of majority given that the issue is already addressed in the law. It refers to the Supreme Court's decision No. 680/2020 of 5 June 2020, wherein the Court states that the decrees are "sufficiently relevant for us to have no doubt as to the appealable nature of this decree". The State party submits that, during 2019, the Ministry of Justice carried out seven training sessions for more than 300 students on issues related to trafficking in persons, including children and migrants. It also refers to other capacity-building activities conducted in recent years for forensic doctors on age determination and for police officers on the rights and the situations of unaccompanied migrant children. The State party submits that the Committee's Views have been made public.

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Author's comments:	In his comments dated 20 February 2021, the author notes that the fact that he is now an adult is not an impediment to the receipt of reparations (for instance, in respect of being administratively regularized with the same rights that he would have enjoyed had he been considered a minor in need of protection). He indicates that he is still seeking asylum, that his request for asylum is still pending resolution and that his asylum-seeker's card has been extended until 9 March 2021. Regarding the ongoing criminal proceedings, he reports that on 7 July 2020 the Provincial Court of Madrid rejected the appeal submitted by the prosecutor, so the author was judged as an adult. Moreover, the Provincial Court considered that the juvenile courts were competent. The author notes that, on 3 December 2019, he requested the Subdirectorate for International Legal Cooperation to study and implement the Committee's Views. The author has not yet received a response to that request. The author submits that he is not aware of the framework protocol on the follow-up to Views issued by the independent experts serving on the committees established under the United Nations human rights treaties elaborated by the Directorate General for International Legal Cooperation, Interfaith Relations and Human Rights. Regarding the Supreme Court's decision No. 307/2020 of 16 June 2020, the author submits that, in practice, the office of the prosecutor continues to doubt the validity of the documentation of migrants of some specific countries, just based on the general lack of reliability of those countries, even in the absence of signs of manipulation or falsification of the documents. He also submits that, on 24 September 2020, the juvenile chamber prosecutor and the coordinating chamber prosecutor for migrants issued a joint note providing internal instructions for all prosecutors on the interpretation of the Supreme Court ruling and instructing the prosecutors to check the validity of the documentation presented with the appropriate consular authorities during age determination proceedings. Prosecutors were also instructed to collect information on the lack of reliability of registration or certification systems in countries of origin. An element that would point to the lack of reliability of some documents is any contradiction with the medical tests done before the submission of documents, which, according to the author, occurs almost every time due to the lack of accuracy of those tests.

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The author further submits that, in practice, however, the prosecutor's office continues to give no value to birth certificates or other similar documents carried by children and often questions even the passports issued by the authorities of the country of origin or their embassies and consulates in Spain on the basis of birth certificates or other documentation that the prosecutor's office considers unreliable. Nor has the practice of consulting embassies and consulates in general to verify the veracity of the documentation provided by children been established. Such consultations are usually only made at the request of the courts hearing cases involving children brought before them and only once the child's age has come into question.

The author submits that no reform or normative development related to the age determination procedure has been carried out.

The author recognizes certain ad hoc improvements. For example, in some provincial prosecutors' offices, the presumption of minority is applied more correctly, which results in an order of the provisional protection when the person in question requests a review of a previous age determination decision by providing new documentation, while the prosecutor processes and decides on the request for review. In general, however, children continue to be subjected to medical examinations consisting of full nudity, examination of their genitals and radiological tests and to not undergo a psychological assessment of their maturity. Moreover, in practice, medical reports continue to fail to adequately establish an age range that takes into account the wide margins of error in radiological testing.

The author reports that, when the bill on violence against children and adolescents was considered by Parliament, Fundación Raíces sent to the different parliamentary groups suggestions for amendments related to the procedure for age determination. To date, the author is not aware that any of the parliamentary parties have endorsed any of the suggestions, as the bill is still being processed.

