

Case C-171/01

Wählergruppe 'Gemeinsam Zajedno/Birlikte Alternative und Grüne GewerkschafterInnen/UG' and Others

(Reference for a preliminary ruling from the Verfassungsgerichtshof (Austria))

(EEC-Turkey Association — Freedom of movement for workers — Article 10(1) of Decision No 1/80 of the Association Council — Prohibition of discrimination as regards conditions of work — Direct effect — Scope — Legislation of a Member State excluding Turkish workers from eligibility for election to a chamber of workers)

Opinion of Advocate General Jacobs delivered on 12 December 2002 . . . I-4304

Judgment of the Court (Sixth Chamber), 8 May 2003 . . . I-4320

Summary of the Judgment

1. *International agreements — Agreements concluded by the Community — Direct effect — Conditions — Article 10(1) of Decision No 1/80 of the Council of Association, set up under the EEC-Turkey Association Agreement — Principle of non-discrimination as regards conditions of work*
(Decision No 1/80 of the EEC-Turkey Association Council, Art. 10(1))

2. *International agreements — EEC-Turkey Association Agreement — Freedom of movement for persons — Workers — Equal treatment — Exercise of trade-union rights — National legislation excluding Turkish workers from eligibility for election to their chamber of workers — Not permissible — Application of the principles laid down in Article 48 of the Treaty (now, after amendment, Article 39 EC)*
 (EC Treaty, Art. 48(2) (now, after amendment, Art. 39(2) EC); Decision No 1/80 of the EEC-Turkey Association Council, Art. 10(1))

1. A provision in an agreement concluded by the Community with a non-member country must be regarded as being directly applicable when, regard being had to its wording and to the purpose and nature of the agreement, it contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure. The same conditions apply in determining whether the provisions of a decision of the association council established by an association agreement may have direct effect.

as having direct effect in the Member States and as conferring on the Turkish nationals to whom it applies the right to rely on it before the courts of the host Member State.

(see paras 54-55, 57, 67, operative part)

Article 10(1) of Decision No 1/80, adopted by the Association Council established by the EEC-Turkey Association Agreement, which prohibits Member States, in clear, precise and unconditional terms, from discriminating, on the basis of nationality, against Turkish migrant workers duly registered as belonging to their labour force as regards remuneration and other conditions of work must be interpreted

2. In the context of Community law and, in particular, Article 48(2) of the Treaty (now, after amendment, Article 39(2) EC), national legislation which denies workers who are nationals of other Member States the right to vote and/or the right to stand as a candidate in elections held by bodies such as occupational guilds to which those workers are compulsorily affiliated, to which they must pay contributions, which are responsible for defending and representing workers' interests and which perform a consultative function in the legislative field is contrary to the fundamental principle of non-discrimination on the grounds of nationality.

In the light of that principle, which is applicable by analogy to Turkish workers enjoying the rights conferred by Decision No 1/80 of the EEC-Turkey Association Council, Article 10(1) of that decision must be interpreted as precluding the application of national legislation which excludes Turkish workers duly registered as belonging to the labour force of the host Member

State from eligibility for election to the general assembly of a body representing and defending the interests of workers.

(see paras 75, 78, 94, operative part)