

JUDGMENT OF THE COURT (Third Chamber)

24 January 2008 (*)

(EEC-Turkey Association Agreement – Freedom of movement for workers – Decision No 1/80 of the Association Council – First indent of Article 6(1) – Worker duly registered as belonging to the labour force – Leave to enter as a student or as an au pair – Effect on the right to remain)

In Case C-294/06,

REFERENCE for a preliminary ruling under Article 234 EC from the Court of Appeal (England and Wales) (Civil Division) (United Kingdom), made by decision of 28 June 2006, received at the Court on 30 June 2006, in the proceedings

The Queen, on the application of:

Ezgi Payir,

Burhan Akyuz,

Birol Ozturk,

v

Secretary of State for the Home Department,

THE COURT (Third Chamber),

composed of A. Rosas, President of the Chamber, J.N. Cunha Rodrigues, J. Klučka, P. Lindh (Rapporteur) and A. Arabadjiev, Judges,

Advocate General: J. Kokott,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 26 April 2007,

after considering the observations submitted on behalf of:

- Ms Payir, by S. Cox, Barrister, and R. Despicht, Solicitor,
- Mr Akyuz and Mr Ozturk, by N. Rogers, Barrister,
- the United Kingdom Government, by C. Gibbs, acting as Agent, assisted by P. Saini, Barrister,
- the German Government, by M. Lumma and C. Schulze-Bahr, acting as Agents,
- the Italian Government, by I.M. Braguglia, acting as Agent, assisted by W. Ferrante, avvocato dello Stato,
- the Netherlands Government, by H.G. Sevenster and C. Wissels, acting as Agents,

- the Commission of the European Communities, by G. Rozet and N. Yerrell, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 18 July 2007,

gives the following

Judgment

- 1 This reference for a preliminary ruling concerns the interpretation of Article 6(1) of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association ('Decision No 1/80'). The Association Council was set up by the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963 by the Republic of Turkey and by the Member States of the EEC and the Community and concluded, approved and confirmed on behalf of the Community by Council Decision 64/732/EEC of 23 December 1963 (OJ 1973 C 113, p. 1).
- 2 The reference was made in the context of two separate actions, the first brought by Ms Payir, and the second by Mr Akyuz and Mr Ozturk, against the Secretary of State for the Home Department ('the Secretary of State') in respect of the Secretary of State's decision to refuse to extend their leave to remain.

Legal context

Community legislation

- 3 Article 6(1) of Decision No 1/80 provides as follows:

'1. Subject to Article 7 on free access to employment for members of his family, a Turkish worker duly registered as belonging to the labour force of a Member State:

- shall be entitled in that Member State, after one year's legal employment, to the renewal of his permit to work for the same employer, if a job is available;
- shall be entitled in that Member State, after three years of legal employment and subject to the priority to be given to workers of Member States of the Community, to respond to another offer of employment, with an employer of his choice, made under normal conditions and registered with the employment services of that State, for the same occupation;
- shall enjoy free access in that Member State to any paid employment of his choice, after four years of legal employment.'

National legislation

- 4 The relevant provisions relating to au pairs are contained in particular in paragraphs 88 to 93 of the immigration rules adopted by the United Kingdom Parliament in 1994 (United Kingdom Immigration Rules, House of Commons Paper 395; 'the Immigration Rules') and provide as follows:

'Definition of an "au pair" placement

88. For the purposes of these Rules an "au pair" placement is an arrangement whereby a young person:

- (a) comes to the United Kingdom for the purpose of learning the English language; ...

- (b) lives for a time as a member of an English speaking family with appropriate opportunities for study; and
- (c) helps in the home for a maximum of 5 hours per day in return for a reasonable allowance and with two free days per week.

Requirements for leave to enter as an "au pair"

89. The requirements to be met by a person seeking leave to enter the United Kingdom as an "au pair" are that he:

- (i) is seeking entry for the purpose of taking up an arranged placement which can be shown to fall within the definition set out in paragraph 88; ...
- (ii) is aged between 17-27 inclusive or was so aged when first given leave to enter in this capacity; ...
- (iii) is unmarried; ...
- (iv) is without dependants; ...
- (v) is a national of one of the following countries: ... Turkey; ...
- (vi) does not intend to stay in the United Kingdom for more than 2 years as an "au pair"; ...
- (vii) intends to leave the United Kingdom on completion of his stay as an "au pair"; ...
- (viii) if he has previously spent time in the United Kingdom as an "au pair", is not seeking leave to enter to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity, and
- (ix) is able to maintain and accommodate himself without recourse to public funds.

