

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76257

REFUGEE APPEAL NO 76258

AT AUCKLAND

Before: M A Roche (Member)
Counsel for the Appellants: I Uca
Appearing for the Department of Labour : No Appearance
Dates of Hearing: 3 & 4 November 2008
Date of Decision: 31 March 2009

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, citizens of the Czech Republic.

[2] The appellants in this appeal are a married couple. They will be referred to as the husband and the wife respectively. They are both ethnic Roma. They arrived in New Zealand on 1 December 2007 and claimed refugee status on 9 January 2008. They were interviewed by the refugee status officer on 18 February and 13 May 2008. Their applications were declined in a decision dated 26 June 2008 leading to these appeals.

[3] The essential issues to be determined in these appeals are whether the appellants' claims concerning their mistreatment in their village in the Czech Republic on account of their Roma ethnicity are true, whether they face a real chance of being persecuted should they return there and, if so, whether they could safely relocate to a different part of the Czech Republic.

THE APPELLANTS' CASE

[4] The appeals of the husband and the wife were heard together because their cases, on the whole, were based on the same events. Both consented to the evidence of each being treated as evidence in support of the other. A summary of the evidence given by both of them follows. Its credibility will be assessed later. Because the husband and wife essentially gave evidence about the same series of incidents, their evidence will not be set out separately but combined, as follows.

[5] The husband is aged in his early 30s and the wife is aged in her late 20s. They are both ethnic Roma and both grew up in Prague. They have known each other since childhood due to a close association between their families. They have been a couple for many years, although married in New Zealand only recently.

[6] The wife attended a special school in Prague where she was bullied because of her ethnicity. Since leaving school, she has had several lengthy periods of unemployment and a number of jobs including working as a hospital cleaner, working in a sweet factory and working in a cardboard box factory. She has left each job following mistreatment by her co-workers and employers because of her Roma ethnicity.

[7] The husband completed vocational training after finishing school. Prior to coming to New Zealand, he worked for many years maintaining machinery in a factory near the village where he lived. He experienced no particular difficulties in his job and left only because of his decision to emigrate to New Zealand.

[8] In 1996, the husband's parents purchased a house in the village of Z, approximately 45 kilometres away from Prague. However, the husband's mother died before the family moved into the house and, after her death, his father did not wish to live there. Instead, the appellants moved into the house in mid-1997.

[9] In mid-1998, the appellants began to attend seminars organised by a Roma rights group. The purpose of the seminars was to provide information about starting and running small businesses so that Roma people could advance themselves. The appellants were invited to attend by a relative who was involved with the group. They attended because they had thoughts of opening a laundry business in the future and also because they intended to become involved with the organisation of the seminars. The seminars were held in towns near their village

and they attended a number of these over an 18 month period. On one occasion, they held a meeting about the seminars in their home.

[10] After the appellants began attending the seminars, they began to find letters in blank envelopes in their letterbox. These letters contained racial abuse; some were hand-written and some were typed. The hand-written ones merely contained racial abuse while the typed ones said things like "What are you doing? Why don't you leave?" The appellants assumed that the written letters came from the mayor of the village, AA. He had come and visited them some time after they had moved to Z. He had asked them if they had owned their house and when they said that they did, he told them that they should move out as it belonged to the council. Some time later, his son, BB, came to the front of the appellants' house and yelled at them that if they did not leave, he would deal with them himself.

[11] In late 1999, the appellants stopped attending the seminars.

[12] Around the same time that the appellants stopped attending the seminars, the mayor visited them a second time and demanded to see the ownership papers for their house. When they showed them to him, he told them that he would get them out and that if they did not agree, he would "deal with it physically".

[13] In early 2000, the police arrived at the appellants' house. The police told them that they had been rude to the mayor and that if it happened again, they would have a problem.

[14] In mid-2001, a group of skinheads assembled outside the appellants' house and threw stones at the house, causing windows to break. They also yelled racial abuse at them.

[15] In mid-2002, the appellants were attacked outside a grocery shop in the village by a group of skinheads who were in the company of the mayor's son, BB. The skinheads beat them up and swore at them. The appellants complained to the police about this incident. The police told them that they should be glad they were still breathing and that their (the appellants') problems did not concern them. The appellants told the police they thought the mayor was involved in the incident. The police told them that that was not true and that they were making it up.

