

Information Note on CJEU Decision in Zambrano Case

On 8th March 2011, the Court of Justice of the European Union delivered its judgment in the case **Zambrano v Office national de l'emploi** (in Belgium), stating that “Article 20 of the Treaty on the Functioning of the European Union (TFEU) must be interpreted as meaning that it precludes a Member State from refusing a third country national upon whom his minor children, who are European 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 citizen”.

The CJEU in its judgment sets out that the Treaty precludes national measures which have the effect of depriving EU citizens of a genuine enjoyment of the substance of the rights conferred by virtue of their status as EU citizens. The Court held that “(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 the refusal to grant such a person a work permit, has such an effect”.

The rights of EU citizen children come directly from Article 20 TFEU on citizenship of the Union and for Irish citizen children living in Ireland these rights include:

- the **right to live in Ireland**;
- the **right for their third country parents to live in Ireland** with them as this is necessary for the children who are EU citizens to enjoy their rights as citizens of the Union; and
- the **right to a work permit for the third country national parents** to support the children.

In effect, this means that all parents of Irish citizen children, no matter what their nationality or immigration status, must be given the right to live and work in Ireland for as long as the children are minors and remain dependent on them.

Pending further information from the Irish Naturalisation and Immigration Service, the Immigrant Council of Ireland believes that the following applications can now be made by parents of Irish citizen children who are resident in Ireland with reference to the *Zambrano* case:

- **applications for STAMP 4 permits** for parents with residence permits that do not give them full access the labour market
- **applications for the revocation of deportation orders** and, where necessary, **the appropriate visas**, for parents in respect of whom a deportation order has issued – *whether they remain in the State or have already been deported*

Also parents with pending applications for permission to remain and work in the State may update their applications with reference to the *Zambrano* case.

For further information please contact the Immigrant Council of Ireland's Information and Referral Service on 01-6740200