

09 November 2021

STATEMENT

Turkey's continuing detention of political opponents and civil society leaders, in defiance of the rule of law

On 2 November 2021 Osman Kavala, a civil society leader and human rights defender, issued a statement on the fourth anniversary of his detention, asserting that the only solace he could take from his experience was that it brought to light the injustices currently being perpetrated against civil society activists, human rights defenders, and others including journalists in Turkey¹.

As long ago as 10 December 2019, the European Court of Human Rights held that in bringing the charges against Kavala, the authorities had “pursued an ulterior purpose, namely to reduce him to silence as a human rights defender” and that proceedings against him were likely to have a dissuasive effect on human rights defenders. This constituted a rare finding of a violation of Article 18 in conjunction with Article 5(1): his pre-trial detention had been for a purpose other than prescribed by the Convention².

Recently, President Erdogan threatened to declare ten Ambassadors *persona non grata*, for calling for the release of Mr Kavala, but subsequently backed down³.

The Committee of Ministers of the Council of Europe is to consider the supervision of the Court judgment at its meeting on 10 November 2021⁴, in light of the fact that Turkey has failed to take all reasonable measures to secure the release of Mr Kavala in accordance with the Court judgment.

The Bar Human Rights Committee