

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76259

REFUGEE APPEAL NO 76260

REFUGEE APPEAL NO 76261

AT AUCKLAND

<u>Before:</u>	A R Mackey (Chairman)
<u>Counsel for the Appellants:</u>	I Uca
<u>Appearing for the Department of Labour :</u>	No Appearance
<u>Dates of Hearing:</u>	16 & 17 October 2008
<u>Date of Decision:</u>	16 December 2008

DECISION

[1] These are appeals against decisions of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellants, who are all nationals of the Czech Republic. The first two appellants are in a *de facto* relationship. The “husband” (76259) and the “wife” (76260) will be referred to as such throughout the decision. They have two children. Only the younger child (76261) is included in this appeal; the elder child, aged about seven, is a New Zealand citizen by birth. The younger child was represented by her father as responsible adult, pursuant to s141B of the Immigration Act 1987 (the Act) and will be referred to as “the child” in this decision.

[2] This is the second time the husband and wife have claimed refugee status in New Zealand. Their first claim was declined by the RSB in 2001. They then appealed to this Authority. The appeals were originally scheduled to be heard in

2002. The appellants, however, did not attend that hearing and their appeals were dismissed in May 2002. However, an application for re-hearing was received on 24 June 2002. It explained the reasons for the failure to attend the hearing in May 2002. The Authority then granted a re-hearing of their appeals, on their merits, and the decision of May 2002 was set aside. A full hearing, of what effectively became their first appeals (*Refugee Appeal Nos 74028 & 74029*), then followed, almost three years later, in April 2005. The Authority issued a decision declining their appeals in June 2005. An appeal by an elder son of the first appellant (*Refugee Appeal No 74030*) was heard and declined, along with that of the first and second appellants. That son, who was an adult, has since left New Zealand and, after spending a few days in the Czech Republic, now lives with another relative in the United Kingdom.

[3] The third abovenamed appellant was born in 2006. Her application, made at the same time as her parents' subsequent application, was also declined in the letter dated June 2008. She has then appealed to this Authority in what is now a first appeal. That appeal, therefore, is dealt with under the jurisdiction relating to first appeals, rather than subsequent appeals as is the case for the first two appellants.

[4] The husband and wife (the first two appellants) stated in their first appeals that they predicted being persecuted on return to the Czech Republic because of their Roma ethnicity, fears that the husband had in respect of previous support he had given to a Roma rights organisation, evidence he had given against skinheads who were sentenced to probation and general maltreatment by skinheads in racial violence against his family and himself. The wife also predicted she would be attacked by skinheads and suffer persecution by way of racial violence which neither she nor her husband believed the Czech police would protect them from because of their ethnicity. The first Authority found neither the husband nor the wife were completely truthful witnesses and that both of them had embellished their accounts. On the facts as found, the Authority went on to decline their appeals.

[5] It is now claimed that since the first refugee appeal, anti-Roma violence has escalated to the situation that it is worse than when the first claim was made and that, as a result of charges against the husband in the Czech Republic, that have come to his attention since the existence of a warrant was brought to his attention, he would be seriously maltreated by the Czech police, or rogue elements within it,

if he returned to the Czech Republic. The wife predicts she will also suffer persecution from anti-Roma groups in the Czech Republic and rogue policemen who have been involved in the charges brought against the husband, which resulted in him being sentenced, *in absentia*, to imprisonment in 2002.

[6] It is necessary for the Authority to consider:

- (a) whether the first two appellants meet the jurisdictional threshold of establishing that circumstances in the Czech Republic have changed to such an extent that their second claim is based on significantly different grounds from the first claim; and (only if so)
- (b) whether the facts as found on the second claim establish that the husband and/or the wife have a well-founded fear of being persecuted for a Refugee Convention reason; and
- (c) in respect of the child whether, on the basis of her first claim, she can establish a well-founded fear of being persecuted for a Refugee Convention reason.

[7] It is appropriate to consider the question of jurisdiction first, as it applies to the husband and wife.

JURISDICTION OF THE AUTHORITY TO HEAR THE APPEALS

[8] The jurisdiction of a refugee status officer to consider a second or subsequent appeal is governed by s129J of the Act which provides:

“129J. Limitation on subsequent claims for refugee status—

(1) A refugee status officer may not consider a claim for refugee status by a person who has already had a claim for refugee status finally determined in New Zealand unless the officer is satisfied that, since that determination, circumstances in the claimant's home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim.

(2) In any such subsequent claim, the claimant may not challenge any finding of credibility or fact made in relation to a previous claim, and the officer may rely on any such finding.”

[9] There is then a right of appeal, pursuant to s129O(1) of the Act 1987 which provides:

“A person whose claim or subsequent claim has been declined by a refugee status officer, or whose subsequent claim has been refused to be considered by an

officer on the grounds that the circumstances in the claimant's home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer's decision."

[10] The question of whether there is jurisdiction to entertain a second or subsequent claim was considered in *Refugee Appeal No 75139* (18 November 2004) where the relevant principles were set out at [54] - [57]:

[54] In any appeal involving a subsequent claim under s 129O(1), the issues are not "at large". Rather, there are three distinct aspects to the appeal.

[55] First, irrespective of the finding made by the refugee status officer at first instance, the claimant must satisfy the Authority that it has jurisdiction to hear the appeal. That is, the claimant must establish that, since the determination of the previous claim, circumstances in the claimant's home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim. As to this:

- (a) The change of circumstances must occur *in* the claimant's home country. It is not open to the claimant to circumvent the jurisdictional bar by submitting that at the hearing of the previous claim the refugee status officer or the Authority misunderstood the facts.
- (b) A "reinterpretation" of a claimant's case is neither a change of circumstances, nor is it a change of circumstances *in* the claimant's home country.
- (c) The claimant cannot invite the Authority to sit as if it were an appellate authority in relation to the decision of the first panel and to rehear the matter. The Authority has no jurisdiction to rehear an appeal after a full hearing and decision.
- (d) A second appeal cannot be used as a pretext to revisit adverse credibility findings made in the course of the prior appeal.
- (e) Jurisdiction under ss 129J(1) and 129O(1) is determined by comparing the previous claim to refugee status against the subsequent claim. This requires the refugee status officer and the Authority to compare the claims as asserted by the refugee claimant, not the facts subsequently found by that officer or the Authority.
- (f) Proper recognition must be given to the statutory language which requires not only that the grounds be different, but that they be **significantly different**.
- (g) The Authority does not possess what might be called a "miscarriage of justice" jurisdiction.

