

RESIDENCY

“What the Euro Court Ruling Meant”

Metro Éireann, February 2009

LAST YEAR four couples, each consisting of a non-EU husband and a wife with EU citizenship, challenged the decision by the Department of Justice to deport the non-EU spouses in the European Court of Justice. Over a thousand letters “with intention to deport” were also sent out to other such couples in Ireland, and the case taken by the four married couples would set a precedent for everyone.

All the non-EU spouses in these relationships were married to EU nationals who were not born in Ireland, but came to live and work there from other member states. Many of the non-EU spouses had either previously been unsuccessful asylum applicants, or their visas expired before they got married to the EU nationals.

The Department of Justice suspected them all of conducting false marriages to obtain residency rights in the State.

However, in a landmark ruling last summer, the European Court of Justice (ECJ) overturned the Irish law enabling the State to deport the non-EU spouses in these marriages. According to the ruling, by issuing the non-EU spouses notices “with intent to deport”, Ireland was in breach of a fundamental EU directive allowing for free movement of EU citizens within the Union.

The ECJ ruled that EU citizens were free to move between any member states, and they were also free to take their family members with them. The fact that some of these family members were from outside the EU had no bearing on their right to accompany their EU husbands and wives.

The ruling, however, also said that Ireland was free to review its decisions as to whom it will grant permission to stay on a case-by-case basis. So for many couples, their future is still up in the air.

This article was produced in association with the Forum on Migration and Communications (FOMACS)