

17 July 2019

STATEMENT

BHRC: The “Gezi Park” trial forms part of a chilling clampdown on human rights defenders and civil society in Turkey.

The Bar Human Rights Committee of England and Wales (BHRC) has been closely monitoring the “Gezi Park” trial of sixteen leading civil society individuals in Turkey, including Osman Kavala and Yiğit Aksakoğlu, which resumes this week at Silivri Prison in Istanbul. Mr Kavala has now been in detention for over 21 months. Whilst the release on bail of Mr Aksakoğlu on 25th June 2019 was a positive development, it remains a matter of serious concern that Mr Kavala continues to be detained in respect of an indictment which is gravely flawed.

At the heart of this 657-page indictment is the presumption that the Gezi Park protests were orchestrated by a single person or organisation. There is simply no evidence presented in the indictment to support that presumption, or that that person was any of the defendants. The indictment was described by Mr Kavala as a “fantastic fiction” in his statement to the Court on 24th June 2019. BHRC concurs with this assessment, not least because it frequently appears to tout conspiracy in place of any credible or substantive evidence. Arbitrary references to George Soros litter the indictment, yet no attempt appears to have been made to take evidence from him or about him. Instead, his name is used liberally to suggest that he was behind the Gezi Park protests, without any evidential basis for the allegation and seemingly in an attempt to deflect from an overall lack of concrete evidence against Mr Kavala and the other defendants. BHRC concludes that the continued detention of Mr Kavala appears to be arbitrary and unjustified.

Moreover, the length of Mr Kavala’s detention must be viewed in the context of a worsening situation for human rights defenders and civil society in Turkey since the attempted coup. Indeed, it is that specific context which has led to the intervention of the Council of Europe Commissioner for Human Rights before the European Court of Human Rights in Mr Kavala’s expedited case against Turkey in respect of his detention. Moreover, the continuation of a trial on the basis of this obviously flawed indictment contributes towards an assessment that criminal proceedings are being

used in a retaliatory and intimidatory manner, and as part of the narrowing of an increasingly hostile space for human rights defenders in Turkey.

A common feature of all of the Defence statements before the Court was the contextualisation of both the charges, and the Prosecutor's request for aggravated life sentences, within the wider picture of constitutionally protected rights in Turkey. In particular, the defendants spoke of their role within peaceful, legitimate protest. BHRC emphasises that the role of civil society in a democracy is pivotal. It epitomises the need for the internationally and constitutionally protected rights of freedom of assembly and expression to be safeguarded by all the component parts of a democratic state, including the judiciary. The attempt to cast peaceful Gezi Park protestors within the net of violent terrorism, retrospectively and without recourse to the evidential threshold required of the Prosecutor, has a chilling effect on the present and future of adherence to international laws and standards, as well as for civil society in Turkey today.

Article 18 ECHR prevents the restrictions permitted under the Convention from being applied for any purpose other than those for which they have been prescribed. BHRC recalls that the European Court of Human Rights, in *Selahatin Demirtaş v Turkey (No.2)*, found a violation of Article 18 in conjunction with Article 5(3) since the predominant purpose of the applicant's detention was to stifle pluralism in Turkey and to limit freedom of political debate at the very core of democracy and so breached art 18. BHRC considers that detention of Mr Kavala in the circumstances described above may amount to a similar violation of Article 18 ECHR in conjunction with Article 5 and condemns the use of terror proceedings and detention as reprisals against human rights defenders, whether they be lawyers, journalists, judges or civil society. The extraordinary indictment, and the length of Mr Kavala's detention all lend the clear impression that the proceedings are indeed being so abused.

BHRC considers that there is no proper basis for Mr Kavala to remain in detention and it calls for Mr Kavala to be released immediately.

BHRC Chair, Schona Jolly QC, attended the June tranche of the hearing, supported by Article 19. We will continue to follow and monitor the trial this week through our partner, Article 19, and alongside other international observers.

ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Amanda June Chadwick, Executive Officer, on coordination@barhumanrights.org.uk or +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>

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3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.