M.T. v. Spain (CRC/C/82/D/17/2017)

	The author reiterates that the prosecutor's decrees on the age of majority cannot be directly appealed. The appeal on the matter submitted to the Supreme Court has been dismissed by decision No. 680/2020 of 5 June 2020. In that decision, the Supreme Court has once again confirmed that persons who have been subjected to an age determination procedure can only challenge the outcome judicially in an indirect manner, that is by appealing against the administrative resolution that is sometimes issued as a consequence of the decree. Such an indirect appeal is not sufficient. Firstly, because, given the delays in processing and the lack of precautionary measures adopted in many cases, they are completely ineffective for the protection of children. Secondly, because they do not include cases in which there is no administrative resolution as a consequence of the decree that would give access to the courts. For instance, an alleged child may be expelled from the protection system without any protection measure having been formally adopted and without, therefore, an administrative resolution having been reached to terminate the measure. The alleged minor (decreed, however, to be 18 years old or older) is left in a street situation and without any administrative resolution giving him or her access to judicial assistance. Regarding the merely "provisional" nature of the prosecutor's decree and its limited consequences, the author submits that, although this is apparently true in the regulation, in practice the consequences of the prosecutor's decision go far beyond. In this sense, by way of illustration, there have been cases in which children have been denied residence on the grounds that their identity was not verified since the passport provided had been declared invalid by the relevant public prosecutor's office.
Decision of the Committee:	The Committee decides to maintain the follow-up dialogue and to request a meeting with the State party in order to discuss the prompt implementation of the Committee's Views.

A.D. v. Spain (CRC/C/83/D/21/2017)

Date of adoption of Views:	4 February 2020
Subject matter:	Determination of the age of an unaccompanied child using the Greulich and Pyle method.
Articles violated:	Articles 3, 8, 12, 18 (2), 20, 27 and 29 of the Convention and article 6 of the Optional Protocol
Remedy:	The State party must provide the author with effective reparation for the violations, including the opportunity for the author to regularize his administrative situation.

A.D. v. Spain (CRC/C/83/D/21/2017)

	In addition, the State party is under an obligation to prevent similar violations from occurring in the future, in particular by ensuring that all procedures for determining the age of possible unaccompanied children are carried out in a manner consistent with the Convention and that, in the course of such procedures, the documentation submitted by the persons subjected to them is taken into consideration and, if issued or confirmed by the States that issued the documents or by the embassies, is accepted as authentic and that a qualified legal representative is promptly assigned to those persons free of charge or that their freely designated lawyers are recognized. The State party must develop an effective and accessible remedial mechanism to allow unaccompanied migrant persons who claim to be below the age of 18 years to request a review of decisions regarding their age by the authorities whenever the determination was made without the necessary safeguards to protect the best interests of the child and the right to be heard. The State party must provide training to immigration officers, police officers, public prosecution officers, judges and other relevant professionals on the rights of asylum-seeking and other migrant children, in particular on the Committee's general comments No. 6 (2005), joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017). The State party is requested to publish the Committee's Views and disseminate them widely.
State party's response:	In its submission dated 30 October 2020, the State party submits that the competent authorities declared the author of the communication to be a minor who was transferred to the initial reception centre for minors in Hortaleza and to whom were applied the measures provided for in the Spanish legal system on the protection of children (Organic Law No. 4/2000 of 11 January 2000 on the rights and freedoms of foreigners in Spain and their social integration and its implementing regulation contained in Royal Decree No. 557/2011 of 20 April 2011. In view of the foregoing, the State party considers that the Committee's recommendation should not be followed, since the requirements for the State to provide reparation to the author have not been met. As for the actions taken to implement the rest of the recommendations, these are the same as those included in the State party's response of 14 September 2020 with regard to *M.T. v. Spain* above.

A.D. v. Spain (CRC/C/83/D/21/2017)

Author's comments:	In his comments dated 21 February 2021, the author submits that the State party made a mistake regarding the information provided on his case. As the Committee is aware, the author was later declared to be an adult by the prosecutor's office in Madrid and left in the streets. The author did not receive protection as a child. To date, the author has not benefited from any measures of reparation. As regards the author's administrative situation, he has managed to regularize his situation by obtaining a residence and work permit for a period of one year (until July 2021), on the grounds of social ties. Had he been protected as a child, he would have been able to have a residence and work permit for two years and would be close to being able to obtain a long-term permit. The author notes that the Committee's Views have not been published on the website of the Ministry of Justice and that the State party has not complied with the request to disseminate them widely. As for the comments on the actions taken by the State party to implement the general recommendations, these were the same as those included in the author's response to the State party's comments of 20 February 2021 with regard to *M.T. v. Spain* above.
Decision of the Committee:	The Committee decides to maintain the follow-up dialogue and to request a meeting with the State party in order to discuss the prompt implementation of the Committee's Views.

