

Bundesverfassungsgericht
t. 37, p. 217

Constitutional Court
Federal Republic of Germany

21 May 1974

Judgment No. 16

1. It is inconsistent with the principle of equality between men and women (Art. 3, sec. 2, Basic Law) that according to § 4, sec. 1 of the nationality law the marital [legitimate] child of a German father and a foreign mother always acquires German nationality whereas the marital child of a German mother and a foreign father only acquires it when the child otherwise would be stateless.

2. The legislator is obliged to grant all marital children born since 1 April 1953 of German mothers, who were barred from acquiring German nationality from birth, a means of acquiring German nationality.

3. When the Constitutional Court holds unconstitutional a law, that law shall no longer be applied inconsistently, from the moment of the decision of the Constitutional Court and to the extent of the decision; this is and equally so in the case of a declaration of nullity.