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Jaroslav Dobes and Barbora Plaskova still under presumption of innocence after years of proceedings

Four years restricted freedom and still waiting for fair trial after years of proceedings

Questionable police investigation; cancellation of a valid passport; attempt of forcible deportation during asylum request; ignoring of EU jurisprudence; arbitrary detention; separation of mother from child

HRWF (26.04.2019) - 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 2006¹, Czech courts have still not been able to reach a final valid decision concerning the accusations.

¹ List of the alleged victims

Petra Cermakova, now Adamkova (unidentified day between 30.07 and 06.08.2004)
Petra Cinkova, now Kesnerova (unidentified day between 25.08 and 05.09.2004)
Lenka Chotivkova (unidentified day between 25.08 and 05.09.2004)
Martina Turkova, now Sofia Laskava (unidentified day between 25.08 and 05.09.2004)
Kristyna Belecka (unidentified day between 05.08 and 12.08.2005)
Stanislava Fucikova, now Opplova (unidentified day in November 2006)
Radka Cakarska (autumn 2006)

In October last, 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 but this time it confirmed the accusation in one case in a separate decision. The attorneys of the accused filed an appeal with the Supreme Court of the Czech Republic in January of this year. The other seven cases were sent back for further examination to Zlin Court.

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 without breaching the law. Since then, for over four years, they have been forced to stay in very poor conditions in the immigration detention camp of Bagong Diwa, in Manila. They both asked for asylum, because they feared persecution based on their faith and did not have enough guarantees for a fair trial in the Czech Republic. The Philippine Bureau of Immigration repeatedly rejected their requests to wait on results of their asylum proceedings off detention, as on both of them is still a valid arrest warrant.

At the OSCE Human Dimension Implementation Meeting held in Warsaw in September last, Dr Athanassios Pantazopoulos, attorney-at-law in Prague, recommended to the Czech delegation²:

- 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.

As of April 2019, Jaroslav Dobes and Barbora Plaskova are still in the situation of presumption of innocence.

Who are the accused?

Jaroslav Dobes was born in January 1971 in Czechoslovakia under the Communist regime. At the age of eighteen he recognized his discomfort with living in an atheistic society and wanted to escape. He was a good alpinist and he fled through the mountains of Yugoslavia; his destination was Rome and the Vatican. In Italy, he studied the Christian Holy Scriptures with Catholic monks and intensively practiced advanced meditations on hermitages.

In 1992 for family reasons, he went back to his country which had since dispelled its' communist regime. From there, his spiritual quest led him to India. In 1996, after studying at his guru in Haridwar, India, he received the tantric title of Baba.

In 1996, he went back to the Czech Republic to share his spiritual experience – comprised of meditation relaxation exercises and spiritual guidance - with his compatriots and established a small group of thirty followers. Over the next few years, the spiritual group experienced rapid growth and expansion. Jaroslav Dobes – then named Guru Jara

² Statement posted on the website of the OSCE: <https://www.osce.org/odihr/393809>

– and his followers launched spiritual seminars and major festivals in various parts of the country: Zlin, Prague, and Opava, amongst other areas. They also established a monastery in Beskydy. The followers were mostly highly educated people: members of the legal profession, judges, professors, etc.

Since 2000 Dobes has been monitored by Czech Anticult movement as leader of a constantly growing spiritual group of solely Czech origin. By 2004, his followers were numbering in the thousands. Majority of followers recognized Jaroslav Dobes as a spiritual guru, enlightened mystic and respected authority.

In 2004, the spiritual group established the esoteric Poetrie School in Brno for seminars and practices on meditation, yoga, feng shui, astrology, acupuncture, telepathy, auric-healing and other spiritual rituals as well pilgrimages also open for wider public. Spiritual teaching of Jaroslav Dobes was described as a syncretistic faith combining yoga, tantra, Kabbalah, Buddhism with a form of Christianity and ancient Egyptian teachings.

Some social and governmental hostility became more visible and more pressing after this development. The group had attempted to register a religious foundation under their name, which was rejected, and their monastery in Beskydy was set on fire by unidentified arsonists. In 2005, members of the group reported being subjected to police interrogation and harassment, and the media also contributed to the hate, discrediting the group and its leaders.

In spring 2007, Jaroslav Dobes and his assistant Barbora Plaskova, left the Czech Republic because they felt threatened. At that time, no charges had been filed against them. A few days after his departure, Dobes was summoned by mail to appear at the Czech police station to be questioned for a preliminary investigation regarding accusations of “leading to a mistake” during a tantric treatment. He stayed in Nepal for two years and then left due to the worsening political situation.

In 2008, Dobes led an international spiritual gathering of his followers in Bangkok, Thailand, where he had been living for several months. He also went to India, Egypt, Indonesia and Malaysia to further deepen his spiritual knowledge. In February 2009, he settled down with Barbara Plaskova in the Philippines, a country which he first visited in 1999. On the island of Siargao he met his partner with whom he had a child a few years after.

In 2011, Dobes started developing an isolated retreat center with Plaskova. They were assisted by some of their followers from the Czech Republic. They built an assembly hall, meditation pools, prayer venues, and so on. He began to organize international seminars that attracted followers from around the world; including participants from Japan, and the United States, amongst many other nationalities. Through his spiritual books and written materials propagated by his followers, he continued to exert and expand his global influence. He remains a very active writer, even under current detention conditions.

Back in the Czech Republic, the Poetrie School was forced to close in 2008, and in 2010 the homes of his followers were raided by the police, the movement’s bank accounts were blocked, and computers seized. In 2011, the Czech police accused Jaroslav Dobes and Barbora Plaskova of human trafficking. Afterwards police reclassified charges on multiple rapes allegedly committed between 2004 and 2006. The original allegations were built not upon testimonies of the eight supposed rape victims, but from three former female leaders of the groups.

2007 – 2009: Jaroslav Dobes and Barbora Plaskova on the Wanted List of the Czech Police

On 14th May 2007, Jaroslav Dobes was put on the Wanted List of the Czech police, for they alleged they did not know his whereabouts. On 18th February 2009, Filipino immigration authorities admitted the entry of Dobes into the country.

In 2009, a campaign against Jaroslav Dobes and Barbora Plaskova was created by former lecturers of the esoteric movement along with a Czech anti-sect movement. In the summer of that year, the special police unit for combating organized crime and mafia (UOOZ) became involved in the case.

In October 2009, Barbora Plaskova was put on the Wanted List of the Czech police because they did not know her whereabouts.

In 2010, the UOOZ investigation gained impetus. Hundreds of former students of the Poetrie School and members alike were interrogated. In October, massive police raids and house searches took place, during which the police discovered that Dobes and Plaskova were living in the Philippines.

In January 2011, the UOOZ filed criminal charges of human trafficking against Jaroslav Dobes and Barbora Plaskova.

"Leaked" information from secret police investigation were massively publicized in Czech mass media - newspapers, television and radio. Reports were also taken over by the foreign press. Only a very few reports initially adhered to the principle of neutrality and honored the presumption of innocence. Intensive media campaign lasted for several years and greatly (negatively) influenced the public opinion on Jaroslav Dobeš and members of his spiritual group. Students of Jaroslav Dobes who said publicly to be members of the group went under strong negative pressure, exclusion and hostility in Czech society.

