

IMMIGRATION APPEALS BOARD DIVISION II

Members:

[REDACTED]
[REDACTED]
[REDACTED]

Representatives:

[REDACTED]
[REDACTED]
[REDACTED]

D [REDACTED] A [REDACTED]
[REDACTED]

17 February 2022

[REDACTED] appeared in representation of the appellant, who was also present.

Inspector [REDACTED] appeared in representation of the PIO.

Mr [REDACTED] acted as interpreter.

Inspector [REDACTED] presented the appellant's detention order which is based on two separate grounds, namely that his identity still needs to be determined and due to the risk of absconding.

Inspector [REDACTED] said that once the PIO was notified that the appellant had been medically cleared, the PIO issued a DO since his application as asylum seeker has not yet been lodged due to his pending AA case. Inspector [REDACTED] said that the appellant is being considered and treated as if he was an asylum seeker and hence the reason for the DO rather than a RO.

Inspector [REDACTED] said that the PIO is considering the appellant to be an adult. He said that the appellant is being detained in Safi Detention Centre in an area separate from adults.

The appellant said that he is being held in a container with another person who is older than him and he is not allowed to go out from the same container.

The appellant said that his date of birth is 4 September 2004.

Inspector [REDACTED] confirmed that the appellant is being detained with another person who similarly alleges to be a minor. They are given recreational time outside their lodging, although they at times refuse to leave the lodging. They also got a TV.

The appellant confirmed that they got a TV, but repeats that the door is closed at all times and it is not possible for them to leave.

██████████ said that the PIO's presumption is odd given that detention should be a measure of last resort and considering that his date of birth is close to 18 years, he should be considered as a minor.

██████████ said that there is difference in treatment by the PIO according to the migrant's nationality. He said that the Ivory Coast is not among the list of safe third country of origin and therefore the appellant should not be detained.

██████████ confirmed that a legal guardian was appointed.

The Board considered detention to be legal and ordered that the appellant is kept in a lodging adequate for minors. A review will be held in two months unless a decision on his age assessment is given before such date and unless the PIO offered an alternative to detention.

██████████ requested that the PIO considered an alternative to detention.

The sitting is adjourned to 21 April 2022 at 13.00.