[16] In April 2003, the police came to the appellants' house and told them that the mayor had reported that the husband had crashed his car into a sign at the bus station. The husband showed the police his undamaged car to prove to them

that he had not been in an accident. In response, a police officer took his baton out and started hitting the front of the car, breaking the headlight. When the wife tried to get them to stop, a police officer slapped her across the face. The police took them to the police station where they tried to make them confess to being involved in an accident. In the end, they let the appellants go home, telling them that if it happened again, they would “deal with it themselves”.

[17] In late 2003, the appellants were driving home after visiting the wife’s aunt in Y. They were stopped in a police patrol in X, not far from their village. The police made comments to the effect that they knew the appellants were from Z and that they had made problems for “AA” (the mayor). They asked the appellants where they were coming from and if they had been stealing. The beat the appellants with a baton before leaving in their patrol car.

[18] Around this time, the mayor came to the appellants’ house on a number of occasions to check whether they were still there. On these occasions he would yell at them that they should “get lost”.

[19] Around mid-2004, the appellants were at home in the evening when six or seven skinheads, armed with baseball bats and sticks, burst into their house. They beat them with the sticks and when the wife fell on the ground, they kicked her hard in the stomach, yelling that if she was pregnant, they would kick the baby out of her. They damaged the house and left graffiti on the walls. The appellants went to the hospital for treatment after the attack. The husband had broken fingers on his right hand and the wife had a suspected concussion. She has since been unable to conceive, a matter she attributes to the abdominal beating she received.

[20] At the hospital, the appellants asked the doctor to call the police for them from the hospital, but the doctor refused. They asked him for a medical report which they could take to the police as evidence. He told them to talk to the nurse. When they asked the nurse, she told them that she did not have the authority to issue such a report and that they would have to wait for two or three hours to talk to the doctor again because he was now in surgery. The appellants decided not to wait and simply returned home. They did not complain to the police about the skinhead attack because they did not have the medical report to provide as evidence.

[21] In February 2005, the wife found the decapitated head of her cat in the letterbox. There was a letter with the head which said that if the appellants did not leave, they would end up like the cat. The appellants complained to the police about this incident. The police told them that they did not believe them and that they should not complain any more.

[22] After the incident with their cat, the appellants became afraid to stay in their home and began regularly staying overnight with friends and relatives. While they were staying with their friends, they received threatening telephone calls and texts on their mobile telephones. The appellants decided to return to their home because they did not want to endanger their friends and their relatives with their presence.

[23] In mid-2006, the appellants returned to their village after visiting a relative in Prague. They disembarked at the village train station which was adjacent to a pub. They were attacked and beaten by a group of skinheads. Onlookers at the pub yelled encouragement to the skinheads. No-one attempted to intervene or to protect the appellants. After the skinheads finished beating the appellants, they urinated on them. The appellants went home and called an ambulance. When the ambulance staff arrived, they did not want to take the appellants but after they insisted, took them to the hospital where they were treated. Again, they were unable to obtain a medical report from the hospital and so did not complain to the police because they had no evidence. Although the wife was still dizzy, the hospital refused to send them home in an ambulance and instead, the appellants took the train home from hospital.

[24] In August 2007, the appellants were awoken in the night by the sound of their guard dog barking. They came downstairs to find that the skinheads had cut their dog's throat and thrown it onto the table. They then beat up the appellants. One of the skinheads lifted the husband's head and made him look at the dead dog. He told him that he would end up like the dog. The appellants did not seek medical attention or complain to the police after this incident. They decided that they had to leave and made some attempts to obtain alternative accommodation. They made enquiries in W, V and U. Although there was some accommodation available in U, they could not afford it as there was no work available in that town or its surroundings. In W there is a large skin head presence.

[25] When they made enquiries in other places, they found that because they were Roma, they were refused the accommodation. Either they would disclose on

the telephone that they were Roma and be told that it would not be rented to them, or they would call around to see the accommodation and be told that it was no longer available. Both the husband and wife are easily identifiable as Roma.

