



# 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, concerning communication No. 41/2018\* \*\*

<i>Communication submitted by:</i>	M.A.B. (represented by counsel, Francisco Solans Puyuelo)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Spain
<i>Date of communication:</i>	9 February 2018 (initial submission)
<i>Subject matter:</i>	Age assessment procedure in respect of an unaccompanied minor
<i>Substantive issues:</i>	Best interests of the child; right to identity; right to be heard; right to a guardian; right to development; right to special protection and assistance from the State
<i>Articles of the Convention:</i>	3, 8, 18 (2), 20, 27 and 29

1. The author of the communication is M.A.B., a national of Guinea aged 14 at the time of submission of the communication. He claims that the State party has violated his rights under article 3, read in conjunction with articles 18 (2) and 20 (1), and articles 8, 20, 27 and 29 of the Convention. The Optional Protocol entered into force for the State party on 14 April 2014.

2. On 22 January 2018, the author was intercepted by the State party's border police on board a boat off the coast of Almería. He had no documents, but claimed to be a minor. He was taken to a hospital for an X-ray of his left wrist, which determined that he was 18 years old. The public prosecution service issued a decree determining that he was of legal age. On 23 January, an expulsion order was issued in respect of the author, and the investigating judge in Almería ordered him to be placed in a migrant centre. On 8 February 2018, the author obtained a copy of his birth certificate through the Red Cross, which he submitted to the public prosecution service with a request to be recognized as a minor. The request was denied the same day on the grounds that the validity of the document could not be confirmed and that the medical test had already determined that he was of legal age.

\* Adopted by the Committee at its eighty-ninth session (31 January–11 February 2022).

\*\* The following members of the Committee participated in the examination of the communication: Suzanne Aho, Hynd Ayoubi Idrissi, Rinchen Chopel, Bragi Gudbrandsson, Philip Jaffé, Soppio Kiladze, Gehad Madi, Benyam Dawit Mezmur, Clarence Nelson, Otani Mikiko, Luis Ernesto Pedernera Reyna, Zara Ratou, José Ángel Rodríguez Reyes, Ann Marie Skelton, Velina Todorova and Benoit Van Keirsbilck.



3. Pursuant to article 6 of the Optional Protocol, on 22 February 2018, the working group on communications, acting on behalf of the Committee, requested the State party to adopt interim measures, namely, to stay the enforcement of the author's deportation order pending the Committee's consideration of his case and transfer him to a child protection centre.

4. On 11 February 2019, the State party submitted its observations on the admissibility and merits of the communication. Despite several reminders from the secretariat, the author did not submit his comments on the State party's observations on admissibility and the merits.

5. At a meeting on 8 February 2022, the Committee noted that the author's counsel had not submitted comments on the admissibility and merits of the communication. The Committee considered that the author had lost interest in communication No. 41/2018 and therefore decided to discontinue its consideration thereof, 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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