[56] Second, in any appeal involving a subsequent claim, s 129P(9) expressly prohibits a claimant from challenging any finding of credibility or fact made by the Authority in relation to a previous claim. While the Authority has a discretion whether to rely on any such finding, that discretion only comes alive once the jurisdictional threshold for subsequent claims set by ss 129J(1) and 129O(1) has been successfully crossed.

[57] Third, where jurisdiction to hear the appeal is established, the merits of the further claim to refugee status will be heard by the Authority. That hearing may be restricted by the findings of credibility or of fact made by the Authority in relation to the previous claim, or "at large", depending on the manner in which the discretion under s 129P(9) is exercised by the Authority."

[11] Against this background, it is now necessary to have regard to the first and second refugee claims of the husband and wife in order to determine whether the jurisdictional threshold is covered.

THE APPELLANTS' FIRST REFUGEE CLAIMS

[12] The account which follows is a summary of the claims which were made to the Authority (differently constituted) at the time of the first appeal. They were both represented in that appeal in 2005.

[13] The husband is now in his mid-40s. His wife is younger. They are both ethnic Roma.

[14] The husband and wife were in a *de facto* relationship. The husband has children from a previous marriage. None of them now live in New Zealand. This couple, however, have two children, as noted above, the younger of them is the third appellant.

[15] The couple stated they arrived in New Zealand in 2000 and claimed refugee status for the first time a few days later. They were interviewed in 2001 and, as noted, their RSB application was dismissed in 2002 and their appeal to this Authority dismissed in 2005.

[16] The husband claimed that he suffered racial taunts during his schooling and was called a "gypsy". However, he was able to complete training and an apprenticeship and become employed. He became a self-employed contractor in the mid-1990s and was reasonably successful. When he left, he had a business employing 10 people. He became involved in his home town of KK in a branch of an organisation promoting Roma rights. He became vice president and represented Roma at meetings of local officials on matters such as housing and education. In 1994, a Roma meeting was attacked by a large group of skinheads and he suffered some kicks and slaps. He later learned that another member had been murdered during the attack. The police, however, did not prosecute anyone for that murder. The husband laid complaints but these were never followed up by the police.

[17] He claimed that, in 1997, while visiting another town, he and his brother-in-law and sister were attacked by skinheads when getting out of their car. They managed to flee but the car was taken. The matter was reported to the police and

it led to a successful prosecution, 18 months later. The husband gave evidence at court. In 1998, he ceased his active involvement in the Roma organisation but retained membership. That year, after being refused entry to a disco with his brother because they were Roma, they were surrounded and attacked by skinheads. Both of them were kicked until they lost consciousness. This was not reported to the police because they felt there would be no point.

[18] In 1999, after his first wife, along with two of their children, had left the Czech Republic because they could no longer withstand the racism, the husband met his present "wife" and they started living together. They were also refused entry to a disco and were surrounded by skinheads who abused them and beat them. Again, no complaints were made to the police. The husband also claimed he suffered regular racial abuse from white Czechs and was assaulted on other occasions, but not to the same level as the earlier incidents.

[19] In September 2000, both the husband and wife left the Czech Republic with the husband's elder son. They all feared returning to the Czech Republic as they considered they would be killed by skinheads in the course of racial violence and that the family would suffer degradation and humiliation because of the racism.

[20] The wife also claimed she had been the victim of racial abuse, discrimination and, on one occasion in 1998, she had been pulled to the ground and kicked by skinheads. In another attack, also while with a friend in a disco, she was attacked, her ribs were broken and she was admitted to hospital. The skinheads threatened her with death. She predicted that if she was returned to the Czech Republic, she would suffer further incidents of racial violence and could even be killed. She did not consider the Czech police would protect her because of her racial background.

[21] After assessing the evidence, the first Authority found that neither the husband nor the wife had given completely truthful evidence; both had embellished their accounts and given evidence that was at variance to the details given to the RSB in 2001. The Authority therefore rejected certain aspects of their accounts. These were that the husband had a high profile in the Roma organisation and was targeted as a result of that, that he had difficulty operating his business because of his race and that he and his partner had been attacked by skinheads in 1998 and suffered broken ribs as a result of that attack. Reasons for those findings were set out in the determination. Accordingly, the Authority found that the husband and wife were discriminated against within the Czech education system and that there

were frequent examples of discrimination when attempting to access goods and services, such as entering shops, bars and nightclubs. It was also accepted that they were discriminated against in their employment and that both of them had been subjected to racial attacks - for the husband, on four occasions and for the wife, on one occasion.

[22] After assessing the country information, the Authority found however that neither appellant had a well-founded fear of being persecuted on return to the Czech Republic and so dismissed their appeals.

THE APPELLANTS' SECOND REFUGEE CLAIM

[23] At the outset, the Authority explained the limited jurisdiction in this subsequent appeal. The Authority made it clear that it was only able to consider the second claims if the appellants established significantly changed circumstances arising after the first refugee appeal.

[24] The account that follows is a summary of the account given by the husband and wife in respect of their second claim.

[25] As will be seen, the husband's evidence in respect of his fears of persecution in the Czech Republic evolved over the course of the second refugee claim and appeal. The Authority's assessment of this evidence was hindered by an error committed by the RSB at the determination stage of this second claim. It is necessary to set out a summary of the RSB determination before recording the husband's testimony before this Authority.

THE RSB DETERMINATION

[26] The applications for all three appellants were lodged with the RSB by counsel on 5 November 2007. The husband claimed a fear of persecution in the Czech Republic because of his ethnicity and the fact that he was now wanted by the Czech authorities on an Interpol warrant issued against him in 2006. It was submitted that the RSB had jurisdiction to hear and decide these claims (for the husband and wife) on the basis that circumstances in the Czech Republic had changed to such an extent that their claims were based on significantly different grounds from the previous ones. The decision in *Refugee Appeal No 75139* (18 November 2006) was noted and it was claimed that neither the husband nor the wife were asking for the matter to be reheard or to revisit adverse credibility

findings made against them. The fear of persecution was claimed to be on the basis of their ethnicity and fact that the warrant had been issued. It was noted in the claim made that the husband had not been informed of the nature of the charges against him and had not received a copy of the warrant.

