



European Migration Network

Ad-Hoc Query on the possibility to invoke Association Council Decision 1/80 (Turkey–EEC) in case of dual nationality

Requested by NL EMN NCP on 12th June 2009

Compilation produced on 21 August 2009

Responses from Austria, Belgium, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom (19 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

In a recent, ongoing, case touching on the Turkish – EEC Association agreements, the Administrative Law Division of the Council of State (the highest judicial body in Aliens Law), has asked the Netherlands Immigration and Naturalisation Service (IND) for the situation in other MS. The Legal Affairs Litigation Directorate of IND is therefore requesting your assistance.

It would be very much appreciated if we could receive our answers by **24th June 2009**






2. Responses¹

		Wider Dissemination?²	Is a Turkish alien who obtains the nationality of your Member State, whilst at the same time maintaining his Turkish nationality, still able to invoke successfully decision no 1/80 of the association council of 19 September 1980 on the development of the association between
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			the European Economic Community and Turkey?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<p>In Belgium this would not be possible</p> <p>When a person is bi-national, in this case Belgo-Turc, Belgium only will only consider the Belgian nationality and this person will thus not be considered as a foreigner. By consequence he will not be able to invoke successfully decision no 1/80 of the association council of 19 September 1980 on the development of the association between the European Economic Community and Turkey</p> <p>If however, the person is bi-national, e.g. French and Turc, he will be considered as a national of the country with which he has the closest links. If this is Turkey, he will be able to invoke the decision no1/80. In case this is France, he will not be able to invoke it.</p> <p>This is the application of the “Convention on certain questions relating to the conflict of nationality laws. The Hague 12 April 1930 : art.3; of which Belgium is a signatory party.</p>
	Estonia	Yes	<p>No, this is not possible in Estonia.</p> <p>If a Turkish national obtains the nationality of Estonia, he/she has to be released first from the Turkish citizenship.</p>
	Finland	Yes	<p>First of all, when answering to the question posed by the Netherlands' Legal Affairs Litigation Directorate of IND, it must be noted that such a situation as described in the question has not yet occurred in Finland at least as far as we know. In general, when a person obtains a Finnish nationality, also his family members can start to benefit from rights provided by the Finnish legislation that are for the most part more advantageous than the rights guaranteed by the Decision no. 1/80 of the Association Council of 19 September 1980. If, however, a situation actualizes, where the regime created by the above mentioned Decision would prove to be more advantageous, there is no hindrance in the Finnish legislation to invoke rights that are guaranteed to a person because of the other nationality that he or she holds.</p>
	France	Yes	<p>The EU-Turkey Council intervenes to defend the rights of Turkish workers living within the EU. The Council has adopted successively Decision No 1 / 80 and Decision No 3 / 80, 19 September 1980. The aim is to improve the situation of Turkish nationals in the labor market of the Member States. Decision No 1 / 80 sets out the rights of Turkish workers in employment. The rights conferred on Turkish workers placed them in a privileged position compared to other non-EU nationals. Decision No 3 / 80 is on the application of social security schemes of Member States to Turkish workers and their families. Finally, the individual remedies based on the legal instruments and judgments of the Court of Justice of the European Communities give rise to a real legal status for Turkish workers. Recognizing that the right of EEC-Turkey association is an integral part of Community law and has direct effect, the Court has developed a very protective jurisprudence for the Turks living in Europe.</p> <p>This law applies only to Turkish citizens. If a Turk chooses to take the French nationality the right from the EU-Turkey Council shall not</p>





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			apply to him, even if he keeps the dual citizenship.
	Germany	Yes	No, because according to the view of the German authorities, the EC-Turkey-Association Agreement is not applicable to a person holding both Turkish and German nationality (dual nationality). Pursuant to the association law, a person who has belonged to the duly registered labour force of the host Member State for at least one year, is granted more favourable employee rights and, by extension, a privileged right of residence, applicable solely to the territory of the host Member State. However, if the person in question already holds the nationality of the host Member State, the association law does not confer the right to acquire a more favourable legal status with regard to his or her rights as a citizen
	Greece	Yes	The article 2 par.2 of Law 3386/2008, concerning the entrance, residence and social integration of third country nationals in the Greek territory, provides that persons who hold more than one citizenships, one of which is Greek, are considered to be Greeks and are exempted from the scope of this law. In addition, the article 31 of the Civil Code provides that the Law which is applied to in case that person holds Greek and foreign citizenship, is the Greek. That means that for the Greek citizens who have also kept the Turkish citizenship, during their residence in Greece, the Greek citizenship prevails and they cannot invoke the decision no 1/80 of the association council.
	Hungary	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Ireland	Yes	In Ireland there is no specific legislative provision to deal with this type of situation. In practice a Turkish National who holds Irish citizenship is treated as an Irish citizen and is thus not expected to engage with the Immigration authorities. Ireland would be interested in seeing a copy of the final judgement of the court in this case when it becomes available.
	Italy	Yes	It must be noted that such a legal issue is never been presented in Italy, where the presence of Turkish citizens is not very relevant in quantitative terms. The answer appears to be negative because the non-EU citizen who obtains Italian citizenship, while maintaining the original one, assumes a new and prevailing legal condition that does not allow him to obtain any benefits reserved for non-EU citizens. Otherwise it would happen a discrimination against other Italian citizens without dual citizenship.
	Latvia	Yes	An alien, who obtains Latvia's nationality, cannot have a double citizenship. A person, during the naturalization process must submit documentation which proves that he has disclaimed from the previous state's nationality.
	Lithuania	Yes	According to the Constitution of Lithuania, double nationality can be conferred only in exceptional cases, by a decree of the President of Lithuania. Even if a Turkish national obtained double nationality, s/he would be considered as a citizen of Lithuania, therefore Association decision would not be applied.
	Netherlands	Yes	In the Dutch point of view, this is not possible.
	Poland	Yes	This is not possible. In case of dual citizenship, the person is treated by Polish authorities exclusively as Polish citizen.
	Portugal	Yes	Despite there were no registered situations of this nature, we would say that once a third country national became a Portuguese citizen this

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			nationality became the relevant status within the Portuguese framework.
	Slovak Republic	Yes	Based on the Slovak legislation it is not possible to invoke the decision 1/80 in case of a dual citizenship, however to give a more precise answer this case should have been examined in more details. Currently, based on the act 97/1963 on International Private and Procedural Law from 4 December 1963, in case of examination the citizenship of persons with dual citizenship while one of them is Slovak, the Slovak citizenship is taken into account.
	Spain	Yes	It is not an option to resort to Decision 1/80. No dual citizenship treaty between Spain and Turkey exists. Basically, any Turkish citizen who acquires Spanish nationality must renounce his/her Turkish nationality, except in special cases in which dual Spanish-Turkish citizenship would be unilaterally tolerated by Spain, in many cases temporarily.
	Sweden	Yes	According to Swedish practice, this is not possible
	United Kingdom	Yes	A dual British/Turkish national worker already registered as belonging to the UK's labour force who has not renounced his/her Turkish nationality may be treated in the same way as a Turkish worker and accordingly, in principle, would be able to invoke successfully decision no 1/80 of the association council of 19 September 1980 on the development of the association between the European Economic Community and Turkey.