Leave to enter as an "au pair"

90. A person seeking leave to enter the United Kingdom as an "au pair" may be admitted for a period not exceeding 2 years with a prohibition on employment except as an "au pair" provided the Immigration Officer is satisfied that each of the requirements of paragraph 89 is met. ...'

5 The immigration provisions concerning students are contained in particular in paragraphs 57 to 62 of the Immigration Rules:

'Requirements for leave to enter as a student

57. The requirements to be met by a person seeking leave to enter the United Kingdom as a student are that he:

- (i) has been accepted for a course of study at:
 - (a) a publicly funded institution of further or higher education; or [there follow references to private educational institutions]; ...
- (ii) is able and intends to follow either:
 - (a) a recognised full-time degree course at a publicly funded institution of further or higher education; or [there follow references to other classes of full-time education]; ...

...

- (iv) intends to leave the United Kingdom at the end of his studies; ...
- (v) does not intend to engage in business or take employment, except part-time or vacation work undertaken with the consent of the Secretary of State for Employment, and
- (vi) is able to meet the costs of his course and accommodation and the maintenance of himself and any dependants without taking employment or engaging in business or having recourse to public funds.

Leave to enter as a student

58. A person seeking leave to enter the United Kingdom as a student may be admitted for an appropriate period depending on the length of his course of study and his means, and with a condition restricting his freedom to take employment ...'.

- 6 Under paragraph 4 of Annex A to Chapter 3, Section 1, of the instructions of the Immigration Directorate of the Secretary of State ('the Immigration Directorate's Instructions'):

'Students over the age of 16 who are on Code 2 conditions [which include a condition restricting freedom to take up employment] may take part-time or vacation work without needing to seek the permission of the local Jobcentre. Similarly they will be able to take up work placements which are part of a sandwich course or to undertake internship placements without the need to obtain permission from the [competent authorities of the United Kingdom]. Students should not work for more than 20 hours a week during term time, ...'

The actions in the main proceedings and the questions referred for a preliminary ruling

- 7 The actions concern, respectively, a young woman au pair, Ms Payir, and two students, Mr Akyuz and Mr Ozturk.
- 8 Ms Payir, then aged 21 years, obtained United Kingdom entry clearance, after which, in April 2000, she was granted leave to enter valid until April 2002. Her leave to enter was subject to the condition that she did not enter employment, paid or unpaid, other than as an au pair.
- 9 As soon as Ms Payir arrived in the United Kingdom, she was engaged as an au pair by a family. Then, from March 2001, she was engaged as an au pair by a second family, for whom she worked between 15 and 25 hours per week in return for bed and board, and payment of GBP 70 (approximately EUR 103) per week.
- 10 In April 2002, before her leave to enter expired, Ms Payir applied to the Secretary of State for leave to remain in the United Kingdom, in reliance upon Article 6(1) of Decision No 1/80. She submitted that she had been engaged by the same employer for more than one year and that she wished to continue to be employed by that employer. Her application was refused by decision of 18 August 2004.
- 11 Ms Payir brought an action for judicial review of that decision before the High Court of Justice (England and Wales), Queen's Bench Division (Administrative Court). Allowing her claim, that court quashed the decision of 18 August 2004 and directed the Secretary of State to extend Ms Payir's leave to enter and to remove the initial condition restricting her access to the labour market. Ms Payir's leave to enter was extended until 2 August 2006. In October 2005, she took up employment as a shop assistant.
- 12 The Secretary of State appealed against the decision of the High Court, on the ground that Article 6(1) of Decision No 1/80 does not apply to au pairs.
- 13 Mr Akyuz and Mr Ozturk entered the United Kingdom in 1999 and 1997 respectively, with leave to enter as students. They were subsequently granted leave to remain (as students), with permission to work, subject to a term-time limit of 20 hours per week.