In January 2012, the Supreme State Attorney's Office rejected the charges of human trafficking put forward by the UOOZ and the case was transferred to the ordinary police department in Zlin.

It is on 30th March 2012 that the prosecution against Jaroslav Dobes and Barbora Plaskova started.

On 28th May 2012, the court in Zlin issued an international arrest warrant against Jaroslav Dobes and Barbora Plaskova for alleged multiple rapes committed between 2004 and 2006. They were labeled as fugitive with unknown stay, despite police knew already, they are living on permanent address in Philippines. This was the first official warrant issued for the alleged rapes.

October 2014: Jaroslav Dobes and Barbora Plaskova are sentenced to a prison term in absentia in the Czech Republic

On 7th October 2014, Jaroslav Dobes and Barbora Plaskova were convicted by the Regional Court in Brno, Zlin for committing multiple rapes. As officially with residence unknown, they were sentenced in absentia, respectively to 10 and 9.5 years of imprisonment with strict regime. None of the alleged victims was present.

On 13th February 2015, the Embassy of the Czech Republic in Manila informed the Filipino authorities that they needed the cooperation of their police concerning "the case of two fugitives, including detailed police information about both of them and details about their stay at Philippines".

On 6th March 2015, the Embassy of the Czech Republic in Manila informed the Filipino authorities that:

“Jaroslav Dobes and Barbora Plaskova are fugitives from the Czech Republic for multiple rapes
the passport of Jaroslav Dobes had expired
the unexpired passport of Barbora Plaskova should be considered invalid and will be cancelled by the issuing authority upon its delivery
Jaroslav Dobes and Barbora Plaskova are therefore undocumented aliens and their presence in the Philippines poses a risk to public interest.”

On 12th March 2015, the Bureau of Immigration (BI) in the Philippines issued a Summary Deportation Order against Jaroslav Dobes and Barbora Plaskova on the initiative of the Czech Republic authorities represented by Czech Embassy in Manila.

On 14th April 2015, Barbora Plaskova was arrested and detained at the Immigration Detention Center when she went to renew and process her travel documents and alien permit at local Bureau of Immigration in Surigao city. Three days after her detention, she filed an application for refugee status.

On 15th May 2015, Jaroslav Dobes was arrested around 7am in Dapa, Surigao del Norte and was taken to the Immigration Detention Center in Manila. The validity of his passport had come to an end on 11th August 2013. He also applied for refugee status few days after his arrest.

May 2015: High Court of Olomouc annuls Zlin Court decision in its entirety

On 21st May 2015, against the judgment of the Regional Court in Brno³, the High Court in Olomouc heard, in a closed session, the appeals of Jaroslav Dobes, Barbora Plaskova, and Plaskova’s mother.

After hearing their appeals, the High Court in Olomouc ruled that:

“According to § 258 section 1 letter b), c) of the Code of Criminal Procedure the judgment under appeal, based on the initiative of all filed appeals, is hereby annulled and revoked in its entirety.

According to § 259 section 1 of the Code of Criminal Procedure, the case is returned to the court of first instance, to make a new decision.”

Court in Zlin restored international arrest warrant with fugitive status.

June 2015: Attempt to forcibly deport Jaroslav Dobes during his asylum request

On the evening of 10th June 2015, there was an attempt to forcibly deport Jaroslav Dobes back to the Czech Republic on a Turkish Airlines flight. The tentative extraction failed, Dobes was handcuffed, beaten and later collapsed at the airport, forcing authorities to send him to the local medical facilities. His plane ticket had been purchased in Prague on 4th June; six days before the attempted deportation. Jaroslav Dobes request for asylum has been still pending during this event (first official denial was dated 15th June 2015 and was appealed immediately). Czech officials refused to assume any responsibility for the incident ever since.

³ Branch in Zlin, dated 07 October 2014, ref. No. 68 T 1 / 2014-4688

2018: High Court of Olomouc annuls again Zlin Court judgment in its entirety

On 26 January 2018, Judge Iveta Sperlichova of Zlin Court of First Instance (Branch of Brno Regional Court) read the judgment, striking off two alleged victims and reducing the previous sentences (10 years for Jaroslav Dobes and 9 years ½ for Barbora Plaskova) to 7 years ½ for both of them. The alleged victims were not present.

In May 2018, the attorneys of the defendants appealed the decision again, immediately as it was legally possible. Repeatedly in this whole case, steps from the court are perceived by defendants as postponed and stretched to the maximum possible time limit, so the whole trial is being purposefully extended.

On 11 October 2018, the High Court of Olomouc annulled the decision of Zlin First Instance Court in its entirety.

However, the Olomouc Court convicted JD and BP of rape allegedly committed in the spring of 2007 against Lenka Nevrlkova, the daughter of a police officer, and sentenced them respectively to 5 years and 6 months and 5 years, plus financial compensation for damages (about 2400 EUR). The seven other cases of criminal offences supposed to have been committed between July 2004 and autumn 2006 were sent back to the Zlin Court.

Lenka Nevrlkova was not present at the court session.

During the hearing, the judge wondered why women continued to attend classes and seminars of the Poetrie Esoteric Institute for several months, or even years, while claiming they had been sexually assaulted.

Appeal with the Supreme Court

In January 2019, the attorneys of JD and BP filed an appeal with the Supreme Court of the Czech Republic against the judgment of the High Court of Olomouc.

Under normal circumstances, the decision of the Supreme Court could be expected by the end of the year. Judge Iveta Sperlichova might wait for the decision of the Supreme Court of the Czech Republic in the case of Lenka Nevrlkova before examining the seven cases sent back to Zlin Court.

Let us wait and see what the Supreme Court will decide.

Conclusion

The situation of Jaroslav Dobes and Barbora Plaskova in the immigration detention center in Manila is significantly difficult and long-term health threatening. Moreover, they have both been separated for over four years from their children and their personal and professional life is heavily limited. Children do not have to suffer from this situation. They also have rights that are guaranteed by international treaties. Prague and Manilla should also take this point under consideration.

The Czech authorities could prevent further human damage, especially for the children, just by abolishing the international arrest warrant, though with some guarantees. They should tell the Filipino authorities to release the accused conditionally, asking them to report to the local police on a regular basis.

When will the Czech Republic open a new trial against Jaroslav Dobes and Barbora Plaskova?

The question was raised in parallel of a side-event organized at the UN in Geneva on the day the Czech Republic was defending its human rights record at the Universal Periodic Review earlier this week

By Willy Fautré, Human Rights Without Frontiers

HRWF (09.11.2017) - On 21 May 2015, the High Court of Olomouc ruled that the judgment against Jaroslav Dobes and Barbora Plaskova issued by a first instance court of Zlin/Brno on 7 October 2014 was "annulled and revoked in its entirety" and that the case was returned to the court of first instance in Brno to make a new decision. Since then, no new trial has strangely been initiated and the Czech authorities have repeatedly remained silent when publicly called upon about this inertia by NGOs at the OSCE and at the UN.



