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Working Session 13:

Tolerance and non-discrimination II (continued), including: Combating racism, xenophobia, and discrimination; Combating anti-Semitism and discrimination against Christians, Muslims and members of other religions

Key words: new religious movement; freedom of religion and belief; violations of fair-trial; tolerance and non-discrimination in society; anti-cult movement; long-term discrimination and persecution; registration of religious organization; implementation of international law and human rights in practice.

Czech Republic:

Recommendations to the Czech Republic regarding the violation of fair-trial proceedings in the criminal case of Jaroslav Dobes (aka Guru Jara) and Barbora Plaskova and administrative case regarding registration of the religious community Path of Guru Jara (PGJ).

I am a human rights and international law expert based in Prague. Since 2015, I am in cooperation with the Czech religious group Path of Guru Jara, especially in the issue of their registration proceedings and disrespect of human rights in the criminal proceedings. So far I have prepared nine expert opinions on both proceedings, so I am familiar with the case. Czech Republic delegation is addressed annually on this religious group since OSCE HDIM 2015¹.

My recommendations to the Czech Republic in the case of Jaroslav Dobes (aka Guru Jara), Barbora Plaskova and the religious society Path of Guru Jara (PGJ) are basically the same as last year for the reason, that these have been ignored so far, namely:

1. 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 with right to effective defense. This means also admission of evidence on the part of the defense.
2. 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 4 and half years.

¹ By Soteria International in 2015 (<http://www.osce.org/odihr/188691>), by Human Rights Without Frontiers in 2016 (<http://www.osce.org/odihr/267236>) and 2017 (<https://www.osce.org/odihr/343316>). In 2018 by Dr. Pantazopoulos (<https://www.osce.org/odihr/393809>).

3. Accused persons and religious communities should not be subjected to judicial harassment by unwarranted legal and administrative proceedings, or any other form of misuse of administrative and judicial authority.
4. To adapt such registration system of religious community, which will be friendly, flexible, supporting religious diversity within the country and without the influence of members of the czech anti-cult movement².
5. Protect religious community Path of Guru Jara against hate-speech, discrimination and hate-crimes in czech society with available support from the Czech state – for instance as it has committed under the adapted UN UPR recommendations in 2017. So far, efforts of members of this minor religion to be noticed, invited for dialog and be protected have been ignored.

During the Implementation meeting last year I have addressed the delegate from the Czech Republic with the list of human rights violations and following question: **„Who in this case and how will guarantee the right of fair-trial and respect of the European and international commitments. I feel, that after several years of delay, came the time act to act swiftly“.**

The reaction of the Czech delegate was the following:

„In the Czech Republic the right of fair trial, freedom of religion and believe, tolerance and non-discrimination are safeguarded by the Constitution and by the law. They are fully in line with our international obligations“.

For Guru Jara, Barbora Plaskova and their religious society PGJ, the guarantee of fair-trial and respect of freedom of religion and believe in every democratic society given by Czech Constitution and also important EU legislation, according to my opinion, is not met. What is the situation one year after regarding both proceedings:

I. Legal case of Guru Jara and Barbora Plaskova

First, I would like to raise attention to more than 5 years court case in the Czech Republic with 2 highest representatives of PGJ, where the crucial aspects of fair-trial are severely violated, with serious consequences for 2 accused persons, but also hundreds members of PGJ religious group.

Guru Jara acted as a successful spiritual teacher in the Czech Republic in 1996 – 2007. Between years 2010-2012, the Czech special police unit investigated members of religious community of Guru Jara in the country initially for alleged human trafficking of hundreds of woman. After years, this has been re-classified by police on sexual abuse of 8 woman. In 2014 started series of courts which led to contemporary result of final verdict sexual abuse of one woman supposedly committed by Guru Jara and Barbora Plaskova in 2006 during a tantric ritual. The appeal at the Czech Constitutional court was for Guru Jara recently denied, so this individual case may be addressed to the European Court of Human Rights.

The rest 7 cases of allegedly abused woman (for the second time returned to better examination by higher court) were stopped by regional court at the end of 2018, without

² About history and impact of the Czech anti-cult movement in the Czech Republic PGJ presented a side-event at OSCE HDIM 2017 (Source: <https://www.osce.org/odihr/345726?download=true>).

acquittal or further examination with chance on possible emerging punishment. However, Guru Jara`s and Plaskova`s lawyers this year re-opened this trial aimed to get the regional court to state their full innocence.

My colleague, Dr. Alessandro Amicarelli, solicitor of the Senior Courts of England and Wales, and a barrister of Italy, specializing in International and Human Rights Law and Immigration and Refugee Law, during a CESNUR conference two weeks ago in Turin³ mentioned that *„the case of Guru Jara is very interesting from a legal point of view because this case perfectly fits what I personally call the trinity of cult creation.*

This trinity is made up of the following three elements:

- 1. Suspicion or Allegations / Accusations of mind manipulation and brainwashing;*
- 2. Suspicion or Allegations / Accusations of Money Extortion and Fraud;*
- 3. Suspicion or Allegations / Accusations of Sexual Abuse.*

That in many cases are totally unfounded and intentionally made up by anti-cult groups or former members of the specific organizations.