[27] In support of the claim of changed circumstances, it was stated that the husband and his family were afraid to return to the Czech Republic:

“... because they endured life-long physical and verbal abuse at the hands of skinheads and white Czech and now [the husband] is wanted by the Czech authorities. They were the target of vicious attacks because of their Roma ethnicity.”

[28] A considerable amount of country information relating to the treatment of ethnic Roma in the Czech Republic in the period 2006 to 2007 was supplied. In the actual application form, nothing much further was added, apart from the statement that the husband's fear of returning was because of “the Czech authorities and white Czechs” and “only because of the warrant and because I am Roma”.

[29] The husband and wife were both interviewed by the RSB. It is the findings of the RSB, and the record set out in the decision refusing refugee status, that have become problematic for the Authority. This was because of submissions that were presented by Ms Uca at the outset of the second appeal hearing. These led to an investigation by the Authority (recorded below) into the actual evidence given by the husband and wife to the refugee status officer.

[30] The nub of the submission made by Ms Uca was that in the record of the RSB decision, dated 25 May 2008, under the heading “Summary of events as stated by the claimant”, there are a number of statements recorded as if they were evidence given by the husband when, in fact, many of the statements recorded were not made or agreed to by either the husband or the wife. Ms Uca noted also that she had been present during the interviews with the RSB and so had observed the proceedings. The most problematic evidence recorded appeared to be on pages 4, 5 and 6 of the RSB decision (pages 847 - 844 of the Authority file). The comments related to statements made by the RSB that an indictment had been brought against the husband in the regional court in KK and that he and other co-defendants had appeared in the court and been informed of the date when the trial would commence, and that the husband had not appeared at the hearing.

[31] In order to check the actual transcript, the Authority, and Ms Uca independently, listened to the recording of the RSB interview in full. We also, as best as possible, due to difficulties in reading the handwriting, noted the handwritten notes of the RSB interview made by the refugee status officer. It was clear, after listening to the actual transcript, that while there were several references to the warrant, the husband's reaction to it and subsequent enquiries made by him through his legal representatives in the Czech Republic since the Interpol warrant came to his attention in 2007, he had never agreed that he was aware of any indictment or charge against him in 1998. Also, he never agreed that he did not appear along with co-defendants in the regional court, and that he was ever given notice of a trial proceeding against him in August 2000.

[32] In this situation, the information recorded in the RSB decision must be seen as seriously flawed to the extent that many of the statements made in it simply cannot be relied upon and could not be used by the Authority in the assessment of the credibility of either the husband or the wife. The Authority therefore ruled that the only evidence that could be accepted by the Authority, in its *de novo* assessment of the subsequent appeals by the husband and wife, was the actual transcript of evidence as recorded at the RSB interview and not statements in the written decision.

[33] To clarify matters further, the Authority wrote to the RSB during the hearing on 17 October 2008, and asked three specific questions.

[34] A response from the RSB was received on 21 October 2008 and was made available to Ms Uca for comment.

[35] On 12 November 2008, the Authority received from the RSB a copy of a document, with a translation in English. This had been supplied with the consent of the Czech authorities. The document was a full copy of the judgment of the case against the husband (and others) in the Regional Court in KK. The Authority provided these documents to counsel and allowed until 1 December 2008 for comments and submissions on all matters.

[36] No submissions were received from the appellants up to the date of this decision.

[37] Noting the above cautions, the Authority carried out its fresh, *de novo* interview of the first two appellants and, where appropriate, referred to actual

evidence only, as recorded, either in statements made by the appellants in their first or subsequent claims or in the actual transcript of the RSB interview.

The husband's evidence

[38] The substance of the husband's second claim is that, in addition to the deterioration in the treatment of Czech Roma (which he had outlined in evidence presented to the RSB and in country of origin evidence provided both to the RSB and to the Authority), he now feared the police in his home town of KK and, through their contacts, other police throughout the Czech Republic. As some of this was new evidence, not previously presented, the husband's evidence at the hearing before the Authority became unstructured. To give better clarity and understanding of his story, the Authority has endeavoured to set it out in four sections. These are: "The alcohol incident (1991)", "The 1993/94 detention", "The arrest warrant" and "Recent police harassment of family members".

The alcohol incident (1991)

[39] The appellant in his oral evidence to the RSB stated that a man had come to see him offering to sell him a truckload of alcohol. The alcohol was cheap and so the appellant saw an opportunity to make money. The man told him the alcohol had been purchased genuinely. The papers seemed to be genuine and so the husband bought the alcohol and disposed of it at a profit to relatives in Slovakia. After this successful transaction, another truckload was also disposed of in the same manner.

[40] Before the Authority, however, the appellant changed his story significantly, stating that it was actually some members of the local police force who had come to him, asking if he wished to purchase the alcohol. He became aware of this when the same policemen approached him to dispose of the third truckload of alcohol and he refused to co-operate. At that time, the two men disclosed to him that they were police officers and advised him that if he did not co-operate, he would be detained.

The 1993/94 detention

[41] The relationship with the local policemen and their urgings to him to co-operate continued until, in 1993, the police officers detained him. He was held for a period of some 14 months, without formal arrest or charges being made against

him. In the detention in 1993/1994, the husband explained he had been held in a remand prison but he had been given no papers or charged with any offence. He had been questioned at the outset and simply told to “talk” and that if he did not, they would lock him up. A brief interview of only 20 minutes took place. This had not been with the same policemen with whom he had been uninvolved in the disposal of the truckloads of alcohol. In his interview, he did not mention the officers who had been directly involved in the sale of alcohol. There was no lawyer representing him during the interview. It then took approximately six or seven days before his family found out he was in detention. They were unable to visit him in the early stages, but after about 10 months, his mother came to see him. Soon after that, he was given a public defender. That defender was, however, unable to do much to further the case. Eventually, after 14 months, he received a letter stating that he was discharged as there was not enough evidence against him. He had never been to court in relation to the matter. After his release, he resumed his normal life.