- 14 During their studies, Mr Akyuz and Mr Ozturk worked part-time as waiters in a restaurant and were offered an extension of their contracts by their employers. Before their leave to enter or remain as students expired, Mr Akyuz and Mr Ozturk applied to the Secretary of State, in July 2003 and January 2004 respectively, for leave to remain on the basis of Article 6(1) of Decision No 1/80. The Secretary of State refused their applications on 18 August 2004, whereupon Mr Akyuz and Mr Ozturk commenced actions for judicial review in the High Court, which were allowed. Contending that Article 6(1) of Decision No 1/80 does not apply to students, the Secretary of State appealed against the decisions of the High Court.
- 15 The Court of Appeal (England and Wales) (Civil Division) heard the cases of Ms Payir and of Mr Akyuz and Mr Ozturk together.
- 16 The Court of Appeal points out that the three Turkish nationals were regarded by the High Court as workers within the meaning given to that concept by the Court of Justice, in particular in Case C-1/97 *Birden* [1998] ECR I-7747, paragraph 24.
- 17 While fully accepting that finding on the part of the High Court, the Court of Appeal (England and Wales) (Civil Division) takes the view that it is also necessary to take into account the case-law of the Court of Justice according to which Member States may introduce schemes with a social purpose. It follows from that case-law that, even though such schemes involve the carrying out of an activity as a worker, they do not necessarily imply integration of the persons concerned in the labour force of those States.
- 18 In the main proceedings, the Court of Appeal (England and Wales) (Civil Division) is not certain whether the Turkish nationals concerned may rely on Article 6(1) of Decision No 1/80. In those circumstances, that court decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

1. In a case in which:

- a Turkish national was granted leave to enter the United Kingdom for two years in order to take up a placement in that country as an "au pair" as defined in the ... Immigration Rules; ...
- her leave to enter included permission to be employed in that capacity; ...
- she was continuously employed in that capacity by the same employer for a period exceeding one year during her leave to enter; ...
- that employment was a genuine and effective economic activity, and
- that employment was in accordance with national laws relating to employment and immigration;

then, was the Turkish national concerned, during that employment:

- a worker within the meaning of Article 6 of Decision No 1/80 ...?
- duly registered as belonging to the labour force of the United Kingdom within the meaning of that Article?

2. In a case in which:

- a Turkish national was granted leave to enter the United Kingdom under the Immigration Rules in order to follow a course of study in that country; ...
- his leave to enter included permission to be employed in any occupation with a limit during term time of 20 hours work per week; ...

- he was continuously employed by the same employer for a period exceeding one year during his leave to enter;
- that employment was a genuine and effective economic activity, and
- that employment was in accordance with national laws relating to employment and immigration;

then, was the Turkish national concerned, during that employment:

- a worker within the meaning of Article 6 of Decision No 1/80 ...?
- duly registered as belonging to the labour force of the United Kingdom within the meaning of that Article?

Questions referred for a preliminary ruling

Preliminary remarks

- 19 The same questions are asked in both cases and relate, respectively, to au pairs and to students.
- 20 By those questions, the national court is essentially asking whether the fact that a Turkish national was granted permission to enter the territory of a Member State as an au pair or as a student deprives that national of the status of 'worker' and prevents him from being regarded as 'duly registered as belonging to the labour force' of that Member State within the meaning of Article 6(1) of Decision No 1/80, with the result that he cannot rely on that provision for the purposes of obtaining renewed permission to work and a corollary right of residence.

