



Convention on the Rights of the Child

Distr.: General
10 March 2022
English
Original: Spanish

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. 44/2018* **

<i>Communication submitted by:</i>	O.A.A. (represented by counsel, Albert Casanova Parés)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Spain
<i>Date of communication:</i>	21 February 2018 (initial submission)
<i>Subject matter:</i>	Procedure for determining the age 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, 20, 27 and 29

1. The author of the communication is O.A.A., a national of Côte d'Ivoire aged 14 years at the time of submission of the communication. He claims that the State party has violated his rights under articles 3, 8, 20, 27 and 29 of the Convention. The Optional Protocol entered into force for the State party on 14 April 2014.

2. On 26 January 2018, the author was arrested by the State party's border police when the boat aboard which he travelling was intercepted off the coast of the State party. He had no documents, but claimed to be 16 years of age. An X-ray of his left wrist determined that he was at least 18 years old. On the basis of this evidence, the prosecutor for minors in Granada issued a decree declaring the author to be of age. A deportation order was issued against him the same day. On 27 January 2018, the investigating judge of Motril ordered the author to be held in an immigration detention centre in Barcelona. On 16 February 2018, the author submitted a copy of his passport (which he had subsequently obtained) to the investigating judge, the prosecutor for minors and the police, among others, requesting a review of the age assessment decree. He did not receive a response from any of these authorities before submitting his communication to the Committee.

* 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, Sopia 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 to transfer the author to a child protection centre.

4. On 10 July 2018, the State party submitted its observations on the admissibility and merits of the communication and requested that consideration of the communication be discontinued. Despite several reminders from the secretariat, the author did not submit comments on the State party's observations on admissibility and the merits or on its request for discontinuance.

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 or on the State party's request that consideration of the communication be discontinued. The Committee considered that the author had lost interest in communication No. 44/2018 and 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.
