



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. 42/2018* **

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| <i>Communication submitted by:</i> | M.D.B. (represented by counsel, Francisco Solans Puyuelo) |
| <i>Alleged victim:</i> | The author |
| <i>State party:</i> | Spain |
| <i>Date of communication:</i> | 13 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 a guardian; right to special protection and assistance from the State; adequate standard of living; right to development |
| <i>Articles of the Convention:</i> | 3, 8, 18 (2), 20 (1), 27 and 29 |

1. The author is M.D.B., a national of Guinea born in 2002. 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, 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, Spain. He had no documents but claimed to be a minor. On 23 January 2018, he was issued with a deportation notice. On 25 January 2018, the investigating judge of Almería ordered the author to be held in an immigration detention centre for adults. Upon arrival at the centre, he again claimed to be a minor. He then underwent medical age-determination tests consisting of an X-ray of his left wrist. The test result, which was not shared with him, indicated that he was 19 years old. The Office of the Prosecutor for Minors issued a decree declaring that the author was an adult. 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 document's validity could not be ascertained and that the medical test had already determined that the author was an adult.

* Adopted by the Committee at its ninetieth session (3 May–3 June 2022).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Aïssatou Alassane Moulaye, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Philip Jaffé, Sopio Kiladze, Gehad Madi, Faith Marshall-Harris, Benyam Dawit Mezmur, Clarence Nelson, Otani Mikiko, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Ann Skelton, Velina Todorova, Benoit Van Keirsbilck and Ratou Zara.



3. Pursuant to article 6 of the Optional Protocol, on 13 February 2018, the Working Group on Communications, acting on behalf of the Committee, requested the State party to adopt interim measures, namely, to suspend enforcement of the author's deportation order pending the Committee's consideration of his case and to transfer him to a child protection centre.
 4. On 25 June 2019, the State party submitted its observations on the admissibility and merits of the communication. On 15 December 2021, following reminders from the secretariat, the author's representative submitted comments on the admissibility and merits.
 5. On 27 January 2022, the author's representative reported that he had lost contact with him.
 6. At its meeting of 1 June 2022, the Committee, noting that the author's representative had lost contact with him, considered communication No. 42/2018 to be devoid of purpose 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.
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