In the last two years and a half, Jaroslav Dobes and Barbora Plaskova, have been detained at the Immigration Detention Center of Bagong Diwa in Manila (Philippines) not on the grounds of a crime committed in the Czech Republic or in the Philippines but because the Czech embassy in Manila had made them undocumented.

Jaroslav Dobes and Barbora Plaskova have been living and working for years as yoga teachers in the Philippines and each of them has a child born in the country.

Undocumented

On 14 April 2015 Barbora Plaskova went to the Czech consulate in Manila, in the Philippines, to prolong the validity of her passport but she was denied a new one and was kept in the Immigration Detention Center in Manila where she still is.

On 15 May 2015, Jaroslav Dobes, was arrested in Surigao del Norte, in the Philippines, where he openly exercised his activities of yoga teacher because his passport was not valid any more. He was immediately sent to the Immigration Detention Center in Manila where he still is.

Both Czech citizens were hereby left "undocumented" by their embassy in the Philippines and detained at the Immigration Center of Manila.

Presumption of innocence

In Prague, an international arrest warrant had in the meantime been issued against Jaroslav Dobes and Barbora Plaskova on the grounds that they had respectively been

sentenced to 10 years and 9 ½ years in prison in absentia for alleged rape of eight women in the Czech Republic between 2004-2006. However, this decision of the Regional Court in Brno (Czech Republic) in October 2014 was cancelled on 21 May 2015 by the High Court of Olomouc for lack of evidence. On that very day, the legal situation of the two Czech citizens changed. There was no sentence to be implemented, there was no evidence of guilt, and they were therefore fully entitled to enjoy the right to the presumption of innocence.

Moreover, since May 2015, no Czech court has ruled that Jaroslav Dobes and Barbora Plaskova had been guilty of rape or any other crime in the Czech Republic.

On 6 November 2017, the inertia of the judiciary was raised again in a side-event organized by a French NGO with ECOSOC status, CAP Liberté de Conscience.



In June 2016, *Human Rights Without Frontiers* (Brussels) and *FOREF* (Vienna) visited the Immigration detention Center in Manila with the assistance of the Filipino Commissioner of the Bureau of Immigration and the director of the detention facility, interviewed the two Czech citizens.

The question of *Human Rights Without Frontiers* is: **Why such inertia of the Czech judiciary and such a silence of the political authorities ?**

19 EU citizens detained in the Immigration Center of Bagong Diwa in Bicutan/ Manila

HRWF (05.07.2016) - Nineteen EU citizens are stuck in a Catch 22 situation or administrative vacuum at the Immigration Detention Center of Bagong Diwa in Bicutan.

That is what a joint fact-finding mission of *HRWF Int'l* (Brussels) and *FOREF* (Vienna) discovered when visiting the Center on 8 June 2016 to meet Czech citizens **Jaroslav Dobes and Barbora Plaskova**, who have been detained there for more than one year.

In early June 2016, representatives of both European NGOs were in Manila to try to solve the case of the two Czech citizens. They met with Philippines' Commissioner of the Bureau of Immigration, attorney **Ronaldo Geron**, who was very cooperative and welcomed their initiative. He hoped that HRWF Int'l and FOREF could contribute to a solution of the situation of the two Czech detainees and the other EU citizens. He gave his authorization for a visit of the Immigration Detention Center of Bagong Diwa in Bicutan (Manila).

The new warden, **Erwin S. Otanez**, who was appointed in autumn 2015, allowed the mission to visit all the premises, take pictures and talk freely with the detainees without any restriction and outside the presence of any penitentiary staff. The list of the names of the prisoners with a European citizenship along with some administrative details about their situation (age or date of birth, date of arrest and legal basis) were speedily provided on request, as well as statistics about the countries of origin of non-EU citizens.

As of 8 June 2016, the total number of detainees was 148. Among them, eight women: 1 Chinese, 1 Czech, 1 South Korean, 4 Taiwanese and 1 American.

Nineteen were from EU countries. Their names hereafter are published with their consent. The other prisoners are identified by their initials.

Detained EU citizens

- **Austria** (1): **Wolfgang Pfuner** (67)
- **Bulgaria** (5): A.N.D., H.S.H., D.H., M.E.S., K.L.G.
- **Czechia** (2): **Jaroslav Dobes (45)** and **Barbora Plaskova (42)**
- **France** (1): J.P.F.
- **Germany** (2): **Franz Ferdinand Szobotka (60)** and J.L.
- **Great Britain** (4): B.J.H-L., **Michael Freeman (47)**, **Samwells John Edwin alias Gary Lee Johnssons (43)**, **Sattar Razak (61)**
- **Ireland** (1): **May Anthony Francis (40)**
- **Italy** (1): M.D.M.T.P. (69)
- **Poland** (1): **Dariusz Mieczyslaw Rucinski** (47)
- **Slovenia** (1): K.N. (64)

The reasons why all these EU citizens have been sent to the immigration detention center and why they are stuck in a Catch 22 administrative situation is specific in each case.

A German citizen and a British national, **Michael Freeman**, have been detained for almost three years without a solution in sight.

Five of the detainees are in their sixties and another one is 59 years old.

The Irish detainee, May Anthony Francis, could be sent back to his country where he was cleared from a crime committed in 2009. However, purchasing a flight ticket was still a problem as his belongings including a credit card were taken from him and his accounts were frozen by the government.

The detention conditions in Bagong Diwa dramatically fail to meet the international standards. Moreover, there is no specific budget for medical assistance in the whole penitentiary system of the Philippines.

The detainees were however hailing their good relations with the warden of the detention center, **Mr. Otanez**, and his staff.

While in Manila, the mission could have a meeting with an ambassador and a consul of two countries concerned by the detention of their citizens in Bicutan.

Regretfully, the Czech embassy in Manila failed to positively answer our repeated requests (by email or telephone) for a meeting. The representatives of the two European NGOs finally showed up at the Czech consulate but were told, despite their insistence, that the consul was busy...

After the mission, HRWF Int'l wrote to the embassies of the EU countries in Manila directly concerned by the immigration detention center to draw their attention to the situation of their nationals, urge them to monitor their situation and find a solution case by case.

Detainees from non-EU countries

Other nationalities represented among the detainees of the Immigration Detention Center of Bagong Diwa:

- Australia (1)
- Bangladesh (2)
- Cameroon (2)
- Canada (3)
- People's Republic of China (9)
- Ethiopia (1)
- India (15)
- Japan (9)
- South Korea (31)
- Liberia (1)
- Malaysia (2)
- New Zealand (1)
- Nigeria (3)
- Papua New Guinea (1)
- Singapore (2)
- South Africa (1)
- Taiwan (24)
- Togo (1)
- USA (14)
- Unknown (1)
- Vietnam (4)

Recommendations

HRWF Int'l and FOREF urge the embassies of these countries to follow up the situation of their nationals at Bagong Diwa.

HRWF Int'l and FOREF are calling the international human rights community to visit the Immigration Detention Center of Bagong Diwa in Bicutan (Manila) and to regularly monitor the detention conditions.

