

Subject-matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality X 2) freedom of movement and residence - Article 7, 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	16/07/2015
Deciding body (in original language)	High Court
Deciding body (in English)	High Court
Case number (also European Case Law Identifier (ECLI) where applicable)	[2015] IEHC 469
Parties	A.G.A and B.A. v Minister for Justice, Equality and Defence
Web link to the decision (if available)	http://www.courts.ie/Judgments.nsf/0/154DB4462CB15EE580257E8C0048F0DC
Legal basis in national law of the rights under dispute	A.G.A. sought a right of residence as “a derivative right under the Treaty on the Functioning of the European Union as the primary parental carer of the second named applicant who is dependent upon her mother. The second named applicant is a UK national, having been born in the UK and whose father is a UK citizen.” [para. 37] Judicial review of refusal of UK national to reside in Ireland, pursuant to EU law. The High Court refers to Article 20 TFEU, Articles 7 and 14(2) of Council Directive 2004/38/EC of 29 April 2004, and Regulation 11 of the S.I. no. 656 of 2006 (Freedom of Movement Regulations).

Key facts of the case (max. 500 chars)	<p>Note that this executive summary has the purpose to make us understand:</p> <ol style="list-style-type: none"> 1. the facts of the case (so the “real life story”) <p>A.G.A, a Nigerian national and mother of a British citizen child (B.A.), sought leave to remain in Ireland pursuant to EU law. Citing Directive 2004/38/EC, A.G.A. argued that it is well established that “once an EU citizen can provide evidence that she has medical insurance and sufficient resources so that she will not become a burden upon the State, then her primary carer should be given a residence card.” [para 10] A.G.A. first arrived in Irish state in 2007, but subsequently travelled to the UK, where she entered into a relationship with a British citizen. They had a daughter together, B.A., the second named applicant, a UK citizen, born in the UK in July 2011. After the relationship ended, A.G.A. returned to Ireland in 2012 with B.A., and began a relationship with A.A., an Irish national.</p> <ol style="list-style-type: none"> 2. the legal background against which the case unfolded (what are the relevant legal norms that are applied) <p>A.G.A. submitted an application for residency in January 2014 on the basis of the Zambrano CJEU decision. The Minister rejected the application, stating that the “Zambrano ruling only applies to non-EEA parents of Irish born citizen children.” [para. 4]</p>
Main reasoning / argumentation (max. 500 chars)	<p>The Court cited the CJEU Alokpa judgment, noting that the CJEU concluded that Articles 20 and 21 of the TFEU did not preclude a state denying the right of a third country national to remain in its territory where his/her children are EU citizens, but do not possess the nationality of the host state where they seek to remain. The Court further cited a qualification by the Advocate General Mengozzi, as well as CJEU case law to the effect that national authorities are entitled to check the existence, the amount, and the availability of resources to a dependent EU citizen in a host EU territory.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>The Court was not convinced that a refusal to reside in Ireland would automatically result in the child having to leave the EU region, because as a UK national, she would have a right to live in the UK, and her mother by proxy (as per the Zambrano ruling). A key issue was whether A.G.A. had sufficient resources to remain in the country with her dependent EU citizen child (citing Commission v. Belgium, CJEU decision of 2006). The Court highlighted the fact that A.G.A apparently had no resources of her own and was dependent on third parties, including A.G.A.’s partner, an Irish national.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Court agreed with the Minister for Justice’s decision that “there has not been adequate evidence submitted as to the sufficiency of resources, i.e. as to the existence, amount and availability contemplated by the European Court of Justice. It seems to me that these are matters to which the decision-maker is entitled to have regard.” [para. 46] The Court found no substance to the applicant’s argument that the reasons for the Minister’s decision was not clearly articulated in a letter to A.G.A. dated 8 July 2014, and therefore refused the relief requested.</p>

Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>“In this situation the primary parental carer, the first named applicant, has no resources available of her own. Instead she has support and promises of ongoing support from Mr. A.A. and her purported ongoing free accommodation courtesy of Mrs. [named]. While the decision in <i>Zhu and Chen, Alokpa</i> and <i>Commission v. Belgium</i>, suggests that the resources are available and that, the national state cannot designate that they come from a particular source; however, it is also clear, particularly from the decision in <i>Commission v. Belgium</i>, that the national state is entitled to satisfy itself as to the existence, amount and availability of the alleged resources.” [para. 40]</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	<p>Not directly, but it cited a case, <i>Alokpa & ors. v. Ministre du Travail, de l’Emploi et de l’Immigration</i>, which references Articles 7, 20, 21, 24, 33, 34 and 51(2) of the Charter of Fundamental Rights of the European Union.</p>