[42] About three days after being released in 1994, the two “rogue” police officers, who had been involved in the alcohol transactions came to see him and asked him: “How was it in prison?” They told him: “You now know how and what you have to do.” They continued to visit him every two or three months, reminding him to keep quiet and that if there ever was a court hearing, he should not go to that hearing. The appellant considered the police officers were afraid that he would talk but, because of fears for his own family and himself, and the threats that they would liquidate him, he did not say anything. It was not until many years later that a friend of his brother, who was also in the police force, told the husband’s brother that the two policemen were after the husband again. It was that information that led him to leave the Czech Republic in 2000 and come to New Zealand.

Interpol alert/arrest warrant

[43] The husband explained that after he became aware of the existence of the Interpol alert and/or warrant, in an interview with an immigration officer in 2007, he made enquiries through his relatives and friends in the Czech Republic and was able to instruct a lawyer to represent his interests. He stated that he had been shocked at the time when the immigration officer made him aware of the Interpol alert and that he and his New Zealand counsel, despite repeated requests for information, had never been provided with full details of the actual warrants

against him. He continued to deny awareness of any charges or indictment made before he left the Czech Republic. The only information made available to him and his counsel by INZ or the RSB was in the form of an English translation of "Application for transcript of penal register", a translation of penal register transcript in relation to the appellant, setting out three sentences against the husband, dated June 1981, November 1992 and April 2002, and a "Translation of letter" from the regional court in KK, dated 12 May 2008, setting out the details of the alleged conviction of the husband by the regional court. This third translation appears to be addressed to the Police Department, Prague and sets out the name and date of birth of the husband. It then goes on to state:

"Based on your request dated [...] we enclose an attachment the judgment of the Regional Court of KK, judgment of High Court in Prague and statement of presiding judge. By our investigation the court finds that convicted [the husband] in regards of the criminal case in regional court of KK [reference number] was hold in custody and has been released from custody before the criminal charge was submitted. The named above never served a custodial sentence before. According to the transcript of penal register, which I enclosed, the named above was twice prosecuted by the court and sentenced to suspended sentence and financial penalty. In both cases the named above is viewed as not being prosecuted by the court. The last case of conviction is the judgment from the regional court in KK [reference number] where the convicted [the husband] was sentenced to unconditional sentence of imprisonment, which he still didn't serve."
(sic)

[44] The husband advised the Authority that he was unaware of the source of this material and he denied the charges set out in it.

[45] The husband, using counsel instructed in the Czech Republic, was able to obtain a letter, dated 31 January 2008. A copy of that letter and the translation (pages 830 and 829 of the Authority file) was submitted to the RSB. This letter sets out full details of the husband, his date of birth and address in the Czech Republic, and states that he was sentenced by the regional court from April 2002:

"... and in conjunction sentence of the High Court Prague [reference number] from [...] 2002 lawfully convicted for ongoing criminal offence according to paragraph 250, section 1.4 according to the Penal Code"

and:

"The named above was sentenced to unconditional imprisonment for the period of five years. Out of this period he has already served 14 months in detention. He is not being prosecuted for any other criminal offence in Czech Republic."

[46] The letter is stated as being signed by the presiding judge at the regional court in KK.

[47] In his evidence to the Authority, the husband referred to this letter and denies being involved in the offences referred to therein or in the other two offences referred to in the letter supplied to him by the RSB. He claimed that he knew nothing about any of these offences and had never attended the court in 1998, nor that he had been convicted and fined in 1981 or 1992.

Recent police harassment of family members

[48] The husband then claimed that the situation for him in the Czech Republic was also significantly worse because there had been a lot of changes in his family situation, both in the Czech Republic and in New Zealand. He claimed that over the last few days, he had been in contact with his mother, brother and sister in KK. They had informed him that their situation was “horrible” as police were regularly threatening them and stating they would destroy them. He had been informed by his family that the local police were asking about him and stating that he should return home, otherwise they will start to carry out threats on the family members who are remaining in the home town.

[49] The husband stated that these were the same police officers who had made and investigated the charges against him relating to the selling of two truckloads of alcohol in 1991. It was ultimately the charges resulting from these alleged offences that had led to the conviction for five years’ imprisonment he was now faced with. He said that these were the police officers that he had run away from and come to New Zealand. These officers were the same people he had dealings with in 1991, and also the same police he had co-operated with in relation to the original alcohol/fraud charges.

[50] He explained that his family had told him recently that the police had come to their house and broken furniture and explained that they would not be soft any longer but would move to “liquidate them”. He said that this had been reported to him some four days ago by his brother who told him that the same police officers who had bothered him (the husband) many years ago had come again. His family members were thus afraid for their lives.

[51] He explained that the police were bringing him into this matter because he had dealt with them in the purchase of alcohol in 1991 and that they knew if he now went to court, on his return from New Zealand, he would talk about them to the court and report their involvement in the original allegedly fraudulent purchase and sale of alcohol. Although he had been detained for some 14 months in

1993/1994, when he had been released because sufficient evidence could not be found to prosecute him at that time, he stated that the police told him that if he talked about their involvement in 1991 and 1992, in the sale and disposal of the alcohol shipments, they would come after him.

[52] He explained further that he thought he would be in trouble with the police authorities in the Czech Republic if he said anything and thus had not told the full story. He agreed that in the assessment of both the first and second appeals that his claims had been treated with confidentiality. He was afraid, however, that his mother and family would be put at risk by disclosing the police involvement and now, if he returned, they would all be at risk because if he explained the full situation to the prosecutor, the policemen could lose their jobs. He claimed that as a copy of the Penal Register from the Czech Republic had been requested from the Czech police by the New Zealand authorities, it would now be known that he was in New Zealand. When it was put to the husband that his answers did not appear to show why he had not revealed the police involvement in all of his earlier evidence in New Zealand, and that effectively his case was now a totally different one from the original claim he had originally made, which did not involve the fear of the police, he maintained that he was afraid for his brother and his mother.

[53] The husband stated he was now telling the whole truth and that in the past, the threats to his family had not been so severe as they were now and they had not been threatened with being "liquidated" until this time. He suggested that it was possible that the "rogue" policemen now knew he was about to be sent home and were thus putting extra pressure on his family.

[54] He confirmed that he had asked his lawyer in the Czech Republic to request a new hearing and he considered that no doubt the "rogue" police officers knew that there would be another hearing.

[55] He considered that on return, would be killed stated so that he did not talk and that there would be another court hearing after his arrest on return.