Observations submitted to the Court

- 21 Ms Payir, Mr Akyuz and Mr Ozturk, and the Commission of the European Communities share the view that Turkish nationals, such as those concerned by the main proceedings, satisfy the prerequisite conditions for being regarded as 'workers' within the meaning of Article 6(1) of Decision No 1/80. They have performed, under the direction of another person, genuine and effective services of some economic value, in return for which they received remuneration.
- 22 Those Turkish nationals are duly registered as belonging to the labour force of the host Member State. They entered the territory of that State lawfully and, equally lawfully, joined the labour force of that State. In particular, they did not commit any form of fraud in order to obtain or take up work. Their situation as part of the labour force is therefore stable and secure.
- 23 In so far as those Turkish nationals fulfil the conditions laid down in Article 6(1) of Decision No 1/80, they can rely on that provision for the purposes of obtaining renewed permission to work and a corollary right of residence. It is neither necessary nor relevant to examine the reasons for which the United Kingdom granted them leave to enter and to remain, that is to say, leave for a limited period, as young persons with au pair or student status.
- 24 The United Kingdom Government and the German, Italian and Netherlands Governments contend that, on the contrary, the reasons underlying the grant of leave to remain are important. Article 6(1) of Decision No 1/80 concerns the right of access to employment of Turkish nationals who have been permitted to enter the territory of a Member State as workers. Turkish nationals who have not entered the United Kingdom in that capacity, such as Ms Payir or Mr Akyuz and Mr Ozturk, cannot rely on that provision. Consequently, even if they have performed an activity that can be regarded as genuine and effective economic activity, it does not follow that those nationals are workers or that they are duly registered as belonging to the labour force of the host Member State, within the meaning of that provision.

25 If it were to be held that Article 6(1) of Decision No 1/80 may be relied upon by Turkish nationals who have been permitted to enter the territory of a Member State as au pairs or as students, there would be serious consequences. First and foremost, the Member States would no longer be free to determine the conditions governing the entry of Turkish nationals into their territory. Second, it would encourage the circumvention of national legislation, since the persons concerned would have an interest in presenting themselves as students or as au pairs in order to integrate in the labour force of the Member State into whose territory they enter. Lastly, it would lead the Member States to restrict their policy of admitting Turkish students and au pairs, to the detriment of those two groups.

26 The German and Netherlands Governments add that assimilation of the situation of a student or au pair performing part-time work with the situation of an ordinary worker is inconsistent with the approach taken by the Community legislature in Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ 2004 L 375, p. 12). According to those governments, that directive clearly distinguishes between student and worker.

Reply of the Court

27 In order to reply to the questions referred – as reformulated in paragraph 20 of the present judgment – it is appropriate to note the three conditions laid down in Article 6(1) of Decision No 1/80.

28 The first of those conditions concerns the status of worker. It is settled case-law that, in order to satisfy that condition, the Turkish national must perform activities which are real and genuine, to the exclusion of activities which are on such a small scale as to be regarded as purely marginal and ancillary. The essential feature of an employment relationship is that, for a certain period of time, a person performs services for and under the direction of another person, in return for which he receives remuneration (see *Birden*, paragraph 25 and the case-law cited).

29 The second condition concerns the concept of being duly registered as belonging to the labour force. The Court has held that this concept embraces all workers who have met the conditions laid down by law or regulation in the host Member State and who are thus entitled to pursue an occupation in its territory (see *Birden*, paragraph 51).

30 The third condition laid down in Article 6(1) of Decision No 1/80 is that of legal employment, that is to say, a stable and secure situation as a member of the labour force of the host Member State and, by virtue of that situation, an undisputed right of residence (see Case C-188/00 *Kurz* [2002] ECR I-10691, paragraph 48).

31 According to the order for reference, Ms Payir offered services which constitute genuine and effective economic activities, as did Mr Akyuz and Mr Ozturk. According to the case-file, they all worked under the direction of an employer and received remuneration in return for their services. Ms Payir worked between 15 and 25 hours per week, Mr Akyuz and Mr Ozturk a maximum of 20 hours per week. It is not contended that their activities were purely marginal. According to the description given, those activities display the characteristics necessary to enable, in principle, those who perform them to be regarded as 'workers' within the meaning of Article 6(1) of Decision No 1/80.

32 As regards the other two conditions, the national court explains that Ms Payir, Mr Akyuz and Mr Ozturk complied with national immigration legislation and thus entered the United Kingdom lawfully. The national court adds that the jobs held by Ms Payir, Mr Akyuz and Mr Ozturk were in conformity with requirements not only under the rules on immigration but also under employment law and, in particular, that those jobs were fully in line with the conditions attaching to the form of leave granted in those three cases to enter the national territory. It is common ground that Ms Payir, Mr Akyuz and Mr Ozturk enjoyed an undisputed right of residence.

