



Belgium - Court of Cassation, judgment no. C.13.0042

The Court of Cassation held that judges are obliged to remedy every legislative gap that has been found unconstitutional by the Constitutional Court. By refusing to grant a right of residence to a recognised stateless person without investigating whether he had involuntarily lost his nationality, and if he had demonstrated that he could not obtain a durable residence permit in another state with which he has ties, the Court of Appeal of Liège violated articles 10 and 11 of the Constitution.

Case name (in original language) : Arrêt no. C.13.0042

Case status: Decided

Case number: C.13.0042

Citation: Belgium, Court of Cassation, 27 May 2016, C.13.0042,
http://jure.juridat.just.fgov.be/pdfapp/download_blob?idpdf=F-20160527-2

Date of decision: 27/05/2016

State: Belgium

Court / UN Treaty Body: Court of Cassation

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

Applicant's country of residence: Macedonia

Legal instruments: 1954 Statelessness Convention

Key aspects: Burden of proof, Residence permit

Relevant Legislative Provisions:

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)

Decision & Reasoning

The Court of Cassation held that judges are obliged to remedy every legislative gap that has been found unconstitutional by the Constitutional Court. By refusing to

grant a right of residence to a recognised stateless person without investigating whether he had involuntarily lost his nationality, and if he had demonstrated that he could not obtain a durable residence permit in another state with which he has ties, the Court of Appeal of Liège violated articles 10 and 11 of the Constitution

Decision documents

[Arrêt no. C.13.0042](#)

Caselaw cited

Constitutional Court, Judgment no. 198/2009 of 17 December 2009.

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