[56] He considered the "rogue" policemen would arrange for him to be sent to his home town of KK and that the police would then take over. He based this assumption on having lived in the country for 40 years and that, as a "gypsy", once in detention, he would be given no care or assistance. He considered that his lawyer would not be able to assist him, as all he could do would be to ask for a new hearing of the case. He agreed that had not told his new lawyer in the Czech

Republic about the involvement of the policemen in the original “alcohol incident” offences, as he considered there was no evidence against him and therefore there was no case to answer.

[57] He stated that had left this evidence out as it may put the lawyer at risk and he did not think he would have a chance to talk to his lawyer beforehand. Thus, all he could do was ask for a renewal of the hearing.

The wife's evidence

[58] In her subsequent application, the wife considered that on return to her home country, she would have “no job, no house, my children will be discriminated in school, I will not have proper medical care, and my partner will go to prison” and this would happen because she was a Roma woman and her partner was wanted by Interpol. She also stated that her fears were now worse since she had been told by INZ that her partner was wanted by the Czech authorities.

[59] In a statement, dated 25 January 2008, in support of the second application for refugee status, she sets out that she has one brother and two sisters living in the Czech Republic in BB and that her parents are there as well. None of them work. She states that she did not know much about her partner's earlier life when they got together in the Czech Republic. She thought he was a good person and trusted him. She only knew that he had problems with skinheads but was unaware that he had problems with the police. She does not believe a word of the accusations being made against her husband. She also believed that she would be harassed by the police as well and that, if they were doing this to her husband, they would do something to her in addition. She believes that she would be detained, locked up and questioned about her husband and that the Czech authorities would take her children away from her if her husband was arrested. All of this would take place because they were Roma and there was no justice for people like them.

[60] There did not appear to be any additional factors added into the wife's claim in the record of the interview with her at the RSB. Her representative, however, did present additional country of origin information relating to Roma in the Czech Republic. This related to the generalised risks for those with Rom ethnicity, in particular over the past two to three years.

[61] Before the Authority, when asked what were the significant changes in circumstances that made her claim different from the first claim, the wife stated that there were significant changes in that her daughter had been born in 2006 and in 2007, she and her husband had found out that Interpol was looking for him. As a result of this, she considered that she was in danger because of the problems her husband would have with the police and that she in turn would also be persecuted by the police on return.

[62] In respect of evidence she had of a worsening situation in the Czech Republic since 2005, she stated that she had been in contact with her family and her husband's family and they had found out that her mother-in-law and brother-in-law had been threatened, doors and windows had been broken in their home and that they had been sworn at. She considered that if she returned, the police would kill her children first as that was the way they operated. She explained that while their two families lived several kilometres away from each other, they were in constant communication and visited each other. She considered that there would be no basis for her to lay complaints with the police force as Roma are always humiliated and discriminated against so that they have no rights, not only in the Czech Republic, but also in other states within Europe.

[63] She stated that there had been threats to her own parents by the police and that they had been told that if they complained, they also would be "liquidated". She considered that police interest in her husband's family had arisen because of enquiries made by INZ with the Czech police.

Evidence relating to the third appellant (the child)

[64] Both the husband and wife gave evidence relating to the risks on return they claim would arise in respect of their daughter. They explained that the Czech authorities would abuse the children first, because that was their way of operating. The child would be at the same level of risk as her parents, or she could be put into an orphanage.

SUBMISSIONS OF COUNSEL

[65] Ms Uca submitted that there were additional risk factors for these appellants that may have come about through possible contact between INZ and the Czech authorities. She also submitted that there were additional documents which had been presented as part of a humanitarian application made in 2007, when removal action was being contemplated, that needed to be brought to the attention of this Authority. These documents were received by the Authority. They are:

- a. a power of attorney to a lawyer in the Czech Republic, signed by the husband;
- b. a letter confirming instructions to the lawyer;

- c. correspondence from the Czech lawyer stating that he was exercising a right of appeal in the husband's case; and
- d. a document dated March 2007 from the Review Branch of INZ, stating that the husband was wanted on fraud charges, theft, breaking and entry and bodily harm in the Czech Republic and using false identities for benefit fraud in New Zealand. All of these have been denied by the appellants.

[66] The Authority agreed to adjourn the matter for approximately two weeks to allow time for a response from the RSB, the receipt of any further information from the Czech Republic that the appellants wished to submit, and submissions in relation to any comments made by the RSB. The matter was set down for mention on 5 November 2008 to review progress. As stated, the RSB had provided a response on 21 October 2008 in which it addressed all the questions that had been put to the RSB by the Authority. On 5 November 2008, noting the response from the RSB appeared to address all the questions asked by the Authority, the appellant and counsel were given to 1 December to provide additional material and submissions. As stated, none were received.

THE JURISDICTION ISSUE

[67] The first issue, in respect of the husband and the wife is whether the Authority, noting the provisions of s129J and s129O of the Act, has jurisdiction to determine their second refugee claims. If so, the Authority must then assess the second claims of the husband and wife considering the issues out below. In respect of the claim made by the child (the third appellant), the only issues are those set out below.

THE QUESTION OF JURISDICTION

[68] This preliminary issue must now be addressed. This involves the comparison of the accepted facts as found in the first refugee claim (including the RSB assessment and first decision of the Authority), with claims now made by the first two appellants which are the basis of these second appeals. The substance of the two claims are compared to establish whether the Authority is satisfied, since the first determination, that circumstances in the appellants' home country have changed to such an extent that the further claim is based on significantly different grounds from the first refugee claim.

[69] This issue can be resolved shortly. The new claims *as asserted*, are significantly different to the first claims and the Authority is satisfied that it has jurisdiction to consider them. In doing so, the credibility of the new claims will, of course, be addressed.

[70] In respect of all three appellants, therefore, it is necessary to pose the orthodox questions which arise from the Refugee Convention.

THE ISSUES

[71] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[72] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANTS' SECOND CLAIM

CREDIBILITY ASSESSMENT OF THE HUSBAND

[73] The husband has substantially changed his evidence over time. In the first claim, as noted above, his fear was of persecution from skinheads and risks to him as a former vice president of a local Roma rights organisation. Substantive parts of that claim were found to be not completely truthful evidence by the first Authority. It considered that the account of the husband had been embellished and was at variance to the details given to the RSB in 2001. The first Authority rejected the evidence related to the husband's high profile in the Roma organisation. The assessment by the first Authority was therefore based on him, as an ethnic Roma, being discriminated against in the Czech Republic and this was set against frequent examples of discrimination that were given by the

husband and noted in country information. Pursuant to s129(9) of the Act, the Authority relies on those findings.

