



Press and Information

Court of Justice of the European Union

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Luxembourg, 8 March 2011

Judgment in Case C-34/09

Ruiz Zambrano v Office national de l'emploi (ONEm)

**Citizenship of the Union requires a Member State to allow third country nationals who are parents of a child who is a national of that Member State to reside and work there, where a refusal to do so would deprive that child of the genuine enjoyment of the substance of the rights attaching to the status of citizen of the Union**

*This requirement applies even when the child has never exercised his right to free movement within the territory of the Member States*

Mr Ruiz Zambrano and his wife, both Columbian nationals, applied for asylum in Belgium due to the civil war in Columbia. The Belgian authorities refused to grant them refugee status and ordered them to leave Belgium.

While the couple continued to reside in Belgium while waiting for their applications to have their residence situation regularised, Mr Ruiz Zambrano's wife gave birth to two children who acquired Belgian nationality.

Although he did not hold a work permit, Mr Ruiz Zambrano signed an employment contract for an unlimited period to work full-time with a company established in Belgium. Consequently, at the time of the birth of his first child to hold Belgian nationality, he had sufficient resources from his working activities to provide for his family. Through his work, statutory deductions made for social security and the payment of employer contributions.

Mr Ruiz Zambrano then had a number of periods of unemployment and accordingly applied for unemployment benefit. Those applications were refused because, in the view of the Belgian authorities, he did not comply with the foreigners' residence requirements under Belgian legislation and he was not entitled to work in Belgium.

Mr and Mrs Ruiz Zambrano also lodged an application to take up residence in Belgium, in their capacity as ascendants of a Belgian national. The Belgian authorities rejected that application, however, taking the view that they had intentionally omitted to take the necessary steps with the Columbian authorities to have their children recognised as Columbian nationals, precisely in order to regularise their own residence in Belgium.

Mr Ruiz Zambrano brought legal proceedings challenging the decisions refusing his applications for residence and unemployment benefit on the ground that, as an ascendant of minor Belgian children, he is entitled to reside and work in Belgium.

The Tribunal du travail de Bruxelles (Employment Tribunal, Brussels) (Belgium), before which the proceedings challenging the rejection decisions were brought, asked the Court of Justice whether Mr Ruiz Zambrano may rely on European Union law to reside and work in Belgium. By that question, the Belgian court asks whether European Union law is applicable in the present case, even though Mr Ruiz Zambrano's children have never exercised their right of free movement within the territory of the Member States.

By its judgment today, the Court observes that while a Member State has sole jurisdiction to lay down the conditions for the acquisition of the nationality of that Member State, it is common ground that Mr Ruiz Zambrano's children were born in Belgium and have acquired Belgian nationality.

They accordingly enjoy the status of citizens of the European Union, which is intended to be the fundamental status of nationals of the Member States.

In those circumstances, **European Union law precludes national measures which have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union. A refusal to grant a right of residence to a third country national with dependent minor children in the Member State where those children are nationals and reside, and also a refusal to grant such a person a work permit, has such an effect.**

It must be assumed that such a refusal would lead to a situation where those children would have to leave the territory of the Union in order to accompany their parents. Similarly, if a work permit were not granted to the parents, they would risk not having sufficient resources to provide for themselves and their family, which would also result in the children, citizens of the Union, having to leave the territory of the Union. In those circumstances, those children would, as a result, be unable to exercise the substance of the rights conferred on them by virtue of their status as citizens of the Union.

In those circumstances, the Court states that European Union law precludes a Member State from refusing a third country national upon whom his minor children, who are European Union citizens, are dependent, a right of residence in the Member State of residence and nationality of those children, and from refusing to grant a work permit to that third country national, in so far as such decisions deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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