Two Czech citizens stranded in administrative vacuum at Manila immigration detention since 10 June 2015

The Czech embassy in Manila unwilling to meet a human rights delegation from Brussels

Press release

- **Undocumented in the Philippines**
- **Failed deportation attempt**
- **Which possible solutions? Proposals of HRWF Int'l and FOREF to the Czech and Filipino authorities**

HRWF/ FOREF (09.06.2016) – Despite repeated attempts of a human rights delegation on a fact-finding mission in Manila, the local Czech embassy has been unwilling to meet **HRWF Int'l** (Human Rights Without Frontiers Int'l) and **FOREF** (Forum Religionsfreiheit Europa) about the situation of two Czech citizens who have been detained for a year at the Immigration Center of Bagong Diwa in Bicutan (Manila).

Philippines' Commissioner of the Bureau of Immigration, attorney Ronaldo Geron, met HRWF Int'l and FOREF and told them that Jaroslav Dobes, the spiritual master of a yoga movement, and Barbora Plaskova, his assistant, have been stuck at Bagong Diwa for a year since the Czech embassy in Manila confiscated their passports. They were hereby made "undocumented" on the Filipino territory.

"We are not responsible for this complicated situation which was created by Prague", the Commissioner said to the human rights delegation from Brussels. "As they had become undocumented, we had no other choice than to detain them in the immigration center until their deportation to the Czech Republic".

Czech authorities have not solved their problem with their two citizens.

Undocumented in the Philippines

On 14 April 2015, Barbora Plaskova, the mother of a one-year old boy, went to the Czech embassy in Manila to renew and process her travel documents and alien permit, as she has been doing every second month for years as a resident in the Philippines. On that occasion they confiscated her passport and made her "undocumented". She was then arrested by the Bureau of Immigration (BI) and transferred to the Immigration Detention of Bagong Diwa. Since then, her baby has been taken care of by a Japanese woman, a friend of hers.

On 15 May 2015, Jaroslav Dobes was arrested in Surigao del Norte, where he had been living since September 2009. The authorities deprived this father of a three-year old daughter of his passport and made him "undocumented" as well. He was subsequently taken to the same Immigration Detention Center as his assistant Barbora Plaskova.

This joint operation had been initiated by the Czech Republic on the basis of a decision issued by the Regional Court of Brno (Zlin) on 7 October 2014. This court respectively sentenced Jaroslav Dobes and Barbora Plaskova, in their absence, to 10 and 9 ½ years in imprisonment for the rape of eight women in the Czech Republic between 2004-2007, although the alleged victims had never personally filed any complaints on this or other grounds.

The next step was therefore the legal deportation of both Czech citizens in order to implement the court decision. However, less than one week later...

On 21 May 2015, the High Court of Olomouc (Czech Republic) issued a resolution cancelling of the decision of the Regional Court in Brno, in its entirety, for lack of evidence, and ordered the first instance court to make a new court decision.

Thus, the legal situation of the two Czech citizens changed. There was no sentence to be implemented, there was no evidence of guilt, and they were to enjoy the right to the presumption of innocence. They should have had their passports and freedom reinstated.

However, they remained de facto deprived of their passports by the Czech embassy and undocumented. Because of this odd administrative situation there was no possibility for the Filipino authorities to legally release them.

However...

Failed deportation attempt

On 10 June 2015, there was an attempt initiated by the Czech authorities to deport Jaroslav Dobes (but not Barbora Plaskova) from Manila to the Czech Republic on a Turkish Airlines flight. The deportation failed when Dobes collapsed at the airport and required medical attention at a local hospital. Moreover, the pilot of the aircraft refused to take on board a passenger against his will.

Therefore, it was back to square one: Bagong Diwa Immigration Detention Center.

After this failed operation, the lawyers of the two Czech citizens have filed a request for asylum for their clients. Their demand is being examined by the Filipino authorities, but a final decision has not been taken yet.

In the meantime, there has not been any new sentences issued by a Czech court against Jaroslav Dobes and Barbora Plaskova, and no new trial is in sight, according to their lawyers in the Czech Republic.

As long as there is no final decision about their request for asylum, deportation is not legally possible. Additionally, their release is also not legally possible as Jaroslav Dobes and Barbora Plaskova are still undocumented. Consequently, the legal status of Barbora Plaskova's baby born in the Philippines and his right to live with his mother remains unclear.

Which possible solutions? Proposals of HRWF Int'l and FOREF

How to get out of this deadlock?

HRWF Int'l and FOREF recommends to

The Czech authorities

- To grant Jaroslav Dobes and Barbora Plaskova new passports in order to put an end to their status of "undocumented" persons, their detention at Bagong Diwa, and the Kafkaesque administrative and judicial situation imposed on the Filipino authorities;
- To respect the presumption of innocence of Jaroslav Dobes and Barbora Plaskova;

- To wait for a possible new trial, if any, in the Czech Republic and a final court decision before taking any initiative aimed at limiting their freedom of movement, if necessary;

The Filipino authorities

- To issue temporary ID documents to Jaroslav Dobes and Barbora Plaskova;
- To release them from Bagong Diwa under the condition of regularly reporting to the police.

For more information, please contact Willy Fautré (HRWF Int'l) on skype (willyfautre) or by email: w.fautre@hrwf.net

Jaroslav Dobes and Barbora Plaskova should be released and allowed to stay in the Philippines

HRWF (04.04.2016) - The Filipino authorities should put an end to the detention of Czech citizens Jaroslav Dobes and Barbora Plaskova at the Immigration Detention Camp Bagong Diwa in Bicutan and should allow them to prolong their residence permit in the Philippines.

Dobes and Plaskova have been living in the Philippines for years without breaking domestic laws. Their arrest, detention and request for extradition by the Czech authorities are baseless, and do not align with the most recent court order. Originally, the Brno Court had sentenced Jaroslav Dobes and Barbora Plaskova in absentia to 10 and 9.5 years of imprisonment with strict regime for allegedly committing multiple rapes. On 21st May 2015 however, the High Court of Olomouc (Czech Republic) issued a resolution cancelling the decision of the Regional Court in Brno in its entirety, and ordered a new decision to be made. No new court decision has been issued as of 31 March 2016.

Detention Camp Bagong Diwa: "a dreadful place"

The immigration detention centre that Dobes and Plaskova are currently being held in is situated in the middle of the Manila police headquarters, with 2,000 officers housed in blocks surrounding it and a firing range outside the entrance. The facility once served as an extermination centre for opponents of the Ferdinand Marcos regime.

On 9 August 2015, Post Magazine published an article entitled "The Forgotten: Life inside notorious Philippines detention center" (*) which reported that: "Never formally charged with a crime, some of the 150 or so foreigners held here disappear into an opaque legal whirlpool and remain locked up for years or even decades. These inmates are known as The Forgotten."

A former Greek detainee Nikolaos Spanoudis, who spent 18 months in Bicutan before being released when the charges against him in a foreign country were dismissed, said in the same article:

"You see people there who have been inside for seven, 11, or 14 years," he says. "When you talk to them, you discover they have never faced a criminal charge."

"It was where Marcos' opponents were killed. From what the guards tell us, there is an area the bodies were thrown into, like a septic sewer thing. There are hollow areas beneath the floor in some places and you can tell something is below."

"Officials demanded US\$50,000 then US\$100,000 for his release and told him if he did not pay up he would 'rot' in Bicutan."

