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Czech Republic: Fair trial concerns in the case of Yekta Uzunoglu

Amnesty International has received reports that Yekta Uzunoglu, a Turkish citizen of Kurdish origin originally arrested in 1994, has been denied his right to a fair trial. Yekta Uzunoglu has also alleged that he was subjected to torture and other ill-treatment by law enforcement officials.

According to information received by Amnesty International Yekta Uzunoglu was arrested outside his flat on 13 September 1994. The arrest was based on testimony received from another Turkish citizen, Göksel Otan, who had been living in the Czech Republic under the alias of Gurkan Gönen and reportedly working as a police agent. Göksel Otan accused Yekta Uzunoglu of abducting and torturing him. However, in statements given to his lawyer at the time, several witnesses -- representatives of the pharmaceutical company Boots and of a Turkish cosmetic company, as well as several Czech individuals -- said that Yekta Uzunoglu had been with them at the time the act of torture was alleged to have taken place. Yekta Uzunoglu was charged with a range of offences, including torture, limitation of personal freedom, conspiracy to murder, robbery, fraud, and possessing arms without a licence.

Yekta Uzunoglu alleges that shortly after his arrest and while being held in custody he was subjected to "physical torture, torment and psychological terror." In 1996 the then Interior Minister, Jan Ruml, is said to have admitted that Yekta Uzunoglu had been abused by the police.

The charge of a threefold conspiracy to murder or preparation for a murder was withdrawn on 10 April 1995, and that of economic fraud on 5 June 1998. Regarding the alleged illegal possession of arms, according to a statement in the Chamber of Deputies by the Czech Minister of Justice at the time, Jan Kalvoda, Yekta Uzunoglu had been prosecuted on this charge "by mistake" and the Minister apologized for this during his response to parliamentary queries.

Although granted German citizenship while imprisoned, after his release on 12 March 1997 (after 31 months in custody) Yekta Uzunoglu chose to stay in the Czech Republic in order to pursue his case because the charges of torture and limitation of personal freedom were not withdrawn. Yekta Uzunoglu appealed a judgment decision from September 2003 to close down his case, on the grounds that he wished to assert his right to have a court acquit him of the charges of torture and limitation of personal freedom.

The main court hearing on this appeal began on 25 June 2004. However, the hearing was considerably delayed because Göksel Otan, the alleged victim as well as a witness, had not appeared in court on numerous occasions and the police had failed to secure his presence in court. The court had also failed to summon for testimony the witnesses who were providing an alibi for Yekta Uzunoglu. Göksel Otan appeared for the first time on 24 August 2006; he was later also questioned and heard in court on 25 August 2006, and on 5 and 6 October 2006. Göksel Otan retracted his original testimony, repeatedly

declaring that Yekta Uzunoglu “did not torture him, nor was he able to torture him, because he was not present during the act of torture”. The last main hearing took place on 6 October 2006, when Göksel Otan once again reiterated that Yekta Uzunoglu was not present. After hearing the testimonies and declarations, the last court hearings restarted on 27 March.

During all this time, the case of Yekta Uzunoglu has been supported by the Czech Helsinki Committee (CHC), which was involved in this case from the very beginning in 1994. Over the years, the CHC has publicly and repeatedly raised concern about the police handling of the case. The Charta 77 Foundation, through its president František Janouch, has also expressed its solidarity and support to Yekta Uzunoglu and concern about the unlawfulness of the proceedings.

International standards require that a person charged with a criminal offence be tried within a reasonable time. This right is enshrined in Article 14(3)(c) of the International Covenant on Civil and Political Rights, which requires that trials on criminal charges take place without undue delay, and in Article 6(1) of the European Convention on Human Rights and Fundamental Freedoms, which requires that *all* trials (criminal or other) are conducted within a reasonable time. The authorities have the duty to expedite proceedings. If they fail to advance the proceeding at any stage due to neglect, allow the investigation and proceedings to stagnate or if they take an unreasonable time to complete specific measures, the time will be deemed unreasonable. Similarly, if the criminal justice system itself inhibits the speedy conclusion of trials, the right to trial within a reasonable time may be violated.

In the light of the account of these proceedings as outlined above, Amnesty International urges the Czech authorities to investigate procedural violations of Yekta Uzunoglu’s fair trial rights including the rights to be tried without undue delay, to ensure Yekta Uzunoglu’s right to call and to question witnesses under the principle of equality of arms, and to an effective defence. Amnesty International also urges the authorities to review the handling of this case in order to identify the flaws in the criminal justice system which led to Yekta Uzunoglu’s denial of a fair trial, with a view to preventing any repetition in the future. Finally Amnesty International would welcome details of any investigations which took place into Yekta Uzunoglu’s allegations of torture and ill-treatment in custody, and what their outcome was.