



STATELESSNESS

Case Law Database

[Belgium - Constitutional Court, judgment no. 198/2009](#)

The absence of any legislative provision granting persons recognised as stateless in Belgium a residence right, comparable to that enjoyed by recognised refugees, is discriminatory.

Case name (in original language) : Arrêt no. 198/2009

Case status: Decided

Case number: 198/2009

Citation: Belgium, Constitutional Court, 17 December 2009, No. 198/2009, available at <http://www.const-court.be/public/f/2009/2009-198f.pdf> (in French) and <http://www.const-court.be/public/n/2009/2009-198n.pdf> (in Dutch)

Date of decision: 17/12/2009

State: Belgium

Court / UN Treaty Body: Constitutional Court

Language(s) the decision is available in: Dutch, French

Applicant's country of birth: Azerbaijan

Applicant's country of residence: Azerbaijan

Legal instruments: 1954 Statelessness Convention

Key aspects: Access to social and economic rights, Discrimination, Residence permit

Relevant Legislative Provisions:

Articles 7.1, 23 and 24 of the 1954 Convention

Articles 10 and 11 of the Belgian Constitution (principle of equal treatment and non-discrimination)

Article 49 of the Law of 15 December 1980 (Aliens Law)

Article 98 of the Royal Decree of 8 October 1981 (Aliens Decree)

Decision & Reasoning

The Constitutional Court held that the difference in treatment in regard to their right of residence between recognised refugees and recognised stateless persons who involuntarily lost their nationality and cannot obtain a legal and durable right of residence in another state, constitutes discrimination since different treatment is applied to persons who find themselves in comparable situations.

The Constitutional Court concluded that a stateless person who has been recognised as such because he has involuntarily lost his nationality, and shows that he cannot obtain a legal and durable right of residence in another state with which he has ties, is discriminated against in the enjoyment of his fundamental rights. This discrimination, stated the Constitutional Court, stems from the absence of any legislative provision granting persons recognised as stateless in Belgium a right of residence comparable to the one enjoyed by refugees.

According to Constitutional Court, it was first and foremost up to the legislator to remedy this situation, as only the legislator can set the conditions under which stateless persons are entitled to acquire a residence permit.

Decision documents

[Constitutional Court, judgment no. 198/2009 \(French\)](#)

[Constitutional Court, judgment no. 198/2009 \(Dutch\)](#)

Outcome

The case was referred back to the Labour Court as the judgement of the Constitutional Court was a response to a preliminary question asked by the Labour Court.

Links to other relevant materials related to the case (blogs, analysis, articles, reports, etc.)

Lejeune Julie and Van Doren Wout, “Statelessness in Belgium: a blurred landscape”, European Network on Statelessness Blog, 7 March 2019.

European Network on Statelessness and Nansen vzw/asbl, “Avis conjoint du réseau européen sur l’apatridie et de Nansen sur la proposition de loi modifiant la loi du 15 décembre 1980 sur l’accès au territoire, le séjour, l’établissement et l’éloignement des étrangers, en vue de régler le droit de séjour des apatrides », 1 March 2019.

UN High Commissioner for Refugees (UNHCR), Mapping Statelessness in Belgium, October 2012, available at: <https://www.refworld.org/docid/5100f4b22.html>

Ruben Wissing, "Statelessness having been mapped, it's time to act now for Belgian authorities, before momentum passes", European Network on Statelessness Blog, 13 February 2013, <https://www.statelessness.eu/blog/statelessness-having-been-mapped-it%E...>

See also: Constitutional Court, Judgment no. 1/2012 of 11 January 2012.