
1492nd meeting, 12-14 March 2024 (DH)

H46-19 Darboe and Camara group v. Italy (Application No. 5797/17)

Supervision of the execution of the European Court's judgments

Reference documents
CM/Notes/1492/H46-19

Decisions

The Deputies

1. recalled that this group of cases concerns the authorities' failure to observe the minimum due process safeguards in the age-assessment procedures carried out in respect of unaccompanied minor migrants; their placement and the conditions of their stay in reception facilities for adults; as well as the ineffectiveness or unavailability of domestic remedies in these respects;

As regards individual measures

2. noted that no further individual measure is required in respect of the applicants, who had become of age at the time the European Court gave its judgments; urged the authorities to pay, without any further, delay the just satisfaction awarded by the Court to Mr Diakitè for non-pecuniary damage and costs and expenses and to inform the Committee accordingly;

As regards general measures

3. noted the information on the 2017 reform of the legal framework on age assessment in migration context, which the Court found to meet the higher international standards, including those set in the Committee of Ministers' relevant recommendation to member States; noted further with concern that legislation enacted in October 2023 appears to have significantly reduced the safeguards attending the age-assessment procedure, including with regard to those which were central to the European Court's analysis in these cases;

4. considered, in the light of the information available, that further measures are required on the one hand, to ensure the effective implementation of the provisions enacted in 2017 and, on the other hand, to guarantee that even in emergency situations, unaccompanied minors benefit in law and in practice of the presumption of minority and of the minimum safeguards which, under these judgments, must attend the age-assessment procedure;

5. recognising the efforts deployed by the Italian authorities to increase their reception capacity for unaccompanied minors, noted nevertheless with concern that this capacity remains largely insufficient and that further measures are therefore required to ensure that unaccompanied minors arriving in Italy are placed in dedicated facilities and in adequate conditions or benefit from other care arrangements which are suited to their needs as children, and therefore respond to their best interest, including pending the outcome of age-assessment proceedings;

6. in this connection, firmly underlined that the authorities' obligation to abide by the Court's judgment in *Darboe and Camara* includes preventing further breaches of the absolute prohibition of inhuman or degrading treatment, which admits no exception or derogation including in emergency situations; expressed therefore their deep concern at the legislation enacted in late 2023 which has instead provided a legal basis for placing unaccompanied migrants over the age of 16 in facilities for adults, for periods up to 150 days;

7. as regards the question of domestic remedies, requested the authorities to indicate rapidly whether and what legal avenues are available in domestic law for unaccompanied minor migrants who wish to complain about their reception conditions and obtain redress of their individual situation; considered as regards the remedies available in the age-assessment procedures that their effectiveness hinges on that of the authorities' action to address the deficiencies found in the observance of the minimum due process safeguards in these procedures;

8. requested the authorities to provide information on the additional measures taken and envisaged to address the questions referred to above and the other questions outlined in the analysis prepared by the Secretariat for the present examination by 15 September 2024 at the latest; decided to resume consideration of this group of cases at one of their Human Rights meetings in 2025.