

**Between:****NDUBISI UCHE****Applicant****– and –****MINISTER FOR JUSTICE AND EQUALITY****Respondent****JUDGMENT of Mr Justice Max Barrett delivered on 4th March, 2019.**

1. Mr Uche is a non-EU national. He married a Czech national in April 2011. He claims that she left Ireland in August 2016. It seems that he and she are no longer in contact. Mr Uche claims that he and his wife were lawfully resident in Ireland pursuant to reg.6 of the EC (Free Movement of Persons) Regulations 2015 for five years prior to her departure. He has made application for a permanent residence card pursuant to reg.12 of those Regulations.

2. It is contended that the Minister, in breach of the right to fair procedures, raised for the first time in his review decision of 18.12.2017 (the 'Impugned Decision') an issue about the details of residence of Mr Uche's Czech spouse in Ireland. In fact the Minister previously raised this issue in his proposal to refuse of 09.06.2017 and in his initial refusal of 30.06.2017. So there is no question of this issue having come 'out of the blue' or of it being unknown/unclear to Mr Uche that it was a point he needed to address. The factual basis for Mr Uche's fair procedures point being wrong, that point does not require to be addressed further.

3. Mr Uche claims that the Minister was mistaken in asserting in the Impugned Decision that Mr Uche's spouse required to be employed/self-employed or to have sufficient resources and comprehensive sickness insurance in circumstances where Mr Uche was economically active. The Minister was not mistaken. A non-EU spouse may remain in Ireland for longer than three months when the EU spouse satisfies one of the conditions in reg.6(3)(a)(i)-(iii) of the 2015 Regulations. Though the "*sufficient resources*" referred to in reg.6(3)(a)(ii) are not limited to resources held/earned by the EU national (Case C-218/14 *Singh*), the mere fact that the non-EU national is working does not suffice to meet the requirements of reg.6(3)). That is the law as it stands. That there may be an altered understanding of the law following one or more future decisions of the European Court of Justice does not avail Mr Uche at this time.

4. Mr Uche has sought an order of *certiorari* quashing the Impugned Decision and associated reliefs. For the above reasons all the reliefs sought are respectfully refused.