[26] There is no state-provided accommodation that the appellants can access. There are long waiting lists for this type of accommodation and couples without children, like the appellants, would be a low priority and could wait for years on such lists.

[27] In September 2007, the wife left her employment at the cardboard box factory. She had been unhappy there in any case because she was discriminated against due to her Roma ethnicity.

[28] On 29 November 2007, the husband left his employment and, in late December, the appellants travelled to New Zealand where they joined the wife's brother and sister-in-law who are New Zealand residents.

[29] The husband has a father and sister remaining in the Czech Republic. They are attempting to sell the house in Z. His sister lives in T. She has told him that skinheads have been active there and that she worries for the safety of her children who are treated badly at their school there. His father lives near S (where the husband worked). The husband does not believe he could safely stay with his father as police registration requirements would enable his enemies in Z (the Mayor, the skinheads, the police) to locate him.

Evidence of CC

[30] CC is a Czech national of Roma ethnicity. She arrived in New Zealand in May 2004 and was granted refugee status by the RSB. In the Czech Republic, she had been the vice president of an organisation that promoted Roma rights.

[31] CC first met the appellants at a seminar in 1998 in the town of R. The purpose of the seminar was to educate Roma people in accountancy and other business skills. The instructor at the seminar was a Roma man from Macedonia.

[32] CC saw the appellants at three or four similar seminars around 1998 and 1999. She identified herself, the appellants and a number of other people from a photograph of a group of participants at the seminar in R.

[33] CC had no knowledge of why the appellants stopped attending the seminars, or what the problems were that led them to depart from the Czech Republic.

[34] Although there have been various legislative initiatives that have attempted to improve the situation for Roma, CC does not believe that the Czech Republic is safer for Roma than it was when she lived there. She remains informed about Roma issues by following the news and talking to friends in the Czech Republic.

DOCUMENTS FILED

[35] Counsel filed both opening and closing submissions. She also filed copies of the appellants' domicile cards (showing they resided in Z), photographs which are claimed to be of their house in Z, and a psychological assessment report on the wife dated 6 February 2009.

THE ISSUES

[36] 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."

[37] 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' CASE

CREDIBILITY

[38] The Authority has concerns about the credibility of the appellants' evidence. At times, the wife was unable to recall matters which were detailed in her written statement and about which her husband gave evidence. The types of things she was unable to recall included whether police complaints were made after various incidents or not and events which formed part of incidents that she did give evidence about. For example, although she remembered her husband being accused of having a car accident, she did not remember the policeman smashing their car's headlight with his baton.

[39] In the RSB decision, it was noted that the wife was able to recall particulars of individual incidents but had great difficulty associating these with the correct incident, which led to her jumbling dates and the particulars of the attacks that the appellants suffered. The refugee status officer extended the benefit of the doubt to the appellants about their account and accepted that the version of events provided by the husband was correct. The appellants' refugee claims were declined because, although it was accepted that they had a well-founded fear of being persecuted in their village, they could live safely elsewhere in the Czech Republic.

[40] Following the completion of the appeal hearing, counsel sought leave to file a psychological assessment report on the wife, addressing the difficulties with her evidence. This detailed report, dated 6 February 2009, by psychologist Amanda McFadden, was prepared following two interviews between Ms McFadden and the wife in December 2008, totalling three and a half hours, and interviews with three other family members, including an interview with the husband for one and a quarter hours. Ms McFadden's report noted the wife had developed depression in the Czech Republic in 2005/2006. It noted that when she discussed the wife's experiences within the Czech Republic with her, the wife experienced:

"... accelerated breathing and heart rate and feelings of nausea, tension and stiffness in her body. She also reported concurrent thoughts of the attacks from the past, which appeared to be a jumbled collection of images, sounds and events, including attacks against herself, her husband and pets."

[41] It recorded the wife's report that there are times she can recall past traumatic events in vivid detail but other times when there are blanks in her

memory. Her family members were noted as expressing concern about the wife's mental health, all noting that she suffered from chronic sleep disturbance and was agitated much of the time. Her mother reported that the wife had spoken openly about suicidal ideation while living in her village and that, in her mother's view, the killing of her pets had "pushed her over the edge".

