
Court of Justice of the European Union: children cannot be repatriated unless they are guaranteed adequate reception

If adequate reception is not available in their country of origin, no decision can be taken to repatriate unaccompanied children. This has been said today by a ruling of the Court of Justice of the European Union that had been consulted by the Netherlands about the case of a boy born in Guinea in 2002 who arrived, alone, in Amsterdam: at the age of 15, he saw the authorities refusing him the authorisation to stay on in the country, which is tantamount to an order of repatriation. But, because the boy had no contacts with his original family and “nowhere to go”, he consulted the judge. Now, the Dutch law makes a distinction between unaccompanied children under the age of fifteen, as to whom an investigation about the availability of adequate reception in the country of origin must be carried out before passing a decision, and those who are older than 15, as in this case: in these circumstances, no investigation is carried out, then, when the children come of age, the decision to repatriate them is enforced. And it was the Court of Appeal judge himself who consulted the Court of Justice of the European Union to find out whether such age-based distinctions comply with EU law. Luxembourg’s judges answered that “no distinction can be made between unaccompanied children based just on age” to ensure there is adequate reception for the child in the country of origin.

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