

## Case 66/85

### Deborah Lawrie-Blum v Land Baden-Württemberg

(reference for a preliminary ruling  
from the Bundesverwaltungsgericht)

(Worker — Trainee teacher)

#### Summary

1. *Free movement of persons — Worker — Concept — Existence of an employment relationship — Trainee teacher — Included*  
(EEC Treaty, Art. 48 (1))
2. *Free movement of persons — Derogations — Employment in the public service — Concept — Participation in the exercise of powers conferred by public law and in the safeguarding of the general interests of the State — Trainee teacher*  
(EEC Treaty, Art. 48 (4))

1. The term 'worker' in Article 48 has a Community meaning. It must be defined in accordance with objective criteria which distinguish the employment relationship by reference to the rights and duties of the persons concerned. The essential feature of an employment relationship is that a person performs services of some economic value for and under the direction of another person in return for which he receives remuneration. The sphere in which they are provided and the nature of the legal relationship between employee and

employer are immaterial as regards the application of Article 48.

Therefore, a trainee teacher who, under the direction and supervision of the school authorities, is undergoing a period of service in preparation for the teaching profession during which he provides services by giving lessons and receives remuneration must be regarded as a worker within the meaning of Article 48 (1) of the EEC Treaty, irrespective of the legal nature of the employment relationship.

2. The expression 'employment in the public service' within the meaning of Article 48 (4), which is excluded from the ambit of Article 48 (1), (2) and (3), must be understood as meaning those posts which involve direct or indirect participation in the exercise of powers conferred by public law and in the discharge of functions whose purpose is to safeguard the general interests of the State or of other public authorities and which therefore require a special relationship of allegiance to the State on the part of

persons occupying them and reciprocity of rights and duties which form the foundation of the bond of nationality. The posts excluded are confined to those which, having regard to the tasks and responsibilities involved, are apt to display the characteristics of the specific activities of the public service in the spheres described above.

A period of preparatory service for the teaching profession does not come within the scope of that provision.

## OPINION OF MR ADVOCATE GENERAL LENZ delivered on 29 April 1986 \*

*Mr President,  
Members of the Court,*

A — The case on which I am delivering my opinion today concerns the question whether, in Germany, a national of another Member State of the European Community can demand admission to preparatory service as a trainee teacher in the State school system [Zulassung zum staatlichen Vorbereitungsdienst] on the same conditions as German nationals.

1. The plaintiff, Mrs Lawrie-Blum, a British national born in Portugal who has since married a German national, went to school in Austria and England and obtained her first university degree in the latter country. She then studied at the University of Freiburg and in Spring 1979 took the Gymnasium [secondary school] teacher's examination with Russian and English as her main subjects. In August 1979, she

applied to the Oberschulamt Stuttgart [Secondary Education Office, Stuttgart] in the *Land* of Baden-Württemberg, the defendant in this case, to be admitted to the period of preparatory service for the profession of teacher at a Gymnasium. It was her intention to teach in a private Gymnasium after completing her training.

From the point of view of the legislation on foreigners, the police authorities of the City of Freiburg raised no objection to her admission to preparatory service and to her assuming civil service status. After an appropriate course of instruction, the plaintiff declared that she supported the principles of the free and democratic social order, as laid down in the Grundgesetz [Constitution of the Federal Republic of Germany], that she was prepared to demonstrate her support for that order at all times in all aspects of her conduct and to work for its maintenance. However, the Oberschulamt refused her application for admission to

\* Translated from the German.