- 33 It follows that the characteristics of the jobs held by the three Turkish nationals concerned in the main proceedings, as presented by the national court, also satisfy the other two conditions laid down in Article 6(1) of Decision No 1/80: being duly registered as belonging to the labour force, and being in legal employment.
- 34 The question nevertheless arises whether, in cases where Turkish nationals – whose activities otherwise satisfy the three conditions laid down in Article 6(1) – have au pair or student status, they are thereby precluded from the status of workers and from being duly registered as belonging to the labour force of a Member State, within the meaning of that provision.
- 35 In that regard, it should first be pointed out that a social objective pursued through granting leave to enter as students or as au pairs, together with the related right to work, does not, of itself, take away the lawful character of the activities performed by the persons concerned and, consequently, does not prevent them from being regarded as ‘duly registered as belonging to the labour force’ of the host Member State. The Court held in paragraph 51 of *Birden* that the concept of being duly registered as belonging to the labour force cannot be interpreted as applying to the labour market in general as opposed to a specific market with a social objective supported by the public authorities.
- 36 It should also be recalled that Decision No 1/80 does not encroach upon the competence retained by the Member States to regulate both the entry into their territory of Turkish nationals and the conditions under which they may take up their first employment, but merely regulates (in Article 6) the situation of Turkish workers who are already integrated into the labour force of the host Member State (Case C-98/96 *Ertanir* [1997] ECR I-5179, paragraph 23).
- 37 According to settled case-law, the aim of Article 6(1) of Decision No 1/80 is to consolidate progressively the position of Turkish workers in the host Member State (see, inter alia, Case C-230/03 *Sedef* [2006] ECR I-157, paragraph 34).
- 38 Article 6(1) of Decision No 1/80 thus covers Turkish nationals who have the status of workers in the host Member State without, however, requiring that they have entered the Community as workers. They can have acquired that status after their entry into the Community. Thus, in the case leading to the judgment in *Birden*, Mr Birden, who had been permitted to enter the territory of a Member State, found himself at the outset unemployed in that State and only later found paid employment there. In the case which led to the judgment in *Kurz*, the Turkish national concerned had been authorised to enter the Community at the age of 15, not as a worker but in order to train to be a plumber.
- 39 It is on the expiry of his first year of work that the Turkish national may, if he meets the conditions laid down in the first indent of Article 6(1) of Decision No 1/80, claim renewal of permission to work for the same employer and a corollary right of residence.
- 40 In order to determine whether Turkish nationals meet those conditions, no account is taken of the aim pursued in permitting the persons concerned to enter the Member State in question. The Court has consistently held that Article 6(1) of Decision No 1/80 does not make recognition of the rights which it confers on Turkish workers subject to any condition connected with the reason for which the right to enter, work or reside was initially granted (see Case C-36/96 *Günaydin* [1997] ECR I-5143, paragraphs 51 and 52 and the case-law cited). Accordingly, the Court has held that the intention expressed by a Turkish national to return to his country of origin after spending a number of years in the host Member State cannot prevent him from being able to rely on the rights conferred by Article 6(1). It would only be otherwise if the person in question had set out to deceive the competent authorities by making a false declaration with the sole intention of inducing them to issue the requisite authorisation (see, to that effect, *Günaydin*, paragraphs 54 and 60).
- 41 As is clear from *Günaydin*, neither the fact that the Turkish national in question was permitted to enter the territory of the Member State in order to follow a course of study nor the fact that, initially, he was allowed to remain on condition that he did not take up remunerated activities prevents him from being able to rely on Article 6(1) of Decision No 1/80, provided that he then lawfully obtains paid employment and works for the same employer for at least one year.