"In Bicutan, you were given a handful of food every day and there was only one telephone for 170 inmates and office staff to share. Conditions in Bicutan are just atrocious."

The Camp Bagong Diwa has also been hit by riots in the past.

On March 15 2005, a riot erupted at the maximum-security compound, leaving twenty-two Abu Sayyaf members and a policeman dead.

Several guards were killed and some inmates were held hostage during the riot, prompting police teams to storm the jail and kill the Abu Sayyaf members.

In May 2006, fourteen inmates were wounded in a riot between rival jail gangs.

Tensions gripped the prison compound anew at Camp Bagong Diwa when inmates at the Bureau of Immigration detention cell threw rocks and other hard objects at the jail guards, which left one inmate wounded on May 18, 2007.

Detention conditions of Master Jaroslav Dobes

Testimony of K.S. about her visits:

During my first visit in summer last year, I was totally shattered by the conditions in the prison. Small dirty overcrowded space without air conditioning. We sat with the Master on the floor, full of garbage, cockroaches, cigarette butts, cat excrements and there were even rats. There was no place without dirt to rest or to sit. There were very bad smells everywhere and enormous heat. Fights were on the daily order. Hygienic and life conditions were really harrowing. The master had infections and eczemas. Nobody cares about the health conditions of the prisoners. We brought him three different vitamins and ointments to the eczemas. Food is absolutely insufficient: a little plastic bag with rice and another one with overcooked vegetables. There was no place to eat in dignity.

During my second visit in autumn, the master's health had got substantially worse. He was exhausted and suffered from fever. Many times he was not able to move and during the whole visit he lied on the floor between garbage and cat excrements. The clothes we gave him in summer were hanging on him.

Detention conditions of Barbora Plaskova

Testimony of K.S. about her visits:

During my first visit in the women's section, the conditions were appalling, worse than for men. Women did not even have a small yard to walk (unlike men). They thronged in a little house and many of them did not even have their own bed. There were 30 women in that small place. There was no air conditioning and no ventilator. Every day, there were heavy fights between women. Barbora's health was pitiable. She suffered from infections and eczemas. She asked us for basic women's necessities.

During my second visit in autumn, Barbora looked haggard. She was in very bad health. She suffered from bad food, terrible hygiene and constant stress. She had lost a lot of weight. Although there were fewer prisoners than in summer, the conditions were not

better. We brought basic hygienic necessities for other prisoners as well because they threatened Barbora with violence.

I have known Barbora and the master for six years. Their living conditions hurt me a lot and I am teary-eyed every time I think of them.

Human Rights Without Frontiers Int'l strong recommendations to the Filipino authorities

Considering that for one year, the twenty-month old son of single parent Barbora Plaskova, has been left without parental custody since her illegal detention in the Bagong Diwa Camp;

Considering that the child, who has his mother's Czech citizenship, was left without his nursing mother at the age of five months;

Considering that the child is being temporarily taken care of by Japanese friends but could be left alone at any time;

Considering that since March 2015, the now four-year old daughter of Jaroslav Dobes and a Filipina unemployed mother, has been deprived of the presence and the support of her father;

Considering that neither Barbora Plaskova nor Jaroslav Dobes have committed any illegal act during the years they have lived in the Philippines;

Human Rights Without Frontiers Int'l strongly urges the Filipino authorities

- **to prioritize children's rights and their well-being by releasing Barbora Plaskova and Jaroslav Dobes**
- **to grant them the authorization to go on living in the Philippines.**

This gesture of humanity would be highly appreciated by the EU and would be publicized by the Brussels-based NGO *Human Rights Without Frontiers Int'l*.

(*) See the full article with other testimonies about the detention conditions at <http://bit.ly/1SAdUDI>

Jaroslav Dobes and Barbora Plaskova need to be urgently released and brought back to their children

Barbora Plaskova's 20-month old child left without parental custody and support – Jaroslav Dobes' 4-year old daughter deprived of her father

HRWF (18.03.2016) - Barbora Plaskova and Jaroslav Dobes should be released without delay from the Bagong Diwa Immigration Detention Centre (Manila) as their arrest, detention and request for extradition by the Czech authorities is baseless, according to the Brussels-based NGO *Human Rights Without Frontiers Int'l*. Indeed, on 21st May 2015, the High Court of Olomouc (Czech Republic) issued a resolution cancelling the decision of the Regional Court in Brno in its entirety and ordering it to make a new decision. The Brno Court had sentenced Jaroslav Dobes and Barbora Plaskova in absentia respectively

to 10 and 9.5 years of imprisonment with strict regime for allegedly committing multiple rapes. No new court decision has been issued in the last ten months.

For one year, the twenty-month old son of single parent Barbora Plaskova, has been left without parental custody since she has been illegally detained in the Bagong Diwa Camp (Manila). The child, who has his mother's Czech citizenship, was left without his nursing mother at the age of five months. Japanese friends of Barbora Plaskova are temporarily taking care of the child.

Since March 2015, the now four-year old daughter of Jaroslav Dobes and a Filipina unemployed mother, has been deprived of the presence and the support of her father.

In the name of these minor children, *Human Rights Without Frontiers Int'l* urges the Filipino authorities to prioritize child's rights and their well-being by releasing Barbora Plaskova and Jaroslav Dobes.

Detention conditions of Barbora Plaskova and Jaroslav Dobes

Testimony 1

Between 2nd and 19th February, Witness 1 (M.K.) had the opportunity to visit the Camp Bagong Diwa immigration detention centre in Manila where the two Czech citizens have been detained for a year.

M.K., a psychologist and a psychotherapist, has some expertise from his work in immigration detention centers in the Czech Republic (SUZ Drahonice), at UMPOD in Brno, at OSPOD, and also from long-term therapeutic work with people and families in difficult life situations.

"Last time I met our spiritual master and Barbora, it was in their spiritual ashram in the southern part of the Philippines in August 2014.

On Friday 12th of February 2016, in the afternoon, I went to the detention centre of Camp Bagong Diwa. I was not aware that since autumn 2015 the visiting days had been restricted because of the escape of a Korean prisoner.

I got to a small courtyard of the detention center upon a special request. I was allowed to speak shortly with Barbora. I had also the possibility to greet our master through the bars. He was very skinny, his posture and movements showed a high fatigue. It was obvious from his facial features, although he was happy to see me (all the more so, as my arrival had not been announced).

As I did not come during the visit hours, we spoke together for just about ten minutes. This was possible because of the good relationships that both had managed to secure with the guards.

During the weekend I visited him again, but this time in the first room behind the bars, the so-called visitors' cage.

Our master was really skinny (I guess 10 – 15 kg thinner compared with the summer 2014), he felt so sick for some days that he completely refused any food. Both had a hard flu and fever most of the day. We had to provide them medicines as they did not get any from the local infirmary.

I could clearly see that their strengths were strongly reduced after the 10 month stay here.

Due to their detention conditions that were physically and psychologically very hard, their terrible condition was not surprising. There were unfavourable hygienic conditions, even when the 'visitors' cage' was cleared out. An overall heat, dirt, complete absence of privacy and a lack of personal space are also problematic. Moreover, the interaction with other 'accommodated' people is not good; many of them showed signs of apathy, desperation, psychological disorder. During an afternoon, one of the detained people was swinging with a piece of sharp metal just 10 cm from my head, which made me really nervous as I knew that physical attacks of the 'accommodated' as well as fights appear here on daily basis, even without any logical reason."