M.A.B. v. Spain (CRC/C/83/D/24/2017)

Date of adoption of Views:	7 February 2020
Subject matter:	Determination of the age of an unaccompanied asylum-seeking child using the Greulich and Pyle method.
Articles violated:	Articles 3, 8, 12, 18 (2), 20 (1), 27 and 29 of the Convention and article 6 of the Optional Protocol
Remedy:	The State party must provide the author with effective reparation for the violations, including the opportunity for the author to regularize his administrative situation. In addition, the State party is under an obligation to prevent similar violations from occurring in the future, in particular by ensuring that all procedures for determining the age of possible unaccompanied children are carried out in a manner consistent with the Convention and that, in the course of such procedures, the documentation submitted by the persons subjected to them is taken into consideration and, if issued or confirmed by the States that issued the documents or by the embassies, is accepted as authentic and that a qualified legal representative is promptly assigned to those persons free of charge or that their freely designated lawyers are recognized.

M.A.B. v. Spain (CRC/C/83/D/24/2017)

	The State party must develop an effective and accessible remedial mechanism to allow unaccompanied migrant persons who claim to be below the age of 18 years to request a review of decisions regarding their age by the authorities whenever the determination was made without the necessary safeguards to protect the best interests of the child and the right to be heard. The State party must also provide training to immigration officers, police officers, public prosecution officers, judges and other relevant professionals on the rights of asylum-seeking and other migrant children, in particular on the Committee's general comments No. 6 (2005), joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017). The State party is requested to publish the Committee's Views and disseminate them widely.
State party's response:	In its submission dated 12 February 2021, the State party recalls that the author was declared as an adult. He is still subject to a removal order due to a violation of article 58 (3) (b) of Organic Law No. 4/2000 of 11 January 2000 on the rights and liberties of foreigners in Spain and their social integration. In view of the foregoing, the State party considers that it is not appropriate to comply with the Committee's recommendation, since the requirements for the State party to provide reparation to the author have not been met. As for the actions taken to implement the rest of the recommendations, these are the same as those included in the State party's response of 14 September 2020 with regard to *M.T. v. Spain* above.
Author's comments:	In his comments dated 14 May 2021, the author submits that judicial proceedings on age determination are still under way and that the author has a passport or documentation issued by the consulate of his country of origin in Spain. He submits that this shows that, in practice, the jurisprudence of the Supreme Court is not being implemented. He adds that there are many instances of the relevant prosecutor's office not modifying the decree declaring an individual to be an adult even after the children in question have submitted passports or other identity documents indicating that they are minors. He also indicates that, in practice, such decrees are provisional decisions and that the public administration authorities are subordinated to those decrees. He reiterates that the decrees cannot be directly appealed. He further submits that he is not aware of the ongoing work to elaborate a new protocol on age determination.

M.A.B. v. Spain (CRC/C/83/D/24/2017)	
	The author refers to note No. 1/2020 of 22 October 2020 of the Ministry of Justice on the legal nature of the opinions of the United Nations human rights treaty bodies, wherein it is considered, inter alia, that: (a) the opinions do not have binding legal force; (b) the opinions are valuable interpretations of the human rights treaties and are an authoritative argument that should guide the interpretation and application of treaties by the States parties; and (c) the Committees are not competent to adopt provisional measures.
Decision of the Committee:	The Committee decides to maintain the follow-up dialogue and to request a meeting with the State party in order to discuss the prompt implementation of the Committee's Views.