[42] Following testing, Ms McFadden concluded that the wife has a mild cognitive impairment, or below average intellectual disability. Concerning the presence of psychological disturbance, Ms McFadden concluded that the wife met criteria for diagnosis of Post Traumatic Stress Disorder – Chronic Form. She noted that there was strong evidence of the wife persistently re-experiencing traumatic events by way of recurrent intrusive and distressing memories, distressing recurrent dreams of the events and intense psychological distress at exposure to internal or external cues that symbolise or resemble an aspect of traumatic events. Ms McFadden also noted that

"There is evidence of persistent avoidance of stimuli associated with the trauma and of a numbing and [the wife's] general responsiveness is indicated by the following:

- Efforts to avoid thoughts feelings or conversations associated with the trauma.
- Efforts to avoid activities, people or places associated with the trauma.
- Inability to recall important aspects [of] the trauma and inconsistent memories.
- Feelings of detachment and estrangement from others. ..."

[43] Ms McFadden noted:

"The symptoms of panic reported by [the wife] are not viewed as a stand-alone anxiety disorder rather can be better understood within the context of her PTSD and fluctuating levels of Major Depression."

[44] Following an assessment of capacity, she concluded that the wife had a degree of mental impairment which compromised her capacity to communicate with others about her past experiences and which resulted in her providing inconsistent or incomplete evidence across a range of settings. Regarding her demeanour, the report noted that:

'[Her] presentation was consistent with that of a chronically abused person. Her blunting of affect and stern, closed demeanour was very striking to the assessor. It hypothesised that over the span of her life [the wife] has developed an almost stoic acceptance of negative treatment and discrimination to the point at which she now predicts this as the outcome in any interaction with people who have power over her life. This demeanour does not help [her] in her interactions with professionals or refugee authorities and could be wrongly and/or negatively interpreted as evidence of a lack of caring, sullenness, fabrication or disengagement.'

[45] At p13, Ms McFadden stated:

“Research into the area of psychological dynamics affecting traumatic memories indicates that [the] way in which traumatic information is stored can affect the later recollection of the event. The brain does not always store a complete memory, rather traces of information that are later used to create memories, which do not always express a completely factual picture of the past experience. In addition, whenever an event is retrieved, it may undergo a cognitive and emotional change (Peres et al 2005). This research suggests that emotional arousal may impact not only the content of the memory that is being recollected but the quality, nature or sequence of the recollection. It is now widely accepted that in persons who have suffered trauma, recollections offered over time may vary in terms of the detail able to be recalled at any one time, a generalisation, blurring or vagueness or events, or a merging of similar memories (Cohen 2001).”

[46] Having carefully considered Ms McFadden’s comprehensive report about the wife, the Authority is of the view that problems with the wife’s evidence (her inconsistency and lack of recall of details of particular events) cannot be relied on as a basis for rejecting the appellants’ account as untrue. It is noted that the husband’s evidence to the Authority was, on the whole, consistent with the details he gave when interviewed by the RSB and with the written statement he provided prior to that interview. Taking into account Ms McFadden’s assessment of the wife, and the general consistency of the husband’s evidence, the Authority has determined to give the appellants the benefit of the doubt in accordance with the principle articulated in *Refugee Appeal No 523/92 Re RS* (17 March 1995). Their accounts of events in the Czech Republic are therefore accepted.

[47] In making this finding, it is noted that the appellants provided corroborative evidence of their participation in an organisation for the advancement of Roma in the form of the photographs and the evidence of CC. CC was an articulate and credible witness. The appellants have also provided evidence of their residence in Z in the form of copies of their domicile cards.

DO THE APPELLANTS HAVE A WELL-FOUNDED FEAR OF BEING PERSECUTED IN THE CZECH REPUBLIC?

[48] Persecution has been defined in refugee law as the sustained or systemic violation of basic or core human rights such as to be demonstrative a failure of state protection (see Hathaway, “The Law of Refugee Status” (1991) 104-108, as adopted in *Refugee Appeal No 2039/93* (12 February 1996) at 15).

[49] The treatment the appellants received at the hands of skinhead gangs, included serious physical harm, grossly degrading treatment (being urinated on)

and intimidation by violence through the killing of their animals. This treatment, coupled with the unwillingness of their local police to protect them, amounts to persecution. Although the refugee enquiry is forward-looking, past experience can provide an indication of what may be expected to happen in the future. Should the appellants return to their home in the village of Z, there is a real chance that they will again be subjected to treatment amounting to persecution by the same actors.

