

## **INFORMATION NOTE**

**on the situation of non-EU family members of EU nationals  
following the European Court of Justice judgment in 25<sup>th</sup> July 2008**

In *Metock v Minister for Justice, Equality and Law Reform*, the European Court of Justice considered a number of questions referred it by the Irish High Court in relation to Ireland's interpretation of Directive 2004/38 on the right of EU citizens and their family members to move and reside freely within the territory of the EU Member States.

The European Court of Justice held that Irish legislation on the rights of EU citizens and their family members to move and reside freely within the EU was contrary to the 'Freedom of Movement Directive' (2004/38/EC). The Court noted that the non-EU family member of an EU national **does not have to have resided in another EU Member State**. Moreover, **it does not matter where the marriage took place or how the non-EU spouse entered the State**.

### **Implications of the ECJ Judgment**

The Department of Justice, Equality and Law Reform has decided to revoke the requirement that the non-EU spouse of an EU national must have lived in another EU Member State. Non-EU family members of EU nationals who have been refused by the Department on this basis or who have been granted permission to remain as an "exceptional measure" may now wish to write to the EU Treaty Rights Unit, INIS, P.O. Box 10003, Dublin 2 to request that, in light of the *Metock* judgment, they be granted full residency rights as family members of EU nationals in accordance with Directive 2004/38. These letters should be sent by registered post, should be clearly marked REVIEW-ECJ and should contain the applicant's reference number and address.

In this letter, the applicant could state that s/he would like to request that his/her application to remain in the State be favourably reconsidered and that he/she be granted **permission to remain for a period of 5 years, backdated** to six months after the date on which his/her original application was lodged, in accordance with EU law (Article 10(1) of Directive 2004/38/EC).

A link to the Department of Justice, Equality and Law Reform's information for dependents of EEA nationals can be found here:

<http://www.inis.gov.ie/en/INIS/print/EU%20Treaty%20Rights>

A link to the full judgment can be found here: [http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-127/08&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100](http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-127/08&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100)

**For further information or assistance please contact the ICI:**

**Contact Details**

Our Information and Support Service can be contacted by telephone on **(01) 674 0200 on Mondays, Tuesdays, Thursdays and Fridays from 10 to 12.30pm and from 2pm to 4.30pm**. Clients with general enquiries may be referred to another agency for assistance.

Clients with complex cases may be offered an appointment to speak to an Information and Support Officer in person on a confidential basis.

From January 2009, consultations with Information and Support Officers will be **by appointment only**.

Immigrant Council of Ireland  
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