[74] When the husband made his second application, which was, of course, subsequent to being informed by INZ of Interpol interest in him, he had then noted, in his statement of 13 August 2007, that in 1993 he had been investigated by the Czech police in relation to fraud where he was accused of:

“... buying some alcohol from a man. That man was selling wholesale alcohol and also exporting and I bought some from him. He was buying stuff on credit and selling half price while telling people he was exporting the product. When the Inland Revenue came, he got into trouble. That man (I cannot remember his name) was arrested for not paying tax and contraband and he told the police I had bought some alcohol from him.”

[75] In the same statement, the husband stated he had not said anything about this before as he did not think it mattered and he had never been charged, never appeared in court and never been found guilty.

[76] In the second refugee claim itself, lodged in November 2007, the husband stated that he feared being imprisoned and mistreated because he was a Roma and that there was a warrant for him. An accompanying letter from his counsel, also dated 5 November 2007, stated at p3:

“Our client fears persecution because of their ethnicity and the fact that an Interpol warrant was issued in 2006 with regard to [the husband]. [The husband] was informed of the warrant during an interview with Borders and Investigations in July this year.”

[77] Counsel went on to state that since the earlier determination, circumstances in the Czech Republic have changed to such an extent the further claim is based on significantly different ground from the previous claim and that his family members were no longer living in the Czech Republic because of the harassment they endured from the authorities and skinheads. The husband and his family were therefore afraid to return to the Czech Republic because not only did they fear abuse at the hands of skinheads and white Czech, but also because he was wanted by the Czech authorities. Counsel then attached a considerable amount of country material on the treatment of Roma in the Czech Republic.

[78] A further statement, dated 22 January 2008, was then submitted by the husband. In this, he stated that he gave truthful evidence in the first refugee case. He reiterated that he was shocked when he was told about the Interpol warrant and that he had left the Czech Republic in 2000 without problems. In relation to the “alcohol incident”, he set out that:

“My lawyer asked me questions about who the people I was involved with, people called “accomplices” and the warrant. I was not involved with anybody and I bought the alcohol myself. I was actually approached by that man who offered me alcohol, he brought it to me. The alcohol was very cheap so I was making a profit. I bought alcohol twice (two trucks) and sold it in Slovakia. I think it all happened in 1991. When the police arrested me they said it was contraband alcohol. When I realised I went on with my life and went to work with my brother.”

[79] The statement went on that it was strange the Czech police were investigating him for something they allege happened 17 years ago and that it did not make sense. He was therefore afraid to go back to the Czech Republic as he feared he would be arrested, detained and mistreated in prison.

[80] As stated above, after his RSB interview (and as noted from hearing the transcript), additional evidence was introduced relating to the “alcohol” incident. There was no mention of any members of the police being involved in the original sale to him; indeed, in the statement made at the time of his “humanitarian” application, the husband referred to the vendor of the alcohol being a man who subsequently got into trouble with the tax authorities.

[81] Before this Authority, however, the husband’s claim has expanded substantially to the extent that he now states that two “rogue” policemen in his local district were involved in the sale of the alcohol to him in 1991 and he became aware of this when they tried to sell a third truckload of alcohol to him. His claimed risks, therefore, on return have escalated substantially because, he claims, these two policemen are still in his home district and it was their threats to him that caused him to leave in 2000. His story expanded further in evidence to the Authority when he stated that just before this appeal on his second claim for refugee status, he had received telephone calls stating that his mother, brother and sister are now being seriously targeted, in substitution for himself, by the same policemen. He also now considers that these policemen will have contacts throughout the Czech Republic, such that even if he is arrested at Prague airport on his return, he will be sent immediately to his home town where he will be persecuted and “liquidated”.

[82] There are therefore serious inconsistencies, embellishments and additions to the husband’s claim as it has progressed. The Authority finds that his evidence is unreliable and changes to meet the perceived need of the day. His explanation that he feared disclosing the alcohol incident and, later, police involvement at an earlier date is not accepted. Firstly, his claim has grown over time incrementally from a fairly simple claim of fear of skinheads on return to the Czech Republic,

through to admitting that he had actually been detained, although not charged, for a period of 14 months and had been involved in the “possibly fraudulent” disposal of truckloads of alcohol. Initially, the “alcohol incident” story was that he dealt with a “man”. Subsequently that man was wanted on tax offences. The substance of that story was repeated and expanded upon before the RSB. However, the story before the Authority was then substantially changed and embellished. There is now the introduction of “rogue” members of the local police force having been involved in the “alcohol incidents” right from the start.

[83] In this situation, the husband’s evidence must be rejected, virtually in its totality. It is simply not possible to say what parts of his claim are credible and which parts are not. All that can be said with assurance is that he is an ethnic Roma from the Czech Republic and that there is an Interpol warrant for his arrest. The details of that warrant appear to be those sent to him by his lawyer he recently instructed in the Czech Republic. The full details of the judgment against him by the Regional Court has also now been disclosed by the RSB to him and his representatives.

CREDIBILITY ASSESSMENT OF THE WIFE

[84] The Authority found the wife’s evidence to be not credible in respect of her corroborating her husband’s claim that his family members had very recently been threatened and had the doors and windows of their home broken. Given the serious lack of credibility in the husband’s claim and the inconsistencies, embellishments and changes in his story, the Authority considers that the very recent reports, which coincidentally arise at the time of this second claim, have been fabricated to assist and promote more authenticity to the second claim. The Authority found no basis to accept her evidence, in this regard, as any more authentic than that of her husband. This evidence is accordingly rejected.

[85] An assessment of the second claims must be made against these facts as found only.

COUNTRY INFORMATION

[86] The Authority has considered an up to date range of country information in respect of the treatment of the Romani minority in the Czech Republic, in particular

noting any improvement or deterioration in the situation since the determination of the first appeal on 28 June 2005. The Authority has then set the accepted profiles of the husband, wife and child against this objective country information to reach its conclusions on whether the appellants, on the facts as found, have a well-founded fear of being persecuted on return to the Czech Republic.