Basically anti-cult groups working in collaboration with government bodies, mainly departments and ministries of the government, the police and with the actual support of the judiciary, in court cases, they manage to create cases which in many cases have no evidence and no proof whatsoever, just allegations and accusations only. Sadly this is very common to many philosophical, spiritual and religious groups. “

“I can give you some figures about the cases of fair trial violation in Czech Republic. As I said, Czech Republic is a member of the Council of Europe, and it is bound by the European Convention on Human Rights of 1950. Almost 80 % of cases brought before the European Court of Human Rights in respect to the Czech Republic result in judgments confirming violation of Art. 6 ECHR. About 60 % of these judgments confirm fair trial violation. Over 60 % of them. Which means that it is quite common that in the Czech Republic a fair trial is not really the common thing. It is evident that there are several problems regarding the fair trial in the Czech Republic.”

The main court hearing in a criminal case of Jaroslav Dobeš and Barbora Plášková that took place 23.01.2018, was again 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 according to the international procedural service rules.**

Repeatedly, the court does not want to have the defendants testified and uses as a pretext the proceedings against the refugees. When they ask for questioning by videoconferencing - which is possible under Czech law, the court does not allow it purposefully. This leads to the situation that **the facts of the case are not objectively determined**, ie. as the story happens from the perspective of the defendants.

³ Cooperated on his paper with Willy FAUTRÉ, Human Rights Without Frontiers, Brussels, Belgium for CESNUR conference: Re-enchanting the world: Spiritualities and religions of the third millennium. Lecture presented in section 30: Sex, Magic and the Police: The Saga of Guru Jara. Source: <https://www.cesnur.org/2019/turin-program.htm>

At the re-opened case of 7 woman at the Regional Court, the trial has been going on for so long that there has been a change in the mandate of the public associates - the former mandate has expired. As a result, the entire procedure returns to the beginning as five years ago, to zero, so that new entrants can form their own opinion. Court must prove entirely again, all witnesses should be questioned again (so far even the few that really testified in court). The judge had known for a long time that the mandate of assignees were expiring, but she did not speed up in the trial. The delays in entire proceedings are striking.

The proceedings serves as a pretext for the Czech state to further demand the Philippines to extradite "escaped criminals", which further extends arbitrary detention of Guru Jara and Barbora Plaskova, staying in immigration detention facility in Manila, Philippines over 4 years, where they asked for international protection because they felt persecuted by the Czech state.

As stated repeatedly by Soteria International, the former hearings at the Regional Court in Brno, were not in compliance with the OSCE Reference Manual for Monitoring in the further mentioned fundamental principles:

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

*The above mentioned 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 EU 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.

The above clearly indicates that Czech Republic does NOT respect the EU legislation and International Conventions contrary to the statement of the Czech delegate last year.

There are serious doubts about fair-trial proceeding again leaders of this Czech religious minority since 2014.

II. Registration of the religious community PGJ and prosecution of GJ and other members

25. 7. 2015 an application was filed for registration of the religious community PGJ with the Ministry of Culture of the Czech Republic. **More than 4 years this procedure is still pending at the City Court of Prague.** The application for registration has been rejected by the Ministry of Culture and a lawsuit has been filed to the City Court of Prague, which is still pending. **This constitutes a violation of EU and International Treaties and Conventions, protecting the Freedom of thought, conscience, religion and the freedom to establish and maintain religious, charitable or humanitarian institutions. Furthermore, constitutes a violation of the fundamental principle that everyone shall enjoy the right to a fair, speedy, public trial.**

PGJ's lawsuit against the Czech Ministry of the Culture contains several points, one of which is the negative role of assigned judicial expert in registering process of the group, who is also the main representative of the Czech anti-cult movement and who played also a very important role in emerging whole criminal case against two main PGJ representatives over 10 years ago.

According to the Commission on Human Rights resolution 2005/40 (paragraphs 4 (c) and 4 (e)) and Human Rights Council resolution 6/37 (paragraphs 12 (e) and 12 (h)) Urges States, "To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private;". Urges States, "To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected."

Right to freedom of religion as a pillar of democratic society. Freedom of thought, conscience and religion is a fundamental right enshrined not only in the European Convention on Human Rights but also in many other national, international and European instruments. It is an essential right of considerable importance.

The above clearly again indicates that Czech Republic does NOT respect the EU legislation and International Conventions contrary to the statement of the Czech delegate last year.

So, after a whole year, I ask the question again:

"How can the Czech Republic in this specific case convincingly guarantee the implementation of European and International Treaties, which ensure the principle of fair trial and the rule of law?"

Dr. Athanassios Pantazopoulos

