

Federal Court



Cour fédérale

**Date: 20150819**

**Docket: IMM-11959-12**

**Citation: 2015 FC 992**

**Toronto, Ontario, August 19, 2015**

**PRESENT: The Honourable Madam Justice Mactavish**

**BETWEEN:**

**RUZENA KOKYOVA,  
AND LUBOS KOKY**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Reasons delivered orally from the Bench in Toronto on August 19, 2015)**

[1] The Applicants are Czech Roma who seek judicial review of a decision of the Refugee Protection Division rejecting their claim for refugee protection on credibility grounds. The Board also found that adequate state protection would, in any event, be available to the Applicants in the Czech Republic.

[2] The Applicants originally alleged that there was institutional bias on the part of the Refugee Protection Division, but they have since withdrawn this allegation. What the Applicants do still say is that the Board's negative credibility findings were unreasonable, and that the Board erred in its assessment of the adequacy of the state protection that is available to Roma in the Czech Republic.

[3] Having heard from the Applicants and having reviewed the record that was before the Board, I am satisfied that the Board's credibility findings were entirely reasonable.

[4] For example, there were inconsistencies in the Applicants' evidence as to whether or not they had sought the assistance of the police following an alleged attack by skinheads in 2008. At one point, the Principal Applicant stated that he could not recall whether or not he had contacted the police following the alleged attack. He later asserted that he had contacted the police a week after the attack. Still later, the Principal Applicant stated that he had never contacted the police for any reason after a failed attempt to obtain their assistance following an attack that had occurred some twenty years previously.

[5] The Principal Applicant was also unable to provide coherent evidence to support his claim that he was fired from his employment in 2010 because of his ethnicity. It was, moreover, reasonable for the Board to question the plausibility of the Applicants' claim that this was the event that caused the couple to leave the Czech Republic given that in the week following the loss of the Principal Applicant's job, the Applicants were allegedly able to:

- decide to leave the Czech Republic;

- sell the home where they resided for more than twenty years;
- make travel arrangements;
- pack all their personal effects; and
- leave the country for Canada.

In light of this, I am satisfied that the Board's finding that the Applicants' story of past persecution was not credible was entirely reasonable.

[6] That said, notwithstanding the problems with the Applicants' story, their refugee claims could still have succeeded had they had been able to demonstrate that they had a well-founded fear of persecution in the Czech Republic based upon their profile as Czech Roma.

[7] The Board considered this question, and it is apparent from paragraph 11 of the Board's reasons that it applied the correct legal test in assessing the adequacy of the state protection that is available to Roma in the Czech Republic. The Board also specifically noted at paragraph 41 of its reasons that it is not enough for a country to make *efforts* to protect its minority citizens, and that those efforts must, in fact, translate into adequate state protection.

[8] The evidence as to the adequacy of the state protection that is available to the Roma population of the Czech Republic is certainly mixed. It is, however, evident from a review of the Board's reasons that it was well aware of the conflicting evidence on this point. The Board weighed the conflicting evidence and considered that, on balance, adequate state protection would be available to these Applicants in the Czech Republic. It is not the job of this Court sitting on judicial review to reweigh that evidence.

[9] Consequently, the Applicants have not persuaded me that the Board erred in its assessment of the country condition information, and accordingly the application for judicial review is dismissed. I agree with the parties that the issues raised by this case are fact-specific, and do not raise a question that is suitable for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed.

“Anne L. Mactavish”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-11959-14

**STYLE OF CAUSE:** RUZENA KOKYOVA, AND LUBOS KOKY v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** AUGUST 19, 2015

**JUDGMENT AND REASONS:** MACTAVISH J.

**DATED:** AUGUST 19, 2015

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