

Case C-7/94

Landesamt für Ausbildungsförderung Nordrhein-Westfalen

v

Lubor Gaal

(Reference for a preliminary ruling
from the Bundesverwaltungsgericht)

(Council Regulation (EEC) No 1612/68 — Article 12 — Definition of ‘child’)

Opinion of Advocate General Tesauro delivered on 9 February 1995	I - 1033
Judgment of the Court (Sixth Chamber), 4 May 1995	I - 1040

Summary of the Judgment

- 1. Court of Justice — Organization — Composition of chambers — Second paragraph of Article 165 of the Treaty, permitting the formation of chambers consisting of three or five judges — Organization of the Court into chambers consisting of a higher number of judges not precluded thereby
(EC Treaty, Art. 165, second para.)*
- 2. Freedom of movement for persons — Workers — Equal treatment — Access to education for the children of workers — ‘Child’ — Definition — Exclusion of children who are over 21 years of age and no longer dependants of their parents — Not permissible
(Council Regulation No 1612/68, Art. 12)*

1. The second paragraph of Article 165 of the Treaty, which allows chambers to be formed so that certain cases may be adjudicated by three or five judges, is without prejudice to the fact that, for reasons relating to the judicial organization of the Court, the three or five judges assigned to adjudicate in a particular case may belong to a chamber consisting of a higher number of judges.
2. The definition of 'child' for the purposes of Article 12 (on access to education for the children of migrant workers) of Regulation No 1612/68 is not subject to the same conditions of age or dependency as are the rights governed by Article 10(1)

and Article 11 of that regulation, and therefore Article 12 may encompass children who are over 21 years of age and no longer dependants of their parents.

It would conflict not only with the letter but also with the spirit of Article 12, which lays down the principle of equal treatment for all forms of education, to interpret it in a way which renders students already at an advanced stage in their education ineligible for the financial assistance available in the host Member State as soon as they reach 21 years of age or are no longer dependants of their parents.