[87] Relevant country information was found in the following reports:

- a. Amnesty International Report 2008 - Czech Republic, 28 May 2008, as recorded in UNHCR Refworld website www.unhcr.org/refworld, accessed 3 December 2008;
- b. United Nations Human Rights Council: "Universal Periodic Review" - "Report of the Working Group on the Universal Periodic Review Czech Republic", dated 23 May 2008;
- c. A report from Immigration and Refugee Board of Canada "Czech Republic: Situation of Roma, including treatment by the authorities as well as the education, employment, health and housing sectors; state protection and assistance from Romani organisations; prevalence of Roma among judges, legislators, physicians, police and teachers (January 2007 - November 2007)", 12 December 2007. This was accessed online at the UNHCR Refworld website unhcr.org/refworld, document CZE102667.EX. (accessed 3 December 2008).
- d. *Country Report on Human Rights Practices in the Czech Republic*, United States Department of State - 2007 (released 11 March 2008).

[88] The Authority has considered these documents in full, and sets out below findings of relevance to all three appellants.

[89] The Amnesty International report states:

"The Romani minority continued to face discrimination and intolerance,. Roma and other marginalised groups were reportedly subjected to police ill-treatment and to racist attacks by individuals."

[90] Under the heading "Discrimination against Roma", it is stated that, despite anti-discrimination programmes, discrimination against Roma continued, especially in housing, education, healthcare and employment. A poll conducted in April 2008 revealed the prevalence of prejudice against Roma, with nine out of 10 respondents indicating they believed that having Romani neighbours would

constitute a “problem”. In August, the UN Human Rights Committee (HRC) expressed regret that the Czech Republic had failed to adopt an anti-discrimination bill.

[91] On the issue of housing and forced eviction, the AI report notes that an Ombudsperson in the Czech Republic concluded that the eviction of several Romani families to very isolated parts of the country in 2006 was a mistake. A UN Rapporteur for Housing Rights issued a joint statement in October 2006 saying that the Czech Republic was in violation of the right to housing where Roma were concerned.

[92] Under the comments relating to education, it is noted that in November (2007), the Grand Chamber of the European Court of Human Rights concluded, in a landmark case, that the Czech Republic had discriminated against Romani children by placing them in special schools for children with learning difficulties solely on the basis of their Romani origin. Following the ruling, the European Commission called on the Czech Republic to take concrete measures on the ground to “bridge segregation” and to end discrimination against Roma children.

[93] The report then noted that the Czech Republic had phased out placing Romani children in “special schools” for children with learning difficulties, but concerns remained that a disproportionately large number of Romani children were segregated into Roma-only classes in mainstream schools, where they followed different curricula to the majority of the population.

[94] Under the comments on police ill-treatment, the Committee for the Elimination of Racial Discrimination (CERD) and the European Committee of the Prevention of Torture were noted to have raised concerns about allegations of ill-treatment and excessive use of force by police officers, in particular against Roma children, including their detention and coercion into confessing minor crimes. In July 2007, however, the Supreme Court upheld a two-year prison sentence on a former Brno police officer for blackmail and misuse of power by law enforcement officials against a 14 year-old Romani boy. Reports of police misconduct continued, particularly at the time of arrest and detention.

[95] The United Nations HRC Universal Periodic Review, as noted above, reminded the Czech Republic for the need to take a pro-active approach regarding the Roma community. However, the report also notes that the Public Defender of Rights (Ombudsman), established in 2001, has, since 2006, been conducting

systematic visits to detention centres and may open enquires of his own initiative. The report goes on to set out an inter-active dialogue between the Czech Republic and 21 other delegations. Several of these relate to discrimination against Roma, particularly in the field of education.

[96] In reply to the questions put forward, the Czech Republic, as noted at paragraph 43 of the UNHRC report, elaborated on the independence of the judiciary and affirmed that there were some questions raised concerning the independence of the Chair of the Supreme Court. When the question was put to the Constitutional Court, it ruled in favour of the Chair of the Supreme Court. Otherwise, there were no concrete problems on that issue. In respect of the control of prison personnel, the Czech Republic stated that there were internal control mechanisms in place to enable redress of human rights violations, including controls by the authorities and the Ombudsman. They stated that current research in the treatment of Roma children in schools showed increasing success but to ensure successful integration implementation had to respect the sensitivity of the Czech culture in the educational system.

[97] It also reported that the “agencies of the protection of social exclusion in Roma communities” had begun work in the fields of education, employment and housing, and would increase investment in social services and soft integration programmes. On the issue of concerns of corruption in the Czech judiciary, the Czech Republic replied that crimes were introduced to the judiciary under supervision of prosecutors and that preventative activities, such as training on ethics, were now provided to prosecutors and judges.

[98] The report from the IRB of Canada sets out the general situation of Czech Roma and states that in the absence of reliable statistical data, the number of Roma living in the Czech Republic is estimated to lie between 250,000 and 275,000, out of a population of 10 million. It reports that a quarter of the Czech Roma live below the poverty line, compared to 8% of the general population.

[99] It notes a submission made to the UNHRC by four Roma rights organisations in Europe which state that “In practice, Roma in the Czech Republic are regularly subjected to discrimination in almost all aspects of their lives” (European Roma Rights Centre (ERRC), July 2007).

[100] Similar reports to those set out above in respect of treatment by police authorities and the education sector are repeated. Under the heading of “State protection”, the IRB report sets out the task of the Ombudsman

“... to protect citizens against offices of the state administration, including police, municipalities, the army, prisons, public health insurance and courts should they act in a way that is contrary to the law, does not comply with the principles of a democratic state respecting the rule of law or is seen as a failure to act.”

[101] It states that citizens may lodge a complaint with the Ombudsman in writing, by electronic mail or in person. Set against this, however, is a report from the ERRC in 2006 that there was “near impunity for racial discrimination against Roma” in the Czech Republic. It also notes an International Helsinki Federation for Human Rights (IHF) report that, in the majority of cases involving neo-Nazi targeting minorities, including Roma, “authorities, including the police, turned a blind eye”. However, the report goes on to note a few arrests of neo-Nazis involved in activities against Romani residents and the sentencing of a “right-wing extremist” to three years’ prison for seriously injuring a pregnant Romani woman and her friend.

