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Czech Republic:**Recommendations to the Czech Republic regarding the violation of fair-trial proceedings in the case of Jaroslav Dobes (aka Guru Jara) and Barbora Plaskova.**

Honoured participants,

I am human rights and international law expert based in the Prague with my private practice. Since 2015, I am in cooperation with the Czech religious group Path of Guru Jara, especially on their registration process and violation on human rights in their case. So far I prepared a 7 expert opinions on them, so I know details of the case very well.

My recommendations for the Czech Republic in the case of Jaroslav Dobes (aka Guru Jara), Barbora Plaskova and former Poetrie esoteric institute:

- Take immediately effective measures for the fulfilment of fair trial guarantee such as the right to access the court, the case to be judged by an independent and impartial court, court hearing to be public, and right to effective defence.
- The court should without delay decide about cancellation of the arrest warrant as its prolongation is against EU jurisprudence and is causing arbitrary detention of Jaroslav Dobes (aka Guru Jara), Barbora Plaskova for more than 3 and half years.
- Promote and assure between judges respect of the European Convention of human rights; judgements of ECHR and rule of law respecting democratic principles and not repeat practices reminding treatment of cases in the communist era.

I would like to raise the attention to long-term court case in the Czech Republic with their 2 highest representatives, where the crucial aspects of fair-trial are heavily limited. This guarantee of fair-trial in every free democratic society given by Constitution and also important EU law according to my expert opinion is not met, with life-threat, other serious consequences for 2 accused persons, but also members of minor religious group.

The first court verdict was raised in 2014, the year after the High court of appeal in Olomouc fully abolished verdict for lack of evidence and procedural errors, and ordered a new proper examination.

Two a half year later, in January this year, judge Sperlichova, from regional court trial in Zlin, **second time obviously failed in fundamental respect towards proper trial procedure and as well to honour basic elements of fair-trial**: as it is an obligation to accept just to examine proof of innocence given by advocates, **respects obligations of EU jurisprudence for prolongation of arbitrary detention for over 2 years**, or ignoring verdict of previous court of appeal who already ordered a proper and deep examination of all witnesses and evidence in the case in 2015. The full list of court's errors is available on demand.

Based on the **Soteria international – spiritual human rights**¹ report from 3/15/2018 (37th session of the Human Rights Council) called "*Struggles and Challenges for Freedom of Belief in our society*" and **Coordination des Associations et des Particuliers pour la Liberté de Conscience** report "*Conditions against fair-trial principles in the Czech Republic regarding the Path of Guru Jara case as an example of religious minority investigated by state apparatus in a long term*" let me state the following.

As I found out from the above mentioned report and information about the court hearing, the main hearing in a criminal case of Jaroslav Dobes and Barbora Plaskova that took place 23.01.2018, was held **with exclusion of general public** and it was pronounced that the trial against the accused would be held in the regime against the fugitive, although none of the legal conditions were met. **Despite the fact that the court knew where both the accused occurred, it failed to summon them properly.**

As stated by Soteria International, the first hearing at the Regional Court in Brno, branch in Zlín, was not in compliance with the OSCE Reference Manual for Monitoring in the abovementioned aspects:

- a) Independence and impartiality of the court
- b) Right to unbiased and complex evaluation of evidence
- c) Evidence exclusion and other coercion
- d) Equality of arms
- e) Right to adequate time for defence preparation

The abovementioned organization stated, that the criminal trial was not held in compliance with European Convention on Human Rights (hereinafter as: "Convention"), and it specifically points out the breach of Art. 6 of the Convention – the right to fair trial which sets the minimum standard of right of a person accused of a crime.

According to Article 6 of the Convention: Right to a fair trial the accused person has the right to a **fair and public hearing** that:

- is held within a **reasonable time**
- is heard by an independent and impartial decision-maker
- gives to the accused all the relevant information
- is **open to the public**
- is followed by a public decision.

By **principle of public hearing** a transparency of criminal trial is being ensured.

¹ Several human rights organizations are continuously monitoring this case and made several reports on it. Among them Soteria International, Human Rights Without Frontiers, FOREF, CAP and Czech Helsinki Committee. Soteria International mentioned this cause first time at OSCE HDIM in 2015, HRWF in 2016 and 2017.

According to the European Court of Human Rights (hereinafter as: "ECHR") public hearing represents **an essential principle of fair trial. The character of publicity of the hearing protects the parties from a concealed exercise of fairness without a public supervision; and it is also one of the means to maintain trust in courts** (cf. *Kmec, J., Kosař, D., Kratochvíl, J., Bobek, M., Evropská úmluva o lidských právech. Komentář. I. Edition, Prague: C. H. Beck, 2012, 687 p.*).

From my point of view, during the trial in the criminal case a condition for exclusion of public was not met. Moreover the accused were not given the possibility to cross-examine/confront witnesses and were denied the right to summon witnesses. Adducing evidence in support of defence was a valuable right. **Denial of such right would amount to denial of a fair trial.** It is a cardinal rule of the law of evidence that the best available evidence must be brought before the court to prove a fact or a point in issue.

The court of appeal second decision should be held in October this year. The case is pending at the courts over 4 year and still is without final verdict. Thus both accused persons, Jaroslav Dobes – known as Guru Jara, and Barbora Plaskova, are presumed innocent according to the law, at the same time are long term restricted on their freedom in another country, because of the Czech court proceedings.

First court in Zlin keeps on insisting on the prolongation of arbitrary detention of Jaroslav Dobes and Barbora Plaskova, who are now 3 and half year in devastating conditions of immigration detention in Manila, in the Philippines, solely because of the legal pressure from the Czech authorities.

In this case the unjust behaviour of the Czech authorities towards religious minority group reminds similar cases with serious fair-trial questions from Moldova (Unification church), or Romania (Bivolaru and MISA), countries with communist heritage, which also points out how important is to treat this case carefully according to OSCE standards and criteria.

Apart from breaching the principle of publicity and an inadequate assessment of the accused as fugitives, also the prolongation of the trial – having an effect of restricting their freedom - an essential breach to the rights of the accused. In my legal statement from 8/23/2017, using the ECHR jurisdiction, I demonstrate that the court should without delay decide about cancellation of the arrest warrant.

In my opinion, in a democratic society, where the rule of law prevails, **the public should not be excluded** in the abovementioned criminal proceedings, which is moreover held against the accused as fugitives although the court knew where they occur and could effectively summon them, because, as mentioned above and demonstrated analytically by Constitutional Court and ECHR jurisdiction, **public is a guarantee of preserving the principle of fair trial.**

So I am here to ask delegates from Czech Republic, who in this case and how will guarantee a right on a fair-trial and respect to mentioned juridical commitments of EU. I feel, that after a several years of delays, there is a time to act swiftly.

Dr. Athanassios Pantazopoulos