

Case C-484/07

Fatma Pehlivan

v

Staatssecretaris van Justitie

(Reference for a preliminary
ruling from the Rechtbank 's-Gravenhage)

(EEC-Turkey Association Agreement — Family reunification — First indent of the first paragraph of Article 7 of Decision No 1/80 of the Association Council — Child of a Turkish worker who lived together with that worker for more than three years, but married before the expiry of the three-year period laid down in that provision — National law calling into question, on that ground, the residence permit of the person concerned)

Opinion of Advocate General Sharpston delivered on 8 July 2010 I - 5205

Judgment of the Court (First Chamber), 16 June 2011 I - 5228

Summary of the Judgment

International agreements — EEC-Turkey Association Agreement — Association Council set up by the EEC-Turkey Association Agreement — Decision on the free movement of workers — Family reunification

(Decision No 1/80 of the EEC-Turkey Association Council, Article 7(1), first indent)

The first indent of the first paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council must be interpreted as follows:

- that provision precludes legislation of a Member State under which a family member properly authorised to join a Turkish migrant worker already duly registered as belonging to the labour force of that State loses the enjoyment of the rights based on family reunification under that provision for the reason only that, having attained majority, he or she marries, even when he or she continues to live with that worker during the first three years of his or her residence in the host Member State;

- a Turkish national who comes within that provision may validly claim a right of residence in the host Member State on the basis thereof, notwithstanding the fact that he or she married before the expiry of the three-year period laid down in that first indent of the first paragraph of Article 7 of Decision No 1/80, when, during that whole period, he or she actually lived under the same roof as the Turkish migrant worker through whom he or she was admitted to the territory of that State on the ground of family reunification.

It follows both from the primacy of European Union law and from the direct effect of a provision such as the first paragraph of Article 7 of Decision No 1/80 that Member States are not permitted to modify unilaterally the scope of the system of gradually integrating Turkish nationals in the host Member State and do not have the power to adopt measures which may jeopardise the legal status expressly conferred on those nationals by the law governing the EEC-Turkey Association. Thus, members of a Turkish worker's family who fulfil the conditions laid down in the first paragraph of Article 7 of Decision No 1/80 can lose the rights conferred on them by that provision only in two cases, namely, when the presence of the Turkish migrant in the host Member State constitutes, on account of his or her own conduct, a genuine and serious threat to public policy, public security or public health, in accordance with Article 14(1) of that decision, or when the person concerned has left the territory of that State for a significant length of time without legitimate reason.

(see paras 56, 62, 66, operative part)