



STATELESSNESS

Case Law Database

[Belgium - Gent Court of Appeal, judgment no. 2006/EV/42](#)

The applicant fled Kosovo in 1998, and during her asylum procedures in Belgium claimed to be a Yugoslav national, and had a Yugoslav passport as well as a birth certificate. In her statelessness determination process, the authorities and the Court found her to be uncooperative as she seemingly did not present all her identity documents to the embassy of Serbia and Montenegro with the aim of determining whether she is a Serbian national.

Case name (in original language) : 2006/EV/42

Case status: Decided

Case number: 2006/EV/42

Citation: <https://www.agii.be/hof-van-beroep-van-gent-2007-01-04>

Date of decision: 04/01/2007

State: Belgium

Court / UN Treaty Body: Gent Court of Appeal

Language(s) the decision is available in: Dutch

Applicant's country of birth: Yugoslavia {former}

Applicant's country of residence: Belgium

Key aspects: Burden of proof, Determination/confirmation of nationality, Protection, Standard of proof, State succession, Statelessness and asylum, Statelessness determination

Facts

The applicant was born in 1972 in Prishtina, Kosovo (former USSR). She fled the war in 1998. During her application procedure in Belgium, as well as during the procedure for regularisation of her residence, the applicant has consistently declared to be a national of Yugoslavia. She showed a passport issued in 1997 in Yugoslavia, and a birth certificate issued in 1991. She never mentioned the possibility of statelessness.

Decision & Reasoning

The Court considered that despite the complex political situation and the involvement of UNMIK, residents of Kosovo are still legally speaking Serbian nationals. It reasoned further as follows:

"Unless the applicant explicitly renounced her Serbian nationality, or lost that nationality in accordance with the applicable laws of Yugoslavia/Serbia, she still has the nationality of Serbia and Montenegro. The applicant has not proven that she had renounced or lost her nationality."

"The applicant incorrectly claims that she lost her nationality on the basis of UN Resolution 1244, which gave mandate to the UNMIK mission."

"Because Kosovo is still part of Serbia, the UNMIK administration does not issue proofs of nationality or passports."

"To obtain or to extend [passports], Kosovars can approach the Ministry of Internal Affairs of Serbia in Prishtina."

"Kosovars living abroad can approach the consular representations of the FRY/Serbia."

"The embassy of Serbia and Montenegro in Brussels in its letter of 10 October 2005 states:

- other documents are needed to confirm/investigate the nationality status of the applicant;
- the applicant should appear in person to submit the necessary documents;
- the UNMIK documents cannot be taken into consideration."

"Nothing prevents the applicant from submitting the documents she presented during her asylum procedure to the embassy of Serbia and Montenegro, instead of submitting a birth certificate issued by UNMIK [...]. To the extent she does not do it, the responsibility lies with her for not showing enough cooperation."

Decision documents

[Gent_4Jan2007.pdf](#)

Outcome

The court upheld the decision to deny the applicant her statelessness status.