

Case C-34/09 Ruiz Zambrano [2011]

Facts: The applicants were of Colombian nationality and had failed in their application for asylum status. While Belgium refused them refugee status, they were not deported as there was a civil war in that country. During that time, their children were born, and they acquired Belgian nationality in accordance with national law. 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, and Mr Zambrano was furthermore denied unemployment benefits as he had not reached the minimum threshold for qualifying to that benefit. The question at hand was whether a third country national could rely on EU law where he and his EU family had never left Belgium.

Held: Art. 20 TFEU confers the status of citizen of the Union on every person holding the nationality of a Member State, and the children in this case had acquired this status. Consequently, Art. 20 TFEU worked to preclude national measures which had 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 Belgian authorities' decision to refuse residence to the parents of the children would, in effect, deprive the children of the substance of the rights conferred on them by virtue of their status as EU citizens. As such, Art. 20 TFEU had the effect of creating derivative rights for the parents.