

Communication Notice

Issued By
European Casework

Subject: Implementation of <i>Ruiz Zambrano</i> judgment			
Start Date	19.09.2011	Expiry Date	Ongoing
To:	All European Casework Staff	Date of Issue	16.09.2011

An interim process has now been agreed for dealing with cases where an application for documentation is received from persons relying on the ECJ judgment on *Ruiz Zambrano*.

It has been agreed that whilst changes to the Regulations are progressed which will enable UKBA to issue documentation in these circumstances; applications received from the date of this instruction must be considered by the Front End Sift (FES). In principle, all applications claiming a sole reliance on the ECJ judgment on *Ruiz Zambrano* will be sifted by FES, those meeting the scope* of the judgement will be accepted and will be placed on hold until changes to the Regulations have been effected. Those applications that do not meet of the scope of the judgement will continue to be rejected,

* This PIN is based on European Operational Policy Notice no 13/2011 which must be referred to for further detail on the agreed scope,

Where an application is made, consideration must be given to whether they potentially come within the following agreed scope:

- A Third Country National adult Dependent upon whom a British citizen **child** is dependent
- A Third Country National adult Dependent upon whom a British citizen **adult** is dependent

In practice, the majority of cases are likely to come within the first category and will involve a British citizen child who is dependent upon their third country national parent. In order to demonstrate that they are a potential beneficiary of this category then the following evidence needs to be presented:

- the child is under the age of 18
- the child is a British citizen,
- evidence of relationship between the child and the parent/guardian (i.e. birth certificate)
- evidence of child's dependency on the third country national parent/guardian (i.e. care responsibilities, care orders)

On arrival at DPT, the case will be created on GCID using the new "**EEA – Zambrano**" casetype (code **EEAZAM** on G-CID). As no new outcomes / stats cats etc have been agreed for Zambrano cases, all the static data relating to EEA2s has been allocated until further notice. Where evidence of the above is included (normal guidance on original documents applies) the applicant should be issued with a 'Zambrano' Certificate of Application:

[REDACTED]

All such cases should be walked and talked with an EO senior caseworker before proceeding.

These cases should then be allocated to LNC25EWH and placed on the Zambrano shelf.

Where cases are considered to be “in scope” but photocopied documents have been produced the following letter should be sent.

[REDACTED]

All cases where the British Citizen is an adult and some evidence of dependency has been submitted should be walked and talked with an SEO SCW before validation.

All other cases should be rejected using the attached ‘Zambrano’ rejection letter:

[REDACTED]

Please note that where a case is being rejected both on Zambrano and on the current Regulations then the applicant will require both rejection letters to be sent.

There is no longer any need to photocopy rejected Zambrano cases but the reasons for rejection should be clearly noted on case notes.

Any cases which have already been accepted into the business should firstly have their application considered on the basis of the Regulations (even where the application is based solely on Zambrano). Where this is to be refused, then consideration must now be given to whether the application comes within the agreed scope of *Zambrano*.

For cases where the applicant has provided evidence which demonstrates that they may fall within scope, the original application **must first be decided under the Regulations**. A new case should then be created by DPT and the following letter should be sent. Cases will be created by DPT using the new “EEA – Zambrano” casetype (code EEAZAM on G-CID). As no new outcomes/ stats cats etc have been agreed for Zambrano cases, all the static data relating to EEA2s has been allocated until further notice. Following Case Creation, DPT will allocate the case to LNC25EWH.

[REDACTED]

For cases where the applicant has not provided evidence which demonstrates that they may fall within scope then the application should be refused under the Regulations and the following letter should be sent along with the refusal.

[REDACTED]

There is no right of appeal on the basis of *Zambrano* as this provision does not come within the Regulations. For applications which are rejected on the basis of *Zambrano*, therefore, this letter should be included in the bundle which is sent to AIT if an appeal is lodged.

For any outstanding PAPs or JRs on the basis of our handling of the *Zambrano* judgment the following letter should be tailored to suit the circumstances and sent to the applicant/rep.

[REDACTED]

Author	[REDACTED]	Approved by [REDACTED]	[REDACTED]
Grade	[REDACTED]	Date of Approval	21/10/2011
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