

Subject-matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality x 2) freedom of movement and residence - Articles 7(1)(b) and 13(2) 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	04/08/2016
Deciding body (in original language)	The High Court
Deciding body (in English)	The High Court (and the Court of Justice of the EU)
Case number (also European Case Law Identifier (ECLI) where applicable)	[2016] IEHC 202; Case C-218/14
Parties	Kuldip Singh v Minister for Justice and Equality; Denzel Njume v Minister for Justice and Equality; Khaled Aly v Minister for Justice and Equality
Web link to the decision (if available)	http://www.courts.ie/Judgments.nsf/0/AC261EDE8E8E7F1D80257FA200351B3D
Legal basis in national law of the rights under dispute	Regulation 10 of the European Communities (Free Movement of Persons) No. 2 Regulations 2006
Key facts of the case	All three cases involved the breakdown of a marriage between a non-EU spouse and an EU national who had departed from Ireland, the host member state. Justice Mac Eochaidh observed that in the cases of Kuldip Singh and Denzel Njume “a divorce was obtained following the separation of the parties and the departure from the host Member State” of their EU national spouse, after which point the Irish

(max. 500 chars)	government refused their applications to retain residence rights.” [para. 40] In the third case, that of Khaled Aly, the Irish state revoked Aly’s residence card following the departure of his EU spouse from Ireland, but ahead of divorce proceedings being completed. The applicants Njume and Singh argued that Article 13(2) of Directive 2004/38/EC establishes a personal right to residence for the non-EU spouse remaining in the host member state following divorce from the EU national (a marriage that lasts at least 3 years, including 1 year in the host member state). Aly argued that the divorce need not necessarily be obtained in the host state, and that while divorce proceedings are pending, the non-EU spouse should be permitted to retain residence rights in the host state.
Main reasoning / argumentation (max. 500 chars)	The High Court noted that the Irish case law was inconsistent on the parameters of Article 13(2) of the Directive, and that the Court of Justice of the EU had not considered the issue to date. Therefore, two key questions were referred to the Court of Justice under Article 267 TFEU, which were: “(i) Where marriage involving EU and non-EU citizens ends in divorce obtained following departure of the EU citizen from a host Member State where EU rights were exercised by the EU citizen, and where Articles 7 and 13(2)(a) of Council Directive 2004/38/EC apply, does the non-EU citizen retain a right of residence in the host Member State thereafter? If the answer is ‘no’, does the non-EU citizen have a right of residence in the host Member State during the period before divorce following departure of the EU citizen from the host Member State? (ii) Are the requirements of Article 7(1)(b) of Directive 2004/38/EC met where an EU citizen spouse claims to have sufficient resources within the meaning of Article 8(4) of the Directive partly on the basis of the resources of the non-EU citizen spouse? (iii) If the answer to the second question is ‘no’, do persons such as the applicants have rights under EU law (apart from the Directive) to work in the host Member State in order to provide or contribute to ‘sufficient resources’ for the purposes of Article 7 of the Directive?” [section F]
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The case was decided by a Grand Chamber of the Court of Justice with submissions from Greece, Denmark, Spain, Poland, the United Kingdom and the European Council (as well as an amicus curiae representation from the Immigrant Council of Ireland). In short, the CJEU found that if the EU spouse leaves the host country before initiation or the completion of divorce proceedings, that the non-EU husband/wife loses the right to residence under Article 7(2) of the Directive and does not qualify for Article 13(2), and the latter article cannot be revived once the divorce proceedings are finalised. On the second question which centred on the issue of sufficient resources (Article 7(1)(b)), the CJEU found that resources of the non-EU national could contribute to “sufficient resources” so that the EU member or his/her family members would not become a burden on the social welfare system of the host state. The Grand Chamber referred the matter of costs back to the national courts of Ireland.
Results (e.g. sanctions) and key consequences or	The High Court of Ireland thus refused the reliefs sought by the applicants. With respect to costs, the Court ruled that the applicants were not entitled to any costs in relation to the domestic aspects of the proceedings, however, the Court deemed the reference to the Court of Justice of the EU to be a separate and discrete matter. Furthermore, as the applicants enjoyed some level of success with respect to the

implications of the case (max. 500 chars)	question of “sufficient resources,” the High Court granted the “applicants all of the costs in relation to the order for reference.” [para. 35]
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>“I believe that the decision of the Court of Justice in respect of the true meaning of art. 13(2) has far reaching importance. I believe that the importance of the legal issue in the cases is underlined by the fact that a Grand Chamber of the E.C.J. was empanelled and that so many countries decided to intervene [...]</p> <p>I am satisfied that the decision of the E.C.J. has clarified an unexplored area of law. The Court of Justice itself had not addressed it; Irish courts had addressed it giving conflicting decisions. So in all of those circumstances, my view is that notwithstanding the lack of success of the applicants on the main issue referred, it seems appropriate that I should award the applicants the costs of the reference only, to include the costs of preparing the order for reference.” [paras. 33, 34]</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	Yes, Article 7