



**C-34/09 Zambrano, judgment of 8 March 2011**

**The Court clarifies the implications of the fundamental status of citizenship of the Union of young children in relation to the rights of their third-country national parents.**

Mr and Ms Zambrano, of Colombian nationality, had applied to benefit from refugee status in Belgium. The Belgian authorities refused them this status, but did not have them sent back to Colombia on account of the civil war in that country. From 2001, Mr and Ms Zambrano were then registered as resident in Belgium and Mr Zambrano worked there for a certain time, even though he did not hold a work permit. In 2003 and 2005, Mr and Ms Zambrano had two children which acquired Belgian nationality in accordance with the Belgian legislation applicable at that time. The competent authorities refused to accede to Mr and Ms Zambrano's application to regularise their situation and to take up residence as ascendants of Belgian nationals. Mr Zambrano was also refused the right to unemployment benefit, on the grounds that the periods of work he had carried out without a work permit could not validly be taken into account to complete the minimum qualifying period to obtain this benefit.

Ruling on the lawfulness of the decision refusing regularisation and taking up residence and that of the refusal to pay unemployment benefit, the Brussels court decided to refer questions to the Court of Justice in particular concerning the possible application of the provisions of the Treaty relating to European citizenship to the situation of the Zambrano children.

In its judgment, the Court firstly recalls that Article 20 TFEU confers the status of citizen of the Union on every person holding the nationality of a Member State. The two Zambrano children who have acquired Belgian nationality enjoy that status.

The Court then emphasises the fundamental status of citizenship of the Union for nationals of the Member States. According to the Court, Article 20 TFEU 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, irrespective of the previous exercise by these citizens of their right of free movement (the Court does not refer to such a requirement with regard to the Zambrano children).

For the Court, the refusal by a Member State to grant the right of residence and a work permit to a third-country national with dependent minor children who are themselves nationals of that Member State would have the consequence of depriving the children in question of the substance of the rights conferred on them by virtue of their status as citizens of the Union. In fact, such a refusal would lead to a situation where those children would have to leave the territory of the Member State in question in order to accompany their parents.

The Court concludes from this that Article 20 TFEU precludes a Member State from refusing a work permit and the right of residence within its territory to a third-country national upon whom his minor children, who are nationals and residents of that Member State, are dependent, in so far as such decisions deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of citizen of the Union.