

Subject-matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence - linked to Article 7 §1 b) and Article 8 § 4 of the Directive 2004/38 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	10 September 2014
Deciding body (in original language)	Raad voor Vreemdelingenbetwistingen / Conseil du Contentieux des Etrangers
Deciding body (in English)	Council for Alien Law Litigation
Case number (also European Case Law Identifier (ECLI) where applicable)	129 028
Parties	X v. the Belgian State
Web link to the decision (if available)	http://www.rvv-cce.be/sites/default/files/arr/A129028.AN.pdf
Legal basis in national law of the rights under dispute	<p>Article 40 § 4, 2° and Article 40 §4 second indent of the law of 15 December 1980 on access to the territory, residence, establishment and the removal of aliens (Wet van 15 December 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen / Loi du 15 Decembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers)</p> <p>This Article transposes Article 7 §1 b) and Article 8 §4 of Directive 2004/38 into Belgian law. (par. 2.6)</p>

Key facts of the case (max. 500 chars)	<p>X, a Dutch national, had an E-card since 15 March 2011. He became involuntarily unemployed after having worked until 11 January 2013. For six months following this date, the Foreigners' Affairs Office (<i>Dienst Vreemdelingenzaken / Office des Etrangers</i>) considered him to be an employee. On 15 January 2013, X was asked to provide proof of his current economic activities or information on subsistence when not economically active and when applying for a renewal of his residency permit after two years. X provided a certificate of unemployment and proof that he submitted an application to undertake vocational training to drive heavy trucks with a trailer. The Foreign Affairs' Office considered that the documents did not demonstrate that X participated in the selection for the training or that he was currently enrolled in it. Moreover, they did not show that he was actively looking for work or that he has a realistic chance of getting any. X did not work for a single day over the course of one year. Because his unemployment benefits are not considered as "sufficient resources", his residency right was terminated and he was ordered to leave Belgian territory within thirty days. (par. 1)</p>
Main reasoning / argumentation (max. 500 chars)	<p>Neither the contested decision nor the administrative file demonstrate that the Foreigners' Affairs Office examined whether the unemployment benefits provided are at least equal to the level of income for which social assistance can be granted, or whether the applicant constitutes an unreasonable burden for the Belgian social assistance system. Additionally, it was unclear whether the personal situation of the applicant – such as the nature and the regularity of the income and the number of dependent family members, was taken into consideration during decision-making. (par. 2.7)</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>When determining whether one has "sufficient resources", the traditional social insurances that are part of the social assistance system and that count as income replacement benefits, such as occupational accident insurances, old-age pensions, family benefits and unemployment benefits, must in principle be considered. (par. 2.8 fifth indent)</p> <p>The Foreigners' Affairs Office must examine whether applicants constitute an unreasonable burden on the social assistance system. The receipt of unemployment benefits does not automatically mean that one constitutes an unreasonable burden on the social assistance system. (par. 2.7 and 2.8)</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Council for Alien Law Litigation annulled the contested decision by the Foreigners' Affairs Office, because the latter failed to review the certificate provided on unemployment benefits with adequate care. (par. 2.9)</p>

Key quotations in original language and translated into English with reference details (max. 500 chars)	<i>Verzoeker kan worden gevolgd waar hij stelt dat het gegeven dat men een werkloosheidsuitkering ontvangt, niet automatisch betekent dat men daardoor ook een onredelijke belasting vormt voor het social bijstandssysteem.</i> – The applicant [’s arguments] can be followed where he states that the fact that one receives unemployment benefits, does not automatically mean that one therefore constitutes an unreasonable burden on the social assistance system. (par. 2.8 second indent)
Has the deciding body referred to the Charter of Fundamental Rights? If yes, to which specific Article.	No