

Case C-60/00 Carpenter [2002] ECR I-6279

Facts: The applicant was the British national husband of a non-EU citizen. He had married her after her leave to stay had expired. The Immigration Adjudicator had decided that Mrs. Carpenter had played an important part in upbringing her stepchildren and had indirectly helped her husband's business. The Immigration Adjudicator also felt that it was within her husband's rights to have her accompany him on business trips to other Member States. As the Immigration Adjudicator had determined that the applicant's marriage was genuine the decision of the immigration authorities to refuse his wife leave to remain in the UK constituted an interference with his rights to family life. The ground for bringing this to the Court was that the interference was disproportionate under EU law. In particular, the applicant argued that his wife's deportation would impose a disproportionate hindrance on her husband's ability to travel to provide services, a freedom afforded by Art. 56 TFEU.

Held: Art. 56 TFEU, read in the light of the fundamental right to respect for family life, had to be interpreted as precluding a refusal, by the Member State of origin of a provider of services established in that Member State who provided services to recipients established in other Member States, of the right to reside in its territory to that provider's spouse, who was a national of a third country.

In particular, the decision to deport was an interference with Mr Carpenter's right to respect for family within the meaning of Art. 8 of the European Convention on the Protection of Human Rights, a right protected in EU law too. Moreover, the infringement was disproportionate as it did not strike a fair balance between the applicant's competing interests: the right to respect for family life, on the one hand, and the maintenance of public order and safety on the other.

As such, Mrs. Carpenter obtained leave to remain.