



Reports of Cases

Case C-171/13

Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen (Uwv)

v

M.S. Demirci and Others

(Request for a preliminary ruling from the Centrale Raad van Beroep)

(Request for a preliminary ruling — EEC-Turkey Association Agreement — Social security for migrant workers — Waiver of residence clauses — Supplementary benefits granted under national legislation — Residence requirement — Application to Turkish former workers — Turkish nationals having acquired the nationality of the host Member State)

Summary — Judgment of the Court (First Chamber), 14 January 2015

International agreements — EEC-Turkey Association Agreement — Social security for migrant workers — Decision No 3/80 of the Association Council — Waiver of residence clauses — Supplementary benefits granted under national legislation — National legislation withdrawing those benefits for recipients no longer residing on national territory — Application to Turkish former workers having acquired the nationality of the host Member State — Treatment of those workers exclusively as nationals of that State — Lawfulness

(Decision No 3/80 of the EEC-Turkey Association Council, Art. 6; Council Regulation No 1408/71, as amended by Regulations No 118/97 and No 647/2005, Art. 4(2)(a))

The provisions of Decision No 3/80 of the Association Council on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families, viewed also in the light of Article 59 of the Additional Protocol to the Association Agreement, must be interpreted as meaning that nationals of a Member State who have been duly registered as belonging to the labour force of that Member State as Turkish workers cannot, on the ground that they have retained Turkish nationality, rely on Article 6 of Decision No 3/80 to object to a residence requirement provided for by the legislation of that Member State in order to receive a special non-contributory benefit within the meaning of Article 4(2) of Regulation No 1408/71, as amended and updated by Regulation No 118/97, as amended by Regulation No 647/2005.

There is nothing justifying the proposition that a Turkish national, whose legal regime has necessarily changed at the time of acquisition of the nationality of the host Member State, should not be treated by that State exclusively as one of its own nationals for the purposes of paying out such a benefit. Such a conclusion is all the more compelling since waiving, on the basis of Decision No 3/80, the requirement of residence as a condition for receiving the supplementary benefit for nationals of a Member State who have acquired that nationality after having been hosted as Turkish workers whilst retaining Turkish nationality would give rise to a twofold, unjustifiable difference in treatment. Thus, those nationals would be treated more favourably than Turkish workers who do not possess the nationality of the host Member State and who, since they are no longer duly registered as belonging

to the labour force of that State, no longer enjoy a right to reside there. Moreover, those persons would also be in a more favourable position than nationals of the host Member State or another Member State who would, admittedly, enjoy favourable terms of right to reside and free movement within the Union, but who remain subject to the requirement to reside in the territory of the host Member State in order to receive the supplementary benefit.

(see paras 57-59, 73, operative part)