- 42 Nor can the fact that the employment contract is of fixed duration preclude the application of Article 6(1) of Decision No 1/80. The Court has held that, if the temporary nature of the employment contract could suffice to call into question the legality of the employment of the person concerned, Member States would be able wrongly to deprive Turkish migrant workers whom they have permitted to enter their territory and who have lawfully pursued an economic activity there for an uninterrupted period of at least one year of rights on which they are entitled to rely directly under Article 6(1) of Decision No 1/80 (see *Birden*, paragraph 64).
- 43 Thus, in order to determine whether a Turkish national who has entered the territory of a Member State lawfully may, after working for a year in that territory, rely on the rights conferred by Article 6(1) of Decision No 1/80, it must be determined whether he meets the objective conditions laid down in that provision, without it being necessary to take into account the reasons for which he was first granted the right to enter that territory or any temporal limitations attached to his right to work. According to settled case-law, it is not open to the national authorities to attach conditions to such rights or to restrict their application, as they would otherwise undermine the effect of Decision No 1/80 (see *Günaydin*, paragraphs 37 to 40, and 50; *Birden*, paragraph 19; *Kurz*, paragraph 26; Joined Cases C-317/01 and C-369/01 *Abatay and Others* [2003] ECR I-12301, paragraph 78; and *Sedef*, paragraph 34).
- 44 Consequently, in cases such as those before the referring court, the reasons for which leave to enter was granted to the Turkish nationals concerned – to enable them to pursue studies or gain experience as an au pair – cannot in themselves prevent the persons concerned from being able to rely on Article 6(1) of Decision No 1/80. The same applies to statements of intention made by those nationals to the effect that they do not wish to remain in the host Member State for more than two years or that they intend to leave it on completion of their studies, and to temporal limitations attaching to their leave to remain.
- 45 Provided that the conditions referred to in paragraphs 27 to 30 of the present judgment are met and provided, in particular, that the genuineness of the work performed by the Turkish nationals in question is confirmed, the fact that they have entered as students in order to pursue a course of studies or as au pairs with the aim of mastering the language of the host Member State is immaterial. If those Turkish nationals succeed, objectively, in fulfilling the conditions laid down in the three indents of Article 6(1) of Decision No 1/80, they cannot be deprived of the rights which that provision progressively grants them on the basis of the duration of their paid employment (see, to that effect, *Günaydin*, paragraph 37).
- 46 In those circumstances, the argument put forward by the Member States who submitted observations to the effect that a student or au pair could circumvent the legislation of the host Member State, in order progressively to obtain an unlimited right of access to the labour market of that State, cannot be accepted. There can be no question of that legislation being circumvented so long as the persons concerned are merely exercising a right expressly provided for in Decision No 1/80. It would only be otherwise if they had fraudulently obtained a right of entry into the territory of a Member State by falsely claiming that they intended to study or act as an au pair. On the contrary, provided that (i) the genuineness of their intention is confirmed by their actual pursuit of a course of studies or by acting as an au pair, (ii) they obtain work lawfully in the host Member State, and (iii) they satisfy the conditions laid down in Article 6(1) of Decision No 1/80, the persons concerned can fully rely on the rights which that provision confers upon them.
- 47 The German and Netherlands Governments refer finally to Directive 2004/114. They infer from the scheme of that directive that the Community legislature intended to permit students to take up employment and to work for a certain number of hours without, however, being regarded as paid workers and, in consequence, without being able by that means to join the labour market of the host Member State.
- 48 However, Directive 2004/114 is not relevant. Under Article 4(1)(a) thereof, Directive 2004/114 applies without prejudice to more favourable provisions of bilateral or multilateral agreements between, on the one hand, the Community or the Community and its Member States and, on the other, one or more third States. Consequently, as the Advocate General pointed out in point 57 of her Opinion, Directive 2004/114 cannot justify a narrow construction of Article 6(1) of Decision No 1/80 and no interpretation of that provision can be inferred from it.

- 49 The answer to the question referred must therefore be that the fact that a Turkish national was granted leave to enter the territory of a Member State as an au pair or as a student cannot deprive him of the status of 'worker' and prevent him from being regarded as 'duly registered as belonging to the labour force' of that Member State within the meaning of Article 6(1) of Decision No 1/80. Accordingly, that fact cannot prevent that national from being able to rely on that provision for the purposes of obtaining renewed permission to work and a corollary right of residence.

Costs

- 50 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

The fact that a Turkish national was granted leave to enter the territory of a Member State as an au pair or as a student cannot deprive him of the status of 'worker' and prevent him from being regarded as 'duly registered as belonging to the labour force' of that Member State within the meaning of Article 6(1) of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association. Accordingly, that fact cannot prevent that national from being able to rely on that provision for the purposes of obtaining renewed permission to work and a corollary right of residence.