

Federal Court



Cour fédérale

**Date: 20150910**

**Docket: IMM-2930-11**

**Citation: 2015 FC 1062**

**Toronto, Ontario, September 10, 2015**

**PRESENT: The Honourable Madam Justice Mactavish**

**BETWEEN:**

**TOMAS DEMETER**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Reasons delivered orally in Toronto on September 9, 2015)**

[1] Tomas Demeter is a Rom from the Czech Republic whose claim for refugee protection was rejected by the Refugee Protection Division of the Immigration and Refugee Board. The Board found that Mr. Demeter had failed to rebut the presumption that state protection would be available to him in the Czech Republic.

[2] Mr. Demeter did not appear at the hearing of this application and his counsel had previously been removed from the record as a result of counsel's inability to locate Mr. Demeter or to obtain instructions from him. Consequently, the matter was decided on the basis of Mr. Demeter's written representations and the Respondent's oral and written submissions.

[3] Mr. Demeter's Notice of Application made allegations of institutional bias on the part of the Refugee Protection Division. These allegations were subsequently withdrawn by counsel then acting for Mr. Demeter, and what remains to be addressed are his allegations that the Board applied the wrong test in assessing the availability of state protection for the Roma population of the Czech Republic, and his argument that the Board's decision was substantively unreasonable.

#### I. State Protection

[4] I will deal first with the test used by the Board with respect to the issue of state protection. This is a question of law that is reviewable on the correctness standard: *Buri v Canada (Minister of Citizenship and Immigration)*, 2014 FC 45 at paras. 16 and 18, 446 F.T.R. 57.

[5] In the present case, the Board discusses the test to be applied in evaluating the level of state protection available to a refugee claimant in his or her country of origin at paragraph 26 of its decision. A review of this paragraph confirms that the Board properly understood that the question to be asked in a case such as this is whether the state protection available to a refugee claimant in his or her country of origin is adequate. The Board then correctly articulated the

relevant principles to be applied in assessing the adequacy of the state protection available to the Roma population of the Czech Republic, and no error on the part of the Board has been established in this regard.

[6] The Board appears to have accepted Mr. Demeter's evidence of past mistreatment based upon his ethnicity, including his claim to have been a victim of two vicious attacks by skinheads in 2007 and 2008. The Board did not, however, accept Mr. Demeter's explanation for his failure to seek the assistance of the Czech police, even though, in one case, he was aware of the identity of at least two of his assailants. Given that Mr. Demeter's reluctance to seek police assistance stemmed from experiences some twenty years earlier, it was reasonably open to the Board to reject his explanation.

## II. The Requirement to Seek Assistance from Non-Police Agencies

[7] Mr. Demeter also argues that the Board erred by requiring that he seeks the protection of state agencies other than the police. In support of this argument, the Applicant refers in particular to paragraphs 27 and 28 of the Board's reasons. The problem with this argument is that nowhere in the Board's reasons does it make any such finding, whether paragraphs 27 and 28 of its reasons or elsewhere.

## III. Discrimination Versus Persecution

[8] Finally, Mr. Demeter argues that the Board erred in finding that he had merely been the victim of discrimination rather than persecution, despite the fact that he had been the victim of two vicious attacks by skinheads.

[9] Once again, Mr. Demeter's argument is based upon a faulty premise, as the Board made no such finding.

[10] While the Board did discuss the widespread discrimination against the Roma population of the Czech Republic in matters such as education, employment and housing, I do not read the reasons of the Board as suggesting that violent, racially-motivated attacks are not persecutory in nature.

#### IV. Conclusion

[11] In conclusion, having failed to establish that the Board erred in law or that its decision was unreasonable, it follows that the application for judicial review will be dismissed. I agree with the Respondent that this case is fact-specific and does 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-2930-11

**STYLE OF CAUSE:** TOMAS DEMETER V THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 9, 2015

**JUDGMENT AND REASONS:** MACTAVISH J.

**DATED:** SEPTEMBER 10, 2015

**APPEARANCES:**

No Appearance

FOR THE APPLICANT

Marie-Louise Wcislo

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Self-Represented

FOR THE APPLICANT

William F. Pentney  
Deputy Attorney General of  
Canada

FOR THE RESPONDENT