Testimony 2

In February 2016, Witness 2 (M.B.) visited the two prisoners.

"Meals in custody are non-nutritive, mostly consisting of a small portion of rice and overcooked vegetables. They are served in plastic bags. Every day, a yoga student selflessly brings them some food. She is staying in Manila to help them a bit, otherwise they would not survive. During the visits, we always try to bring them quality food, vitamins and necessary medications.

Barbora was suffering from toothache. She also said she is often sick and vomits. At the time of my visit, she had strong fever. At night she fainted due to exhaustion and nurses brought her back to consciousness. Barbora told me how other embassies support their citizens, such as the Korean embassy which regularly brings their people packages of personal care products and food.

Mr Czerny from the Czech consulate has absolutely no interest in helping them. He last visited them in custody when the media reported that our master was dying. Seeing that he was not, he made outrageous remarks."

Testimony 3

On 29th February 2016, Witness 3 (F.M.) went back home after three weeks spent in Manila where he spent almost every day with the two prisoners.

"The interest of the local infirmary, even about serious illness of detainees, is minimal.

In recent days, Barbora suffered significant teeth pain caused by tooth decay and inflammation associated to it. For any visit to the doctor's, a consent of the Czech embassy is required. In the case of the former sickness of our spiritual master, the opinion of Mr Cerny from the Consulate was negative despite the official request of his attorney.

It should be noted that the interest of other embassies, eg. Australia, Sweden, Korea, China, etc., is quite the opposite. They regularly bring high-quality food, medicines, cigarettes and necessary sanitary equipment to their nationals regardless of the status or severity of the charges.

On the same day, the attorney of our spiritual master came to visit him but the guards did not let him in. It was a first. The guards told him 'Today, there was someone from the Czech Consulate and he said we lied to the newspapers. Nobody will visit him!'"

Testimony 4

Witness 4 made a short visit to Jaroslav Dobes and Barbora Plaskova in the first days of October 2015.

"The health condition of our master was obviously very serious. He lost a lot of weight. He had no appetite for food or life. He completely rejected food for several days. He was not interested in anything, which I had never experienced with him before. Throughout my visit, he lay on the ground and did not talk much. He himself declared that he was very ill, which I had never heard him say before.

Barbora lost weight significantly due to the harsh environment. She was exhausted, on the verge of her forces. She said that due to the constant stress she had lost half of her hair."

Testimony 5

Witness 5 (H.M.) visited the prisoners twice in 2015.

"My first visit took place in the last week of July and the first week of August 2015. I was shocked by the terrible conditions in detention custody. The small place was overfull of men. The strong bloody brawls among prisoners were everyday occurrence. We were sitting on the crowded floor, full of trash, cockroaches, stubs and cat excrements. Big rats were also coming by night. The small bag of rice could not be sufficient for an adult man. Our master was suffering from various infections and eczemas. There was no place to have some rest. Nobody was interested in the health of the prisoners and someone's death was not something unusual.

Barbora looked very tired. We could see how she suffered from everyday stress and fatigue, bad hygienic conditions, disputes and fights between female prisoners as well as the bad food. She also suffered from many infections and toothache."

In the absence of a valid court decision in the Czech Republic, charges just remain charges and both defendants are to be considered innocent.

As The Philippines is a party to the Convention on the Rights of the Child, *Human Rights Without Frontiers Int'l* urges the Filipino authorities to bring back Barbora Plaskova and Jaroslav Dobes to their respective children.

Jaroslav Dobes and Barbora Plaskova presumed innocent should not be extradited from the Philippines

- **Presumption of innocence ignored**
- **Request for release still denied**

HRWF (07.03.2016) – Czech citizen Jaroslav Dobes, the leader of the spiritual movement Guru Jara, and Barbora Plaskova, one of his followers, who have been detained for ten months in the Camp Bagong Diwa immigration facility (Philippines), should be released and should not be deported to the Czech Republic, according to a report dated 26th February 2016 by the legal expert Dr Athanassios Pantazopoulos whose law firm is located in Prague.

Since March 2015, Jaroslav Dobes, a father of a three-year old daughter by a Filipina mother, and Barbora Plaskova, a nursing mother of a one-year old boy, have been detained by the local immigration services on the grounds of a questionable search warrant issued by the Czech authorities. The two Czech citizens have repeatedly applied

to be released on bail from the Filipino immigration detention center, but to no avail. Both Czech nationals have been living for several years in the Philippines and have never been prosecuted in their country of residence.

On 7th October 2014, Jaroslav Dobes and Barbora Plásková were convicted by the Regional Court in Brno, Zlin (Czech Republic) of committing multiple rapes. They were sentenced in absentia, respectively to 10 and 9.5 years of imprisonment with strict regime.

On 21th May 2015, the High Court of Olomouc (Czech Republic) issued a resolution ordering the cancellation of the decision of the Regional Court in Brno in its entirety and ordered the first instance court to make a new court decision. The decision of the High Court stressed that the conviction (rendered in absentia in October 2014) showed gross paucity of evidence.

Presumption of innocence

The legal effect of the cancellation of the first instance court decision is that according to the major principle of "presumption of innocence", the first decision has been abolished and cancelled as to the guilt and as to the punishment. Therefore, there is no primary conviction against the accused Jaroslav Dobes and Barbora Plaskova and for this reason the accused are presumed innocent up to the issuance of a new irrevocable decision.

The presumption of innocence guarantees the innocence of a person charged with a criminal offence until proved guilty, according to the law. Alongside international instruments, this principle is endorsed by Art. 6.2 of the ECHR and Art. 48.1 of the EU Charter of Fundamental Rights, and provides a set of legal guarantees in criminal proceedings whose nature and purposes lay in the right to a fair trial.

The Czech Republic is a party both European instruments which explicitly say:

Article 6.2 of the ECHR: "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

Article 48.1 of the EU Charter: "Everyone who has been charged shall be presumed innocent until proved guilty according to law."

In his report, Dr Athanassios Pantazopoulos, who was a practitioner in the fields of criminal law and human rights in Germany, Greece and now in the Czech Republic, writes:

According to Art. 6.2 of the ECHR, the presumption of innocence applies to everyone who has been charged with a criminal offence, notably to persons labelled as 'suspects' in the framework of a criminal proceeding. This principle requires that the accused must be considered innocent and treated as not having committed any offence until the prosecuting authorities of a state adduce 'sufficient evidence to satisfy an independent and impartial tribunal that he is guilty'.

The presumption of innocence is an evidence-based safeguard whose highest expression is given by the provision *until proved guilty*. The significance of this principle within a certain legal system is highly dependent on the standard of proof required to reach a guilty verdict. Although the ECHR does not define this standard, it is widely recognized as being very demanding in order to guard against wrongful and illegitimate convictions. The prosecution must prove that the

accused is guilty 'beyond reasonable doubt' and any doubt should benefit the accused. The burden of proof is on the state that, through the prosecuting authorities, must satisfy this standard before addressing culpability.

