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100%

590 Prohibition of discrimination

passage appears: 'From May 2001, immigration officers may also discriminate in similar ways in relation to persons wishing to travel to the UK on the grounds of ethnic or national origin but only in relation to the groups listed ... Additional statistical or intelligence evidence is not required as Ministers authorised the discrimination in respect of the listed groups.'

88. Also available now are the slides and accompanying briefing for the training which all staff received on the 2000 Act and the Ministerial Authorisations under it. These stress the importance of the Authorisations to the work of the Department, point out that discrimination against the listed groups is permissible without statistical or intelligence information, and advise of the need to be familiar with the list, to be able to identify passengers belonging to those groups, and to use their experience, knowledge of groups and local intelligence to assist in identification. They do point out that 'discrimination is likely to be exercised primarily in relation to specific port exercises', but do not suggest that these are the only circumstances in which it can be done. The briefing stresses that 'personnel need to be alert to the ways in which the integrity of the control function might be detrimentally affected if staff chose to disengage by not subjecting certain people/groups to extra scrutiny where appropriate.'

89. The combination of the objective of the whole Prague operation and a very recent ministerial authorisation of discrimination against Roma was, it is suggested, to create such a high risk that the Prague officers would consciously or unconsciously treat Roma less favourably than others that very specific instructions were needed to counteract this. Officers should have been told that the Directorate did not regard the operation as one which was covered by the Authorisation. They should therefore have been given careful instructions in how to treat all would-be passengers in the same way, only subjecting them to more intrusive questioning if there was specific reason to suspect their intentions from the answers they had given to standard questions which were put to everyone.

90. It is worth remembering that good equal opportunities practice may not come naturally. Many will think it contrary to common sense to approach all applicants with an equally open mind, irrespective of the very good reasons there may be to suspect some of them more than others. But that is what is required by a law which tries to ensure that individuals are not disadvantaged by the general characteristics of the group to which they belong. In 2001, when the operation with which we are concerned began, the race relations legislation had only just been extended to cover the activities of the immigration service. It would scarcely be surprising if officers acting under considerable pressure of time found it difficult to conform in all respects to procedures and expectations which employers have been struggling to get right for more than quarter of a century.

91. It is against this background that such evidence as there is of what happened on the ground at Prague Airport needs to be assessed. The officers did not make any record of the ethnic origin of the people they interviewed. The respondents cannot therefore provide us with figures of how many from each group were interviewed, for how long, and with what result. This, they suggest, makes it clear that the officers were not relying on the Authorisation: if they had been, they would only have had to record their view of the passenger's ethnicity. If correct, that would have been enough to justify refusal of leave. But what it also shows is that no formal steps were being taken to gather the information which might have helped ensure that this high-risk operation was not being conducted in a discriminatory manner. It also means that the only information available is that supplied by the claimants, and in particular the ERRC which was

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