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584 Prohibition of discrimination

arrival. One (HM) gave a reason for wishing to visit the UK which the immigration officer did not accept: she may have been intending to claim asylum on arrival in the UK or she may not. The individual appellants, with the first-named appellant ('the [European Roma Rights Centre] (ERRC), a non-governmental organisation, based in Budapest, devoted to protection of the rights of Roma in Europe), challenge the procedures applied to the individual appellants as incompatible with the obligations of the UK under the Geneva Convention (1951) and Protocol (1967) relating to the Status of Refugees and under customary international law. They also challenge the procedures as involving unjustifiable discrimination on racial grounds.

[On the question of whether the treatment of the Roma seeking to embark for the United Kingdom at Prague Airport was discrimination, the leading judgment refers to the other opinions expressed by the Lords. Excerpts follow:]

Lord Steyn

32. In this appeal many significant issues have been debated. But surely the most important issue is whether the operation mounted by immigration officers at Prague Airport under the authority of the Home Secretary in 2001 and 2002 discriminated against Roma on grounds of their race. It is unlawful for public authorities, such as the Home Secretary and an immigration officer, to discriminate on racial grounds in carrying out any of their functions. The appellants put forward a case of direct discrimination on the grounds of race under the Race Relations Act 1976. The Home Secretary and the immigration officers strenuously denied that any discrimination had taken place. Mr Howell, who appeared on behalf of the Home Secretary and the immigration officer, invited the House of Lords to regard the allegations as very serious. He submitted that the case of the appellants should be viewed with an initial scepticism that the United Kingdom could have put in place a system of discrimination on the grounds of race. That is how I will approach the matter.

33. The operation at Prague Airport is unique in the history of the immigration service. It was the first time such a procedure had been undertaken. And it has not been repeated. But the decision of the House transcends the particular circumstances of the case: it has implications for the responsibility of government not only for immigration policy but also for race relations policy generally.

34. The essential features of the operation can be stated quite simply. It was designed as a response to an influx of Czech Roma into the United Kingdom. The immigration officers knew that the reason why they were stationed in Prague was to stop asylum seekers travelling to the United Kingdom. They also knew that almost all Czech asylum seekers were Roma, because the Roma are a disadvantaged racial minority in the Czech Republic. Thus there was from the outset a high risk that individuals recognised as Roma would be targeted by specially intrusive and sceptical questioning. There was a striking difference in treatment of Roma and non-Roma at the hands of immigration officers operating at Prague Airport. The statistics show that almost 90% of Roma were refused leave to enter and only 0.2% of non-Roma were refused leave to enter. Roma were 400 times more likely than non-Roma to be refused permission. No attempt was made by the Home Office to explain by the evidence of immigration officers the difference in treatment of Roma and non-Roma. Although the Home Office was from the beginning on notice of the high risk of discrimination on grounds of race, no attempt was made to guard against discrimination.

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