[102] Under the heading “Assistance from Romani non-governmental organisations (NGOs)”, the report notes there are 381 Romani NGOs in the Czech Republic as at 2005. However, about 20% of these only existed nominally.

[103] The report then deals with the issue of whether there are Roma amongst the judges, legislators, physicians, police and teachers and reports very small, almost negligible numbers, in these aspects of public life.

[104] The United States Department of State *Country Reports on Human Rights Practices 2007* also notes that random violence, rallies and vandalism by neo-Nazi and skinhead groups against Roma occurred throughout the year and that there was societal discrimination against minorities, especially Roma, in the areas of education, housing and employment opportunities.

[105] Under the heading “National/Racial/Ethnic Minorities”, this report states that Roma continued to face discrimination in both employment and education. Although precise figures were unavailable, it was estimated that 75% of Roma were unemployed. However, Roma were better organised in its efforts to confront discrimination through the legal process. The report also notes some 330 ghettos, almost exclusively inhabited by Roma and that approximately 80,000 people live in

these ghettos which is a third of the Romani population. Those ghettos were stated to be blighted by substandard housing and poor health conditions.

[106] Also noted are steps being taken by the government to address discrimination in the education of Romani children. The report states:

“Positive actions taken by the government to ease the hardships of Roma included passage in 2006 of along-term Roma integration plan which makes use of affirmative action. The programme provided for state-paid advisers to assist Roma in finding employment and special stipends for Romani secondary school students.”

[107] It reports that during the year, the Ministry of Labour and Social Affairs worked with NGOs to increase services to the Romani community and analyse the best means of utilising EU Structural Fund monies for that purpose. The Interministerial Commission for Romani Community Affairs, which included 12 government and 14 Romani representatives, as well as the commissioner for human rights, continued to take an active role in resolving disputes between Romani communities and their non-Romani neighbours. The commission also promoted anti-discrimination initiatives in housing and education. The Romani affairs co-ordinator of the Ministry of Foreign Affairs continued to function as the Ministry’s liaison with Romani groups, NGOs, and the diplomatic community. The Minister for human rights, Džamila Stehliková, was designated the government’s point person on problems affecting Roma and other minorities.

FINDINGS IN RESPECT OF THE HUSBAND

[108] At the outset, the existence of an Interpol warrant for the arrest of the husband is, on the facts established, particularly noting the lack of credibility in the appellant’s evidence, not an issue that is covered by the provisions of the Refugee Convention. The husband has not established that the prosecution against him has been pursued for any one or more of the five Refugee Convention reasons. He has also not established that the detention conditions are discriminatory or that there is maltreatment in Czech detention centres, to the extent that it would amount to persecution. The Authority notes that the appellant has been able to access a lawyer to investigate his case and to apply for the case to be re-opened on the basis that the original judgment was concluded *in absentia*. This is then a case of criminal prosecution rather than potential persecution. While the country information does indicate the possibility of some discrimination taking place, it does not disclose treatment in detention that would rise to the level of a substantive breach of core human rights. The Authority would agree that there is

a real chance that the appellant may be subjected to discrimination on his return. However, the Authority finds, from the facts as found, there is no real chance of the husband being persecuted and it notes no country evidence of any potential maltreatment that would rise to the level of persecution.

[109] Accordingly, any risks to this appellant on the basis of his being detained under the warrant for his arrest on return, would not place him in a situation of being at a real risk of being persecuted on return for a Convention reason. For this reason, therefore, the issues of that aspect of his profile must be answered in the negative.

[110] As to any risk to him, as an ethnic Roma returning to the Czech Republic, the Authority again notes from the totality of the country information supplied that he has a real chance of being discriminated against as a member of a marginalised group within the Czech Republic. However, that situation has not significantly deteriorated since his first claim. If anything, there is evidence of a few positive actions being taken by the government to ease hardships for Roma people through a long-term programme announced in 2006. The three appellants and other Roma, on their own account, or in conjunction with Roma NGOs, have the ability to access the courts and to take matters, as appears to have happened in respect of an educational claim, all the way, if necessary, to the European Court of Human Rights.

[111] Also, statistically assessed against the population of approximately 250,000 Roma in the Czech Republic, reports of serious attacks are actually very low and amount to remote risks only. In this situation, the Authority does not consider that there would be a failure of state protection in situations where the maltreatment of the appellant by skinheads or other racist groups rose above the level of discrimination.

[112] Considering the characteristics of the husband, the Authority finds he has not established, in his second claim, that he has a well-founded fear of being persecuted for a Refugee Convention reason.

FINDINGS IN RESPECT OF THE WIFE

[113] The wife is an ethnic Roma, returning with her two Roma children to the Czech Republic. She has the ability to be accommodated with either her own family or that of her husband on her return. As with her husband, the Authority

would agree that there is a real chance the wife will face some discrimination in the Czech Republic because of her ethnicity. Again, however, the Authority is satisfied, from the assessment above and a close examination of the country information, that the discrimination would not rise to the level of persecution. Beyond this, the wife could access meaningful state protection, in a similar manner to that of the husband.

[114] Accordingly, the issues posed by the Convention in respect of the wife are found in the negative. She is not a refugee within the meaning of Article 1A(2) of the Refugee Convention and her appeal is therefore dismissed.

FINDINGS IN RESPECT OF THE CHILD

[115] The child would be returning with her two parents and would have the ability to find accommodation and support with family members on both sides. It would appear that in respect of young children, the educational opportunities are actually being gradually improved. The child, however, may suffer a real chance of discrimination. However, again, the Authority, on the evidence available, finds that this would not rise to the level of persecution. Accordingly, the issues of well-foundedness in respect of her first appeal are not established. The Authority does not consider that she has a well-founded fear of being persecuted on return for the reasons set out in the totality of this decision.

CONCLUSION

[116] The Authority finds that there is jurisdiction in respect of the first two appellants but, on the facts as found, neither the husband nor the wife have a well-founded fear of being persecuted for a Refugee Convention reason on return to the Czech Republic. They are not refugees within the meaning of Article 1A(2) of the Refugee Convention. Their appeals are dismissed. For the reasons stated above, the Authority does not consider that the child, in her first appeal, has established a well-founded fear of being persecuted on return and thus her appeal is also dismissed.

"A R Mackey"
A R Mackey
Chairman