

Operative part of the judgment

1. Article 15(3) and (6) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, read in the light of Articles 6 and 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that any decision adopted by a competent authority, on expiry of the maximum period allowed for the initial detention of a third-country national, on the further course to take concerning the detention must be in the form of a written measure that includes the reasons in fact and in law for that decision;
2. Article 15(3) and (6) of Directive 2008/115 must be interpreted as meaning that the 'supervision' that has to be undertaken by a judicial authority dealing with an application for extension of the detention of a third-country national must permit that authority to decide, on a case-by-case basis, on the merits of whether the detention of the third-country national concerned should be extended, whether detention may be replaced with a less coercive measure or whether the person concerned should be released, that authority thus having power to take into account the facts stated and evidence adduced by the administrative authority which has brought the matter before it, as well as any facts, evidence and observations which may be submitted to the judicial authority in the course of the proceedings;
3. Article 15(1) and (6) of Directive 2008/115 must be interpreted as precluding national legislation such as that at issue in the main proceedings, pursuant to which an initial six-month period of detention may be extended solely because the third-country national concerned has no identity documents. It is for the referring court alone to undertake an individual assessment of the facts and circumstances of the case in question in order to determine whether a less coercive measure may be applied effectively to that third-country national or whether there is a risk of him absconding;
4. Article 15(6)(a) of Directive 2008/115 must be interpreted as meaning that a third-country national who, in circumstances such as those in issue in the main proceedings, has not obtained an identity document which would have made it possible for him to be removed from the Member State concerned may be regarded as having demonstrated a 'lack of cooperation' within the meaning of that provision only if an examination of his conduct during the period of detention shows that he has not cooperated in the implementation of the removal operation and that it is likely that that operation lasts longer than anticipated because of that conduct, a matter which falls to be determined by the referring court;
5. Directive 2008/115 must be interpreted as meaning that a Member State cannot be obliged to issue an autonomous residence permit, or other authorisation conferring a right to stay, to a third-country national who has no identity documents and has not obtained such documentation from his country of origin, after a national court has released the person concerned on the ground that there is no longer a reasonable prospect of removal within the meaning of Article 15(4) of that directive. However, that Member State must, in such a case, provide the third-country national with written confirmation of his situation.

⁽¹⁾ OJ C 159, 26.5.2014.

Request for a preliminary ruling from the Sąd Rejonowy w Płocku (Poland) lodged on 30 September 2013 — Urszula Leśniak-Jaworska, Małgorzata Głuchowska-Szmulewicz v Prokuratura Okręgowa w Płocku

(Case C-520/13)

(2014/C 253/19)

Language of the case: Polish

Referring court

Sąd Rejonowy w Płocku

Parties to the main proceedings

Applicants: Urszula Leśniak-Jaworska, Małgorzata Głuchowska-Szmulewicz

Defendant: Prokuratura Okręgowa w Płocku

By order of 27 March 2014, the Court of Justice ruled that it manifestly lacked jurisdiction to answer the question referred by the Sąd Rejonowy w Płocku.