H.B. v. Spain (CRC/C/82/D/25/2017)	
Date of adoption of Views:	18 September 2019
Subject matter:	Determination of the age of an unaccompanied asylum-seeking child using the Greulich and Pyle method.
Articles violated:	Articles 2, 3, 8, 12, 18 (2), 20, 27 and 29 of the Convention and article 6 of the Optional Protocol
Remedy:	The State party must provide the author with effective reparation for the violations, including the opportunity for the author to regularize his administrative situation, giving due consideration to the fact that he was an unaccompanied child when he first submitted his asylum application. In addition, the State party is under an obligation to prevent similar violations from occurring in the future, in particular by ensuring that all procedures for determining the age of possible unaccompanied children are carried out in a manner consistent with the Convention and that, in the course of such procedures, the documentation submitted by the persons subjected to them is taken into consideration and, if issued or confirmed by the States that issued the documents or by the embassies, is accepted as authentic and that a qualified legal representative is promptly assigned to those persons free of charge or that their freely designated lawyers are recognized. The State party is also under the obligation to ensure that a competent guardian is appointed to unaccompanied asylum-seeking persons who claim to be below the age of 18 years as soon as possible so that they can apply for asylum as minors even when their age has not yet been determined.

H.B. v. Spain (CRC/C/82/D/25/2017)	
	The State party must develop an effective and accessible remedial mechanism to allow unaccompanied migrant persons who claim to be below the age of 18 years to request a review of decisions regarding their age by the authorities whenever the determination was made without the necessary safeguards to protect the best interests of the child and the right to be heard. The State party must also provide training to immigration officers, police officers, public prosecution officers, judges and other relevant professionals on the rights of asylum-seeking and other migrant children, in particular on the Committee's general comments No. 6 (2005), joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017). The State party is requested to publish the Views and disseminate them widely.
State party's response:	In its submission dated 12 February 2021, the State party recalls that the author was declared as an adult. He is still subject to a removal order due to a violation of article 58 (3) (b) of Organic Law No. 4/2000 of 11 January 2000 on the rights and liberties of foreigners in Spain and their social integration. The State party also notes that the author has police records for assault on the authorities, damages and resistance/disobedience. In addition, there are three national search warrants on him in force. In view of the foregoing, the State party considers that it is not appropriate to comply with the Committee's recommendation, since the requirements for the State party to provide reparation to the author have not been met. As for the actions taken to implement the rest of the recommendations, these are the same as those included in the State party's response of 14 September 2020 with regard to *M.T. v. Spain* above.
Author's comments:	In his comments dated 25 May 2021, the author submits, through his counsel, that he was never protected as a child, that the interim measures requested by the Committee were never implemented and that he has not been the subject of any measure of reparation. The author submits that he went alone to France, where he was sheltered in a centre for children near Lyon. The author's counsel was not aware that the author had come back to Spain and considers that the State party may be rather referring to someone else in its submission, as the author's name is a very common one in Guinea and that there are noticeable deficiencies in the Spanish registry of unaccompanied migrant children. The author's counsel considers that the State party should annul the removal order as the author should have been recognized as a child at the time.

H.B. v. Spain (CRC/C/82/D/25/2017)	
	As for the comments on the actions taken by the State party to implement the general recommendations, these are the same as those included in the author's response to the State party's comments of 20 February 2021 with regard to *M.T. v. Spain* above. The author's counsel adds that the Supreme Court has continued to develop the jurisprudence set in its decision No. 307/2020 of 16 June 2020. In particular, counsel points to decision No. 410/2021 of 24 May 2021, wherein the Court considered the following: "The fundamental rights course is not inadequate because what was raised in the lawsuit and now in the appeal deals with the determination of the age of the child, which has transcendence for establishing his identity and civil status – linked to the date of birth – and is considered as a basic right of children in accordance with article 8 of the Convention on the Rights of the Child, binding for Spain (arts. 10 (2) and 96 (1) of the Constitution). At the same time, not considering as reliable the passport and identity card issued by the consulate of Morocco in Spain, which have been neither proven nor alleged to be false, irregular or manipulated and which have not been challenged, entails a violation of the right to equality and non-discrimination before the law based on the national origin of the minor. This is prohibited by the principle of equality and non-discrimination (art. 14 of the Constitution) and is incompatible with the commitment to respect the rights set forth in the Convention on the Rights of the Child and to ensure their implementation without distinction of any kind, irrespective of race, colour, sex, language or national, ethnic or social origin (art. 2 (1) of the Convention)." However, the author's counsel reiterates that, in practice, the situation in that regard has not generally improved. The author's counsel also refers to note No. 1/2020 of 22 October 2020 of the Ministry of Justice on the legal nature of the opinions of the United Nations human rights treaty bodies (see the author's comments in *M.A.B. v. Spain* above).
Decision of the Committee:	The Committee decides to maintain the follow-up dialogue and to request a meeting with the State party in order to discuss the prompt implementation of the Committee's Views.