Request for release

The lawyers of the two Czech citizens have been fighting for their release, arguing in a document dated 9th September 2015 and addressed to the Refugees and Stateless Persons Protection Unit of the Department of Justice in Manila, that

"In the instant case, there is nothing on record that will show that the applicants' release on bail or stay in the country would pose a threat to public order, health or security.

"As borne out on evidence, except for the trump up charges recently dismissed on appeal by the High Court of Olomouc, the applicants have no other derogatory record in the Czech Republic and even in other countries where they have resided prior to their stay in the Philippines.

"In addition, the applicants have had no derogatory record during their entire stay in the Philippines since 2009.

There is no reason to keep both Czech citizens in prison, according to their lawyers. Moreover, the general detention conditions in Camp Bagong Diwa immigration facility are appalling and have been denounced by human rights organizations and former prisoners.

An article titled "*The Forgotten: Life inside notorious Philippine detention centre where inmates 'disappear' without being charged*" and published by the Post Magazine in August 2015, a former prisoner claimed that there were some 150 or so foreigners held in the detention center at that time, and were known as *The Forgotten*. Many of them have been locked up for years or decades in foggy, slow legal procedures.

One former detainee reported,

"You see people there who have been inside for seven, 11, or 14 years. When you talk to them, you discover they have never faced a criminal charge.

The centre is situated in the middle of the Manila police headquarters, with 2,000 officers housed in blocks surrounding it and a firing range outside the entrance.

"The firing goes on day and night - you hear bullets and guns going off constantly," says Spanoudis, 51, who was later cleared of involvement in an alleged cocaine smuggling plot in the US and who now runs a website and a Facebook page called Foreigners for Justice, aimed at exposing corruption in the Philippine judicial system. "Bullets sometimes ricochet off and land inside the centre. You get no peace and it's very unsettling."

It is in such an environment that Jaroslav Dobes and Barbora Plaskova have been detained for ten months.

Forcible and illegal deportation attempt of a Czech citizen

An investigation by the Brussels-based NGO Human Rights Without Frontiers Int'l (1)

HRWF (22.02.2016) - For ten months, Czech citizen **Jaroslav Dobes**, the leader of the spiritual movement Guru Jara, has been detained in the Camp Bagong Diwa immigration facility (Philippines) along with one of his followers, **Barbora Plaskova**. In June 2015, Dobes was victim of an attempt of forcible deportation even though there is no bilateral agreement on mutual extradition between Prague and Manila. Both had arrived in the Philippines several years ago and had since then run a spiritual retreat center without any problem with the local authorities. They had no criminal record in the Philippines.

Since March 2015, Jaroslav Dobes, a father of a three-year old daughter by a Filipina mother, and Barbora Plaskova, a nursing mother of a one-year old boy, have been detained by the local immigration services on the grounds of a questionable search warrant issued by the Czech authorities. The two Czech citizens repeatedly applied to be released on bail, but to no avail.

On the evening of 10th June 2015, there was an attempt to forcibly deport Jaroslav Dobes back to the Czech Republic on a Turkish Airlines flight without any legal basis. The tentative extraction failed, Dobes was handcuffed and later collapsed at the airport, forcing authorities to send him to the local medical facilities. His plane ticket had been purchased in Prague on 4th June, six days before the attempted deportation.

Timeline of the events

Between 2000 and 2009, Jaroslav Dobes travelled extensively around the world, including in the Philippines where he stayed for the first time in 1999. He settled down there again together with Barbara Plaskova in autumn 2009.

In 2007 (end of March – April), Jaroslav Dobes and Barbora Plaskova left the Czech Republic because they were feeling persecuted by the authorities and an anti-cult movement. At that time, no charge had been filed against them but a few days after Dobes' departure, he was summoned by mail to appear at the Czech police station in order to be questioned for a preliminary investigation regarding accusations of "leading to a mistake" during a tantric treatment.

On 14 May 2007, Jaroslav Dobes was put on the Wanted List of the Czech police because they did not know his whereabouts. On 18 February 2009, Naia-based immigration authorities in the Philippines admitted Jaroslav Dobes.

In 2009, a campaign against Jaroslav Dobes and Barbora Plaskova was led by former lecturers of the spiritual movement with a Czech anti-sect movement. In the summer of the same year, the special police unit for combating organized crime and mafia (UOOZ) became involved in the case.

In October 2009, Barbora Plaskova was put on the Wanted List of the Czech police because they did not know her whereabouts and they wanted to hear her as a witness in another (slander) case against Jaroslav Dobes.

In 2010, the UOOZ investigation gained impetus. Dozens of students of the Poetrie spiritual school and former members alike were interrogated, and in October, massive police raids and house searches took place. At that time, the police found evidence that Jaroslav Dobes and Barbora Plaskova were living in the Philippines.

In January 2011, criminal charges of human trafficking were filed by the UOOZ against Jaroslav Dobes and Barbora Plaskova.

In January 2012, the Supreme State Attorney's Office rejected the charges of human trafficking put forward by the UOOZ and the case was transferred to the ordinary police in Zlin.

On 28 May 2012, the court in Zlin issued an international arrest warrant against Jaroslav Dobes and Barbora Plaskova for alleged multiple rapes committed between 2004 and 2007. This was the first ever official warrant issued for alleged rapes.

On 7 October 2014, Jaroslav Dobes and Barbora Plášková were convicted by the Regional Court in Brno, Zlin (Czech Republic) of committing multiple rapes. The accused Jaroslav Dobes himself was also found guilty of the offense of defamation. They were sentenced in absentia, respectively to 10 and 9.5 years of imprisonment with strict regime.

On 13 February 2015, the Embassy of the Czech Republic in Manila informed the Filipino authorities that they needed the cooperation of their police concerning "the case of two fugitives, including detailed police information about both of them and details about their stay at Philippines".

On 6 March 2015, the Embassy of the Czech Republic in Manila informed the Filipino authorities that:

Dobes and Plaskova are fugitives from the Czech Republic for multiple rapes
Dobes has no valid travel document at present
Plaskova's passport should be considered invalid and will be physically cancelled by the issuing authority upon its delivery
Dobes and Plaskova are undocumented aliens and their presence in the Philippines poses a risk to public interest (fugitive).

On 12 March 2015, the Bureau of Immigration (BI) in the Philippines issued a Summary Deportation Order against Jaroslav Dobes and Plaskova Barbora on the initiative of the Czech Republic authorities represented by Czech Embassy in Manila.

On 18 April 2015, Barbora Plaskova was arrested and detained at the Immigration Office in Manila, when she tried to extend her visa. Her valid passport was confiscated.

On 15 May 2015, Jaroslav Dobes was arrested around 7am in Dapa, Surigao del Norte and was taken to the Immigration Detention Center in Manila.

On 21 May 2015, the High Court of Olomouc (Czech Republic) issued a resolution ordering the cancellation of the decision of the Regional Court in Brno in its entirety and ordered the first instance court to make a new court decision. The decision of the High Court stressed that the conviction (rendered in absentia in October 2014) showed gross paucity of evidence.

On 10 June 2015, there was an attempt to forcibly deport Jaroslav Dobes back to the Czech Republic with a Turkish Airlines flight without any legal basis. The tentative extraction failed as he collapsed at the airport and had to be sent to the local medical facilities.

