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594 Prohibition of discrimination

given leave. That we do not know. But the differential is further evidence of a general difference in approach between the two groups, which may have had other aspects than those to which our attention has specifically been drawn. Hence the following declaration meets the case: 'United Kingdom Immigration Officers operating under the authority of the Home Secretary at Prague Airport discriminated against Roma who were seeking to travel from that airport to the United Kingdom by treating them less favourably on racial grounds than they treated others who were seeking to travel from that airport to the United Kingdom, contrary to section 1(1)(a) of the Race Relations Act 1976.'

105. I would therefore allow the appeal on this ground and make the above declaration.

Box The question of 'ethnic profiling'

7.2.

The 'Prague Airport' case presented above constitutes a clear example of 'ethnic profiling', i.e. the use of ethnic or religious background as a determining criterion for law-enforcement decisions (on the use of ethnic profiling in counter-terrorism, see Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, 29 January 2007, A/HRC/4/26; see also more generally the General Policy Recommendation No. 11 on combating racism and racial discrimination in policing adopted on 29 June 2007 by the Council of Europe's European Commission against Racism and Intolerance (ECRI), which defines 'racial profiling' as 'the use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities'; and recommends that States define and explicitly prohibit racial profiling by law). Other well-known examples include the *Williams* case presented to the Human Rights Committee, the *Timishev* case presented to the European Court of Human Rights, or the *Rasterfahndung* data-mining operation led by the German authorities following the September 11, 2001, terrorist attacks on New York and Washington:

- In December 1992, Rosalind Williams, who was travelling with her husband and son, was stopped by a police officer on the platform of a train station in Valladolid, Spain, and told to produce her identity documents. When asked why she was the only person stopped, the police officer told her 'It's because you're black.' She filed a complaint against this treatment. This finally reached the Spanish Constitutional Court, which adopted a decision on 29 January 2001 rejecting the complaint: according to the Court, 'the police action used the racial criterion as merely indicative of a greater probability that the interested party was not Spanish. None of the circumstances that occurred in said intervention indicates that the conduct of the acting National Police officer was guided by racial prejudice or special bias against the members of a specific ethnic group, as alleged in the complaint. Thus, the police action took place in a place of travellers' transit, a railway station, in which, on the one hand, it is not illogical to think that there is a greater probability than in other places that persons who are selectively asked for identification may be foreigners; moreover, the inconveniences that any request for identification generates are minor and also reasonably assumable as



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