

Constitutional Court

Judgment number: 110/99

Summary:

Many parties, including both public persons and private individuals or groups, introduced an application for judicial review of a decree issued by the Flemish Community on 23 June 1998 providing for additional financial assistance to be granted to persons living in a situation of economic insecurity owing to circumstances resulting from the second world war and the subsequent punitive measures taken against collaborators. All these cases (120) were dealt with together.

The Court first had to decide a number of questions regarding admissibility, such as whether patriotic and Jewish associations or individual Jews in fact had a legitimate interest in their application and whether the arguments advanced in support of the application were sufficiently clear. The judgment contains a balanced interpretation based on a number of criteria in accordance with the Court's established case-law (see the basic principles referred to in the headnotes).

On the merits, the Court first had to decide whether the Flemish Community, as a federal entity, had in fact been assigned the power to take the contested measure. The Flemish Government was of the view that the Communities are entitled to give such financial aid on the basis of powers assigned to them in the area of welfare assistance (i.e., inter alia, material, social, medical and psychological support to persons in need, regardless of the nature or cause of such need). However, the Court found that the measure belonged more to the sphere of punitive action against collaborators, in respect of which the federal government retains a residual power.

The Flemish Community's decree was annulled in full on the ground of lack of jurisdiction; consequently, the other arguments were not considered.

Source: Constitutional Court of Belgium, http://www.const-court.be/cgi/arrets_popup.php?lang=en&ArrestID=947