R.K. v. Spain (CRC/C/82/D/27/2017)	
Date of adoption of Views:	18 September 2019
Subject matter:	Determination of the age of an unaccompanied asylum-seeking child using the Greulich and Pyle method.
Articles violated:	Articles 3, 8, 12, 18 (2), 20, 22, 27 and 29 of the Convention and article 6 of the Optional Protocol

R.K. v. Spain (CRC/C/82/D/27/2017)	
Remedy:	The State party must provide the author with effective reparation for the violations, including the opportunity for the author to regularize his administrative situation, giving due consideration to the fact that he was an unaccompanied child when he first submitted his asylum application. In addition, the State party is under an obligation to prevent similar violations from occurring in the future, in particular by ensuring that all procedures for determining the age of possible unaccompanied children are carried out in a manner consistent with the Convention and that, in the course of such procedures, the documentation submitted by the persons subjected to them is taken into consideration and, if issued or confirmed by the States that issued the documents or by the embassies, is accepted as authentic and that a qualified legal representative is promptly assigned to those persons free of charge or that their freely designated lawyers are recognized. The State party is also under the obligation to ensure that a competent guardian is appointed to unaccompanied asylum-seeking persons who claim to be below the age of 18 years as soon as possible so that they can apply for asylum as minors even when their age has not yet been determined. The State party must develop an effective and accessible remedial mechanism to allow unaccompanied migrant persons who claim to be below the age of 18 years to request a review of decisions regarding their age by the authorities whenever the determination was made without the necessary safeguards to protect the best interests of the child and the right to be heard. The State party must also provide training to immigration officers, police officers, public prosecution officers, judges and other relevant professionals on the rights of asylum-seeking and other migrant children, in particular on the Committee's general comments No. 6 (2005), joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017). The State party is requested to publish the Views and disseminate them widely.
State party's response:	In its submission dated 14 September 2020, the State party submits that, according to the information provided by the author, he is currently over 18 years of age. His document as asylum seeker has expired. In view of the foregoing, the State party considers that it is not appropriate to comply with the Committee's recommendation, since the requirements for the State party to provide reparation to the author have not been met. As for the actions taken to implement the rest of the recommendations, these are the same as those included in the State party's response of 14 September 2020 with regard to *M.T. v. Spain* above.

R.K. v. Spain (CRC/C/82/D/27/2017)	
Author's comments:	In his comments dated 20 February 2021, the author notes that the fact that he is now an adult is not an impediment to the receipt of reparations (for instance, in respect of being administratively regularized with the same rights that he would have enjoyed had he been considered a minor in need of protection). He states that he is still an asylum seeker and that his request is still pending resolution. He explains that, owing to the situation caused by the coronavirus disease (COVID-19) pandemic, his asylum card was automatically extended by seven months. The author submits that, on 3 December 2019, he requested the Subdirectorate for International Legal Cooperation, Interfaith Relations and Human Rights to study and implement the Committee's Views. The author has not yet received a response to that request. As for the comments on the actions taken by the State party to implement the general recommendations, these are the same as those included in the author's response to the State party's comments of 20 February 2021 with regard to *M.T. v. Spain* above, with the additions made in his comments of 25 May 2021 in regard to *H.B. v. Spain* also above.
Decision of the Committee:	The Committee decides to maintain the follow-up dialogue and to request a meeting with the State party in order to discuss the prompt implementation of the Committee's Views.