Decision of the High Court of Olomouc to cancel the sentence to 10 and 9.5 years of imprisonment

On 21 May 2015, against the judgment of the Regional Court in Brno (branch in Zlin, dated 07 October 2014, ref. No. 68 T 1 / 2014-4688), the High Court in Olomouc heard in a closed session, the appeals of the following:

- Petr Drapak, the counsel of the accused Plášková Barbora, born on 01 September 1974, at that time of unknown residence or whereabouts,
- Michal Krčma, the counsel of the accused Jaroslav Dobes, born on 04 January 1971, at that time of unknown residence and whereabouts
- PhD. Ludmila Plášková, the mother of the accused Barbora Plášková,

After hearing the appeals, the High Court in Olomouc ruled that:

“According to § 258 section 1 letter b), c) of the Code of Criminal Procedure the judgment under appeal, based on the initiative of all filed appeals, is hereby annulled and revoked in its entirety.

According to § 259 section 1 of the Code of Criminal Procedure, the case is returned to the court of first instance, to make a new decision.”

The end of the court decision stated:

“In conclusion, there must be pointed out that with regard to information concerning the alleged detention of the defendants Jaroslav Dobes and Barbara Plášková in the Philippines and their subsequent placement in a detention facility, which appeared in the media, and which the Court of Appeal attempted to objectify (see information obtained from Department of Investigation of the Police Presidium of the Czech Police) it will be necessary that the court of first instance determines, whether in this criminal case continue conditions for holding the proceedings against the fugitive within the meaning of § 302 et seq. Code of Criminal Procedure.

In the present context the appellant court refers to the decision of the Supreme Court of the Czech Republic File No. 4 Tz 82/2002. In this decision, the Supreme Court expressed the opinion that *when the accused for some time in a foreign country cannot move freely, (is placed e.g. in custody or in prison), then it cannot be concluded that such a stay abroad represents avoiding criminal proceedings brought by the Czech authorities involved in criminal proceedings and during this period there cannot be held against the accused proceedings as against a fugitive under § 302 et seq. Code of Criminal Procedure.*

In the opinion of the court of appeal it will be particularly necessary for the court of first instance to objectify information on the alleged current restrictions on the freedom of both defendants by their detention and imprisonment in the Philippines. If this is proved, then in terms of the above decision of the Supreme Court it would not be possible to continue in proceedings against the said defendants Dobes and Plaskova as against fugitives, under the conditions of § 302 et seq. of the Code of Criminal Proceedings.

Nevertheless, in accordance with the legal opinion of the appellate court, the conditions for proceedings against the defendants as fugitives will be retained if it is proved, preferably by their authentic expression, they demonstrated they refused their deportation to the Czech Republic. In such a situation then the accused would apparently make efforts to avoid, by their stay abroad (even though there were restrictions on their freedom), criminal proceedings brought by the Czech authorities.

In the given context it should be noted that the Czech Republic and the Republic of the Philippines have no bilateral agreement on mutual extradition of persons against whom there is a criminal prosecution, as well as the two countries are not signatories to any multilateral treaty which would modify or regulate mutual extradition of persons against whom a criminal prosecution is brought. Both defendants may therefore only be possibly deported from the territory of the Republic of the Philippines, although it can happen

upon the request of the competent authorities of the Czech Republic. However, if the defendants did not agree with their deportation, (where, as stated above, their statement must be obtained), then with such attitude they would apparently show their clear intention to stay abroad to avoid criminal proceedings held against them by Czech authorities involved in criminal proceedings. In this case, at least according to the legal opinion of the appellate court, nothing would prevent the regional court to execute against both defendants the proceedings as against the fugitives within the terms of § 302 et. Seq. of the Code of Criminal Procedure."

Opinion/ Statement of Dr Athanassios Pantazopoulos, legal expert: The accused should be released

On 6 November 2015, Dr Athanassios Pantazopoulos (1) issued a statement (2) about the case of Jaroslav Dobes and Plaskova Barbora:

"(...) The legal effect of the cancellation/annulment of the first instance court decision is that according to the major principle of 'presumption of innocence' the first decision has been abolished and cancelled as to guilt and as to punishment. Therefore, there is no primary conviction against the accused Jaroslav Dobeš and Barbora Plášková and for this reason the accused are presumed innocent up to the issuance of a new irrevocable and final decision.

The presumption of innocence guarantees the innocence of a person charged with a criminal offence until proved guilty according to law. Alongside international instruments, this principle is endorsed by Art. 6.2 of the ECHR and Art. 48.1 of the EU Charter of Fundamental Rights and provides a set of legal guarantees in criminal proceedings whose nature and purpose lay in the right to a fair trial. According to Art. 6.2 ECHR, the presumption of innocence applies to *everyone who has been charged* with a criminal offence, notably only to persons labelled as 'suspects' in the framework of a criminal proceeding. **This principle requires that the accused must be considered innocent and treated as not having committed any offence until the prosecuting authorities of a state adduce 'sufficient evidence to satisfy an independent and impartial tribunal that he is guilty'. (...)**

The detention and its duration (almost 10 months) of the asylum seekers, taking into consideration the personal, health and family situation both of them could be contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe-**Article 5 – Right to liberty and security**. Moreover, the fact that the on 21 May, 2015 the High Court in Olomouc issued a resolution ordering according to section 258 par. 1 b) and c) of the Criminal Procedure Code **the cancellation of the decision of the Regional Court in Brno in its entirety should be taken very seriously into consideration and the release of the above mentioned persons should be ordered.**

The above mentioned Charge sheet dated March 10th 2015 issued by the special prosecutor Homer R. Arellano, according to which:

'on 6 March 2015, the Embassy of the Czech Republic, Manila, through Jakub Cerny, Third Secretary and Consul informed the BI that: (1) Dobes and Plaskova are fugitives from Czech Republic for multiple rape; (2) Dobes has no valid travel document at present; and (3) Plaskova's passport should be considered invalid and will be physically canceled by the issuing authority upon its deliver'.

does not reflect reality, is not true, because as mentioned above **the High Court in Olomouc cancelled the aforementioned decision of the first instance court in Brno.**

Therefore, any further detention is a violation of fundamental freedoms and human rights as further discussed above. Both asylum seekers Dobes and Plaskova are not a risk to public interest. For this reason the Embassy of the Czech Republic, Manila, through Jakub Cerny, Third Secretary and Consul should inform and update the BI and also withdraw the accusations as described in the charge sheet so as to restore the truth and in that way to respect the rules of international law, as outlined in this statement.”

- (1) Dr Athanassios Pantazopoulos qualified as an Attorney in 1993 and have worked in various countries (Germany, Greece and Czech Republic) as a practitioner and lecturer in the field of Criminal Law. He is also an instructor/lecturer at the University of New York in Prague (courses European and International Criminal Law). He has been self-employed Attorney in the Czech Republic since 2002. His Law Firm is located in Prague, Czech Republic. He is registered with the Czech Bar Association and my registration number is 90260.
 - (2) HRWF is in possession of the full analysis of Dr Athanassios Pantazopoulos.
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