



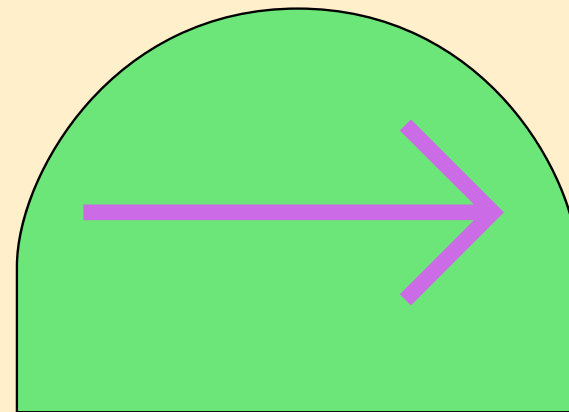
Scuola Superiore Sant'Anna

Summer School “Economic, social and cultural  
rights of migrant children in the European Union”

# The expulsion decision: Union citizenship between the best interest of the child and the status of their parents third country nationals

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# Summary



- Legal framework and case law
- Analysis of Article 20 TFUE
- Child and status of their parents third country nationals
- Decision expulsion: Consequences
- Conclusions
- Bibliography

# Legal framework and case law



## Legal framework

- Convention on the Rights of the Child
- 2007/C 303/01 Charter of Fundamental Rights of the European Union
- TFUE
- Directive 2004/38
- Directive 2008/115/EC

## Cases

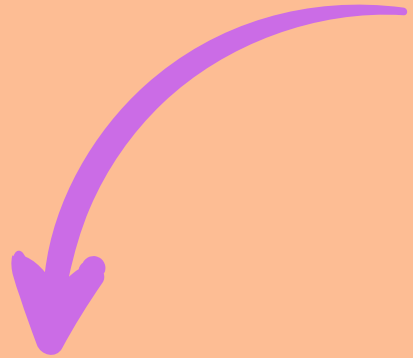
- Zambrano, 8 March 2011, C-34/09
- O. and S., 6 December 2012, Joined Cases C-356/11 and C-357/11;
- CS, 13 September 2016, C-304/14;
- Rendón Marín, 13 September 2016 C-165/14;
- Chavez-Vilchez and other, 10 May 2017, C-133/15; 5. K.A. and Others, 8 May 2018, Case C-82/16




## Article 20 TFUE

*Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship*

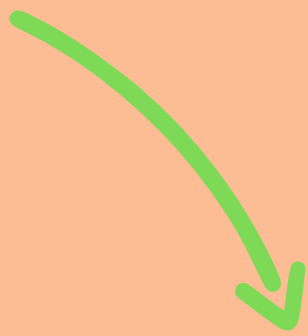
### Derived rights



The right to move and reside freely within the territory of the Member States



The right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence



The right to enjoy the protection of the diplomatic and consular authorities of any Member State



The right to petition the European Parliament

# Child and status of their parents third country nationals



As Union citizens the  
children have the right to  
move and reside freely  
within the territory of the  
European Union.

The limitation of that right  
has to fall within the scope of  
EU law

**BUT**

The Treaty provisions on  
citizenship of the Union  
doesn't confer any  
autonomous  
right on the parents third-  
country nationals

What happens in case of an expulsion decision against Union citizens or their family members, irrespective of nationality, who have the right of permanent residence on its territory?

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01

The expulsion decision should be considered a serious grounds of public policy or public security.

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02

The best interest of child

The threat  
adversely affecting  
one of the  
fundamental  
interests of the  
society of that  
Member State  
must be:

genuine

present

sufficiently  
serious

The best  
interest of  
child



The criterion  
of dependency



To conclude...

The decision should respect the principle of proportionality based on:

- 1) the personal conduct of the individual concerned.
- 2) the period of residence of the TNC person concerned, the age, the state of health, family and economic situation, social and cultural integration and the extent of his or her links with the country of origin;
- 3) the dependency of child



# References

01

Progin-Theuerkauf S., K.A and others – The Zambrano Story Continues,  
[https://europeanlawblog.eu/2018/05/22/k-a-and-others-the-zambrano story-continues](https://europeanlawblog.eu/2018/05/22/k-a-and-others-the-zambrano-story-continues) (22.5.2018)

02

Goldner Lang I, Extending the Scope of EU Law to Internal Situations: “In the Child’s Best Interests We Swear, but not a step further” -<https://eumigrationlawblog.eu> (29.6.2018)

03

Valentin Vandendaele,  
Chavez-Vilchez: Sharing Residence Rights is Caring, in ORBi: Detailed Reference ([uliege.be](http://uliege.be))



Thanks for your  
attention