INTERNAL PROTECTION ALTERNATIVE

[50] Because the violent attacks and harassment of the appellants occurred mainly in their village, there is an issue as to whether there is an “internal protection alternative”. For the reasons more fully explained in *Refugee Appeal No 76044* [2008] NZAR 719 (NZRSAA) and *Refugee Appeal No 71684/99* [2000] INLR 165 (NZRSAA), once a refugee claimant has established a well-founded fear of being persecuted for a Convention reason, recognition of that person as a Convention refugee can only be withheld if that person can genuinely access in his or her home country domestic protection which is meaningful. Such protection is to be understood as requiring:

1. That the proposed internal protection alternative is accessible to the individual. This requires that the access be practical, safe and legal.
2. That in the proposed site of internal protection there is no well-founded risk of being persecuted for a Convention reason.
3. That in the proposed site of internal protection there are no new risks of being persecuted or of being exposed to other forms of serious harm or of *refoulement*.
4. That in the proposed site of internal protection basic norms of civil, political and socio-economic rights will be provided by the State. In this inquiry reference is to be made to the human rights standards suggested by the Refugee Convention itself.

[51] Only if an affirmative answer is given to each of these four elements of the inquiry can recognition of refugee status be withheld.

[52] In determining whether the appellants could avoid such mistreatment by relocating elsewhere within the Czech Republic, it is relevant to consider country information concerning the treatment and status of Roma there.

[53] There is a long history of discrimination and attacks against Roma in the Czech Republic. As was noted in the *UNHCR Guidelines Relating to the Eligibility of Czech Roma Asylum Seekers Update – December 1999*, Geneva UNHCR (10 February 2000) (“the UNHCR Guidelines”) at para 9:

“Widespread anti-Roma feelings exist among the ethnic Czech population. It is often explained that Roma are not disliked due to their colour or ethnicity but because they are lazy, noisy, criminal, etc. Reactions to the Romany lifestyle range from indifference to intolerance, and are reflected in incidents of Roma being excluded from bars and restaurants, or, to a much lesser extent, being subject to racist statements and skinhead violence.”

[54] Since the Velvet Revolution (the peaceful transition from communism to democracy in late 1989), discrimination faced by Roma in the areas of education, housing and welfare services, as well as attacks on and harassment of Roma by skinhead gangs, have been regularly documented. These reports have gone hand in hand with reports noting failure on the part of the Czech police to protect Roma from skinhead violence. See for example, Amnesty International’s *Report 2000, Czech Republic* at page 90:

“Reports of attacks and harassment of Roma, particularly by “skinhead gangs”, continued. Police officers reportedly often failed to intervene to protect Roma or to investigate allegations of such violence seriously. The perpetrators of assaults resulting in serious injury were often only convicted of lesser or peripheral offences by the courts.

On 27 August, the landlord of some farmhouses in the village of Dvorek u Ohrazovic, Southern Moravia, reportedly attacked his Romani tenants with the support of a gang of about 30 skinheads wielding guns, bricks, stones and teargas. The police initially characterised the raid as an attack on property, not on people, and failed to protect the Roma against the threat of further attacks.”

[55] Since the mid-1990s, the Czech government has made considerable efforts to improve conditions for Roma in the Republic and to improve the response of the police to violence against Roma.

[56] Despite these measures, discrimination and violence against Roma persist. Amnesty International reports on the Czech Republic document each year the persistent occurrence of violence and acts of discrimination against Roma including instances of the reluctance of police to adequately protect against and investigate such crimes. See for example the following extract from Amnesty International’s 2005 report on the Czech Republic:

“Discrimination against Roma

In May the UN Committee against Torture expressed concern about “the persistent occurrence of acts of violence against Roma” and the alleged reluctance by police

to adequately protect and investigate such crimes, despite efforts made by the government to counter such acts.

