



CONSTITUTIONAL COURT OF SPAIN  
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### THE PLENARY OF THE CONSTITUTIONAL COURT RULES THAT THE RIGHT TO PRIVACY OF MINOR IS NOT VIOLATED AS A RESULT OF A JUDICIAL INQUIRY WHOSE FILE IS THEN COMMUNICATED TO THE PROCEDURAL PARTIES

The Plenary Session of the Constitutional Court has, by unanimity, dismissed a question of unconstitutionality (“*cuestión de inconstitucionalidad*”) raised by the Local Court nº 14 of Barcelona, concerning article 18.2 4), last paragraph of Law 15/2015 (2 July 2015) on Voluntary Jurisdiction Proceedings. This regulation established a duty to issue a certified document of judicial inquiries on minors, and to communicate that information to the procedural parties so that they can make allegations.

The judgement, which was drafted by Magistrate Fernando Valdés Dal-Ré, points out that the content of that provision is in compliance with the Constitution, because it does not breach the underage’s right to privacy. Indeed, “*the moment when the underage’s right to privacy must be preserved is when, behind closed doors, the judge and the judicial secretary must strive to protect that right. At that moment, they must take care of the fact that the underage’s statements are limited to indispensable minimum so as to allow an inquiry on facts under dispute, so much so that the judicial inquiry covers only the questions that are strictly connected to object of the jurisdictional procedure*”.

Likewise, the Court indicates that “*if, in accordance with the underage’s higher interest, those strict rules and safeguards are observed, the incidence on her or his privacy should be minimal*”. Therefore, “*the content of the written communication to the procedural parties shall spell out the statements of the underage that are indispensable because of their significance for the resolution of the case*”.

The Plenary of the Court reminds that the right of the underage to “*be heard and listened to*” is part of the inalterable legal status of underage children. As general principle related to public order, that rule must be observed by all public authorities.

Once the development and the content of the judicial inquiry and the document that arises therefrom has been specified according to the parameters offered by the Court, the written communication of its content must be notified to the procedural parties in order to observe the procedural principle of contradiction enshrined in article 24 of the Spanish Constitution.

Madrid, 20 May 2019