

Long wait to register Mexican birth in Spain was a violation

In today's **Chamber judgment**¹ in the case of [G.T.B. v. Spain](#) (application no. 3041/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned attempts in Spain to register G.T.B.'s birth, which had taken place in Mexico.

The Court found in particular that for the period from 2002-06, the Spanish authorities, despite sure knowledge that the documents needed could not be located in Mexico, had not done enough to provide G.T.B. with a birth certificate and identification and so to secure his Article 8 rights.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, G.T.B., is a Spanish national who was born in 1985 in Mexico and lives in Santa Cruz de Tenerife (Spain).

Following an earthquake in Mexico in September 1985, G.T.B.'s mother applied to be repatriated to Spain, taking up residence with her family in Tenerife. However, G.T.B. was not registered as having been born in Mexico upon arrival.

In 1997, when he was 12 years old, G.T.B.'s mother had tried to register his birth at the La Laguna Civil Registry. She had sworn before a judge that he was her son, and witnesses had testified likewise, and the Registry had considered that they had adequate information. However, the Central Civil Registry in Madrid, which was responsible for foreign births, had not been satisfied, and had asked for documentation from the Mexican authorities, which G.T.B.'s mother had been unable to provide.

In 2000, G.T.B.'s mother was again in contact with the authorities regarding registering his birth, pointing out that neither he nor his brother had identification cards. The authorities again stated that documents from Mexico were needed, to which she replied, at the La Laguna Registry Office, that they had been destroyed in the earthquake. Toing and froing between several national bodies and the respective consulates of Mexico and Spain in the other State continued for the following years, until G.T.B.'s birth was at last registered on 5 April 2006.

On 24 May 2006 G.T.B., then 21 years of age, was issued with an ID card.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), the applicant complained about the delay and the obstacles faced in the procedure to have his birth registered to be able to obtain an ID card.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

The application was lodged with the European Court of Human Rights on 21 December 2018.

Judgment was given by a Chamber of seven judges, composed as follows:

Georges Ravarani (Luxembourg), *President*,
Carlo Ranzoni (Liechtenstein),
Mārtiņš Mits (Latvia),
María Elósegui (Spain),
Mattias Guyomar (France),
Kateřina Šimáčková (the Czech Republic),
Mykola Gnatovskyy (Ukraine),

and also Victor Soloveytchik, *Section Registrar*.

Decision of the Court

The Court noted that this was the first case in which it has examined the right to a birth certificate under Article 8.

The applicant's complaint in this case was not about an action on the part of the State, but of failure to act and to do so with the necessary expedition. Specifically, the authorities had failed to act while he, then a minor, was at risk of an infringement of his right to private life. Once the authorities had become aware of that situation, they had been under an obligation to take specific steps to assist the applicant to obtain documentation and to ensure respect for his Article 8 rights.

In 1997 G.T.B.'s mother had tried to register her son's birth at the La Laguna Civil Registry. Had G.T.B. been born in Spain, his birth would have been registered there and then; however, owing to his birthplace being Mexico, he had to be entered via the Central Civil Registry in Madrid. The Central Registry had tried to contact G.T.B.'s mother, asking for documentation, including registration of the birth in Mexico. She had been unable to provide that. Given the efforts on the part of the Central Registry to locate her, the Court held that the State had not failed in its Convention obligations towards G.T.B. during this period.

For the period from 2002-06, despite attempts to locate the documents in Mexico, it had been clear to the authorities that the documents would not be found. G.T.B.'s mother had sought urgent registration of her sons. Despite her recognising them as her sons before a judge for the second time, their births had still not been registered. Instead, four years had elapsed before the authorities had given G.T.B. an identity card, during which the authorities made reiterated requests for documents which they should have known that the applicant's mother could not produce. The Court noted the serious consequences for the applicant of a lack of identification, which could even be qualified as "neglect", and judged that the authorities should have done more to help him during that period.

As a result, the Court found a violation of the authorities' obligations to secure for the applicant enjoyment of his right to respect for his private life under Article 8.

Just satisfaction (Article 41)

The Court held that Spain was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,840 in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.