In June the European Commission against Racism and Intolerance expressed concern that a number of recommendations it had previously made to the Czech authorities had not been implemented, particularly in relation to combating discrimination and inequality. It also said that Roma children continued to be sent to schools for mentally disabled and a disproportionately high number were removed from their families and placed in state institutions or foster care. Racially motivated violence and ill-treatment of Roma by police, including of children, continued to be reported.

Reports of racist assaults on Roma by members of the public continued. Some incidents were reportedly perpetrated by youths with extreme racist views who had previously been convicted for similar offences but received light or suspended sentences.”

[57] The Amnesty International reports for 2006, 2007, and 2008 similarly report instances of severe discrimination in housing, education, health care and employment and the subjection of Roma to police ill-treatment and racist attacks by private individuals.

[58] In a report prepared by the Canadian Immigration and Refugee Board (IRB), it was noted that polling carried out in 2006 and 2007 found high levels of anti-Roma sentiment continue to exist among the majority of Czech citizens. A 2006 study cited in the report found that two thirds of Czechs “have a negative stance on Romanis”, while a third felt that it would be “unacceptable” to have a Roma person as a neighbour. A poll reported by Amnesty International in 2008 reported that nine out of ten respondents would consider having Roma neighbours to be a problem: Amnesty International *AI Report: Czech Republic* (2008). The IRB report notes the comments of the leader of the government human rights council, Jan Litomisky, that the Czech government’s programmes to integrate Roma “have been a failure so far”.

[59] The Canadian report noted a number of incidents of violence or other serious mistreatment of Roma during 2006 and 2007. These incidents, while concentrated more towards the west, occurred throughout the Republic. The incidents noted included the following:

- i. In May 2006, three neo-Nazis reportedly stormed into an apartment building in the town of Neratovice, broke windows and uttered death threats against the Roma residents. (It is noted that police reportedly arrived within 10 minutes and immediately arrested the culprits.)

- ii. In July 2006, Roma living in Svitavy reportedly evacuated the town when 90 skinheads marched through the streets.
- iii. In July 2006, an unidentified gunman shot and injured four Roma, including two children, in a Ceske Budejovice housing estate.
- iv. In August 2006, an appeals court in Olomouc sentenced a “right-wing extremist” to three years in prison for seriously injuring a pregnant Roma woman and her friend in the town of Jesenik.
- v. In September 2006, skinheads and Roma clashed violently in Orlova.
- vi. In October 2006, municipal authorities in the eastern Czech town of Vsetin expelled Roma residents from public housing; 42 families were moved to “metal containers” in the city outskirts, while others were evicted during the night to “substandard housing” hundreds of kilometres away. Reportedly, other evictions of Roma tenants have taken place in the towns of Novy Jicin, Radslavice, Plzen and Novedvory.
- vii. In November 2006, two police officers were convicted of beating and torturing a Roma man in Brno.
- viii. In July 2007, the mayor of Ostrava stated, during a housing committee meeting, that she was a racist and did not believe in integration for Roma in her district. Reportedly, these remarks, along with ones made by the mayor of a town near the Austrian border, who used derogatory epithets against Roma, “aroused little protest”.

(See IRB *Country of Origin Research – Extended Response to Information Request Czech Republic CZE102667.EX*, 12 December 2007)

[60] The Amnesty International reports for 2006, 2007 and 2008 record many of the same incidents as the IRB report. The 2008 Amnesty report recorded that reports of police misconduct against Roma and other marginalised groups continued. It stated that the Czech Ombudsman had concluded that the 2006 eviction of Roma families from Vsetin had been a “mistake”. It also stated that in October 2007, the Council of Europe Commissioner for Human Rights and the UN Rapporteur for Housing Rights had issued a joint statement saying that the Czech Republic was in violation of the right to housing, where Roma were concerned. The joint statement also criticised local public offices for supporting escalating

intolerance of Roma and pointed out that forced evictions of Roma from city centres to isolated areas had become part of public policy.

[61] The most recent survey of the treatment of Roma in the Czech Republic can be found in the United States Department of State *Country Reports on Human Rights Practices for 2008: Czech Republic* (25 February 2009) (the DOS report). This report records that the number of rallies and demonstrations by right-wing groups increased during 2008, and that during the year latent societal discrimination against Roma occasionally manifested itself in violence, most frequently perpetrated by members and sympathisers of skinhead organisations. A report released in July 2008 confirmed that neo Nazi activity had increased and that more extremists attending events were armed.

