

Czech Republic: Jaroslav Dobes and Barbora Plaskova want a fair trial

– By Willy Fautré –

HRWF (10.06.2019) – Seven years after prosecution proceedings were initiated by the Czech Republic against Jaroslav Dobes and Barbora Plaskova for alleged rape of eight women in the framework of tantric yoga seminars held between 2004 and 2006, Czech courts have still not been able to reach a final valid decision concerning the accusations.

On the initiative of the Czech Republic, first Barbora Plaskova and later Jaroslav Dobes were arrested in April and May 2015 in the Philippines, where they had both led an international retreat center and lived with their families (and children) for several years. Since then, they have been held in the Filipino Immigration Detention of Bagong Diwa in Manila because the Czech Republic cancelled their passports.

The fact that the judgments of the First Instance Court of Brno (Zlin branch) were twice annulled in their entirety by the High Court of Olomouc is a source of deep concern for Jaroslav Dobes, Barbora Plaskova and their lawyers.

In October 2018, for the second time, the High Court of Olomouc annulled the prison term against the accused delivered by the First Instance Court of Brno (Zlin branch) in its entirety.

The ill-will of the First Instance Court of Brno v. the good will of the High Court of Olomouc

For unknown reasons, the Court of Brno is obviously reluctant in conforming to the judicial standards requested by the High

Court of Olomouc.

On 7 October 2014, the Court of Brno sentenced both accused to a heavy prison term in absentia.

On 21 May 2015, the High Court in Olomouc heard the appeals of the accused and dismissed the decision of the Court of Brno for lack of evidence and procedural errors.

It took the Court of Brno two years and eight months to issue a new ruling (!) in which two people had been removed from the list of alleged victims and the prison sentences of both accused had been reduced from 10 years for Jaroslav Dobes and 9 years $\frac{1}{2}$ for Barbora Plaskova to 7 years $\frac{1}{2}$ for both of them.

Four months later, in May 2018, the accused appealed the decision. It only took five months, including the summer vacation period, for the High Court in Olomouc to again cancel the ruling of the Court in Brno in its entirety.

One year later, as of early June 2019, the Court of Brno has still not revised its ruling.

Fair trial questioned

At various stages of the judicial proceedings, the lawyers of Jaroslav Dobes and Barbora Plaskova have complained about infringements of fair trial fundamental principles as enshrined in **Article 6 of the European Convention on Human Rights:**

1. In the determination of his civil rights and obligations, or of any criminal charge against him, everyone is entitled to a fair and public hearing **within a reasonable time** by an **independent and impartial tribunal** established by law. **Judgment shall be pronounced publicly** but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a

democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be **presumed innocent until proved guilty according to law.**
3. Everyone charged with a criminal offence has the following minimum rights:

(a) **to be informed promptly**, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defense;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and **to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;**

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court

Miscarriage of justice by the First Instance Court of Brno

Throughout the judicial proceedings, the defense counsels of the accused complained about a discriminatory treatment of their clients and the non-respect of the fundamental rights to a fair trial:

- The conditions for the exclusion of the public from the court hearings were not met;
- From the very beginning, the accused have been treated

- as fugitives by the Czech authorities regardless the circumstances and the obligations the law imposes on the court concerning the verification of their whereabouts;
- The accused were not given the possibility to cross-examine/confront witnesses and were denied the right to summon some witnesses;
 - The judge did not treat the parties equally, in particular at the court hearing of 23 January 2018, when only one defense witness in favor of the accused could be heard; at the same hearing, experts could not be cross-examined about their report and one expert stated that she had evaluated the state of the alleged damage of one of the complainants through a phone call, without proper identification of the person on the phone;
 - The judge did not treat the parties equally, in particular at the court hearing of 26 January. She refused to accept documentary evidence from the defense counsels, which is a violation of the Czech Legal Code; she failed to summon all the witnesses who were required and ordered by the High Court in Olomouc in its appeal decision and according to the Law Order; she adopted a negative behavior towards independent witnesses; she postponed the issue concerning the restitution of the funds confiscated from the Poetrie Esoteric Institute in 2010; she suddenly and unexpectedly declared the end of the trial after one day and a half although it had been announced for three days;
 - The abusive delays in the proceedings at the level of the First Instance Court of Brno entail a prolongation of the deprivation of their freedom in the Philippines where they have been held in the Immigration Detention Center of Bagong Diwa for four years because they have been deprived of their visas and their passports;
 - None of the court decisions has been sent to any of them despite the fact they repeatedly asked for it in a written form as well as by phone calls.

Conclusions

It is to be hoped that the proceedings concerning the seven cases sent back for the second time by the High Court of Olomouc to the Court of Brno will take place without any further delay and that the Supreme Court will also soon deal with the appeal of the defendants in the remaining case of Lenka Nevrlkova.