

Case C-462/08

Ümit Bekleyen

v

Land Berlin

(Reference for a preliminary ruling
from the Oberverwaltungsgericht Berlin-Brandenburg)

(EEC-Turkey Association Agreement — Second paragraph of Article 7 of Decision No 1/80 of the Association Council — Right of the child of a Turkish worker to respond to any offer of employment in the host Member State in which that child has completed a vocational training course — Start of the vocational training course after the parents have permanently left that Member State)

Opinion of Advocate General Mengozzi delivered on 29 October 2009. . . . I - 565
Judgment of the Court (Second Chamber), 21 January 2010 I - 587

Summary of the Judgment

International agreements — EEC-Turkey Association Agreement — Association Council set up by the EEC-Turkey Association Agreement — Decision No 1/80 — Access to employment of children of Turkish workers — Members of the family of a Turkish worker who has been duly registered as belonging to the labour force of a Member State

(Decision No 1/80 of the EEC-Turkey Association Council, Art. 7(2))

The second paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council must be interpreted as meaning that, in the case where a Turkish worker has previously been legally employed in the host Member State for more than three years, the child of such a worker may rely in that Member State, after completing his or her vocational training course there, on the right of access to the employment market and the corresponding right of residence, even though, after travelling back with his or her parents to their State of origin, he or she returned on his or her own to that Member State in order to start a training course there.

That provision, which is not designed to create conditions conducive to family unity in the host Member State, but to promote access of children of Turkish workers to the employment market, does not make the rights which it confers on those children subject to the condition that one of their parents must still have the status of worker or continue to reside in the host Member State when the child starts his or her vocational training there. Provided that the conditions laid down in the second paragraph of Article 7 of Decision No 1/80 are satisfied, namely that the child in question must have completed a course of vocational training in the Member State concerned and one of his or her parents must have been legally employed there for at least three years, that provision confers on the child an autonomous right of access to the

employment market of the host Member State and, as a corollary, a right to reside there.

It is, admittedly, true that the right of free access of the child of a Turkish worker to the employment market is founded on the past employment of the Turkish worker in the host Member State. None the less, the condition that one of the parents must have worked in that State for at least three years cannot be construed as requiring that, when the child starts his or her vocational training, that parent must still have the status of worker. The sole purpose of that condition is to establish, in parallel with the child's vocational training, the level of the child's integration in the host Member State which is sufficient to enable him or her to benefit from the special treatment provided for in that provision.

Such an interpretation does not have the effect of placing a child of a Turkish worker in a more favourable situation than that of a child of a national of a Member State.

(see paras 18, 27-31, 44-45, operative part)