

Subject-matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality X 2) freedom of movement and residence - Articles 2 and 3, 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	23/07/2012
Deciding body (in original language)	The High Court
Deciding body (in English)	The High Court
Case number (also European Case Law Identifier (ECLI) where applicable)	[2012] IEHC 311
Parties	Belinda Wang, Lili Wang and Hui Zheng v Minister for Justice and Law Reform
Web link to the decision (if available)	http://www.courts.ie/Judgments.nsf/0/4C2241B33C71DBFF80257A550037AD3B
Legal basis in national law of the rights under dispute	European Communities (Free Movement of Persons) (No. 2) Regulations 2006 and 2008; EU treaty based law and principles of EU law
Key facts of the case (max. 500 chars)	Note that this executive summary has the purpose to make us understand: 1. the facts of the case (so the “real life story”)

	<p>The second named applicant, Lili Wang, is a Chinese national who arrived on a student visa to Ireland in April 2004. She met Jozsef Tuza, a Hungarian national, and they married in December 2006. She was granted permission to remain in the country as the spouse of a Hungarian national under the 2006 Regulations. They had a daughter, the first named applicant, also a Hungarian national, born on 5 July 2009. The marriage broke down and Mr. Tuza returned to Hungary, maintaining no relationship with his daughter and making no contribution to her upbringing. The third named applicant also arrived to Ireland on a student visa and is now in a long term committed relationship with Lili Wang and they are expecting a baby.</p> <p>2. the legal background against which the case unfolded (what are the relevant legal norms that are applied)</p> <p>In light of the <i>Chen</i> judgment of the CJEU, the applicants appealed for a judicial review of the Minister's decision to revoke their permission to stay in the country.</p>
Main reasoning / argumentation (max. 500 chars)	<p>The Court decided that the third named applicant has no legal relationship to the Hungarian national child, Belinda Wang, as he is not married to her mother and therefore "he cannot be considered a parent of a minor citizen within the meaning of the provisions of the <i>Chen</i> judgment." [para. 20]</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>One key issue was whether Lili Wang had the sufficient resources to invoke a right to remain in Ireland, such as having the appropriate health insurance and adequate finances to avoid becoming a burden on the state. Documentation was furnished to suggest that the self-sufficiency means was actually been provided by the third named applicant. Thus, the Minister was not satisfied that Lili Wang was self-sufficient in her own right within the meaning of the <i>Chen</i> judgment.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Court granted leave to Lili and Belinda Wang to seek a judicial review of the Minister's decision on the basis that a) the Minister erred in law and fact when deciding that Lili Wang was not a "permitted family member" within the meaning of Regulation 2(1) of the 2006 Regulations and that the Minister made a disproportionate and unreasonable conclusion when deciding that Lili Wang was unable to satisfy the self-sufficiency criteria set out in the <i>Chen</i> judgment of the CJEU.</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>"What is not clear however, is what test of self-sufficiency has been applied by the respondent in reaching the conclusion that the means test condition is not met if the support of the third named applicant is eliminated. It is, accordingly, sufficiently arguable for the purpose of the grant of leave that the Minister has erred in fact in rejecting the application upon the basis that the conditions of the <i>Chen</i> principle are not met in this case." [para. 34]</p>

Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No reference
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