[62] Amongst the incidents noted in the DOS report was an incident in April where Roma were evacuated from a Ghetto in Prevov after it was smoke bombed while simultaneously a fire broke out in another part of the town occupied by Roma. The incidents were not investigated by the police. Two separate attacks by hundreds of skinheads on Roma areas in Litvinov were also mentioned in the DOS report. On these occasions police intervened in large numbers to protect the Roma community.

[63] The 2008 DOS report stated that Roma continued to face discrimination in education and employment and that the unemployment rate for Roma was approximately 75%. It also noted the continuation of widespread discrimination in access to housing. Reports that municipalities continue to evict Roma families using underhand tactics were mentioned as was a 2006 study estimating that one third of Roma population reside in ghettos blighted by substandard housing and poor health conditions and that the number of ghettos continues to grow.

[64] Against this country information, the Authority now turns to the particular circumstances of the appellants.

[65] The evidence establishes that the appellants have a well-founded fear of being persecuted in their home village of Z. It is likely that should they return there, a resumption of the abuse they were subjected to by skin heads would occur. It also seems likely that the police there would continue to fail to provide them with protection. It is not accepted that the same skinhead gangs that attacked them in Z would pursue them to other parts of the Czech Republic. Their goal appeared to be to force them to leave Z and having achieved this, the

appellants would be unlikely to be of further interest to them, the mayor, or the local police.

[66] The country information does not establish that Roma generally have a well-founded fear of being persecuted throughout the Republic. Although incidents of skin head violence occur throughout the Czech Republic, these are random events and their frequency is not such that individual Roma face a real chance of being the victim of such violence. In addition, although the various reports record incidents of police inaction and failure to protect Roma, they also note that in many cases, the police actively provide protection to Roma and that the perpetrators of acts of violence against Roma are prosecuted.

[67] While Roma do not have a well-founded fear of being persecuted throughout the Czech Republic, the Authority is satisfied that, based on country information recording widespread systemic discrimination and prejudice against Roma, the appellants are likely to encounter discrimination should they attempt to establish themselves somewhere new in the Czech Republic. There is also a real chance that they will be subjected to harassment and racially based verbal abuse throughout the Czech Republic.

[68] The wife's psychological condition may exacerbate the treatment she may receive, given her tendency towards panic attacks and hysteria as noted in Dr McFadden's report at page 7. Her condition also indicates that she may be seriously harmed by a level of harassment, discrimination or trauma that others might withstand with less effect. In her particular circumstances, the Authority does not consider that an internal protection alternative exists. It is not established, in terms of the criteria at [51](2) and (3) above, that there is alternative location for her in the Czech Republic where there is no risk of her being exposed to serious harm.

[69] This finding does not apply to the husband. While he may encounter discrimination in obtaining housing, employment and access to some public places, it is not established that he will not be provided with the basic norms of socio-economic rights in the Czech Republic. The proceeds of sale from the home in Z would be able to be applied towards future accommodation in another part of the country. He would not require state-provided housing. In addition, unlike many Roma, the husband has not experienced difficulty in obtaining and maintaining skilled employment. There is no reason to think that his experience and skills would not enable him to find further work, should he need to do so. It is

accepted that, as with his wife, given the widespread prejudice and hostility against Roma, there is a real chance that the husband will be subjected to harassment or racial abuse. However, such treatment does not rise to the level of persecution or serious harm. Based on the country information and an assessment of the husband's personal characteristics, the Authority finds that there is an internal protection alternative for the husband elsewhere in the Czech Republic.

[70] The Authority finds that the wife has a well-founded fear of being persecuted in the Czech Republic. No internal protection alternative exists for her. In contrast, the husband does not have a well-founded fear of being persecuted in the Czech Republic. An internal protection alternative exists for him.

CONVENTION REASON

[71] The wife fears being persecuted because of her Roma ethnicity. The relevant Convention ground is race.

CONCLUSION

[72] For the above reasons, the Authority finds the wife is a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is granted to her. Her appeal is allowed. The husband is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. His appeal is dismissed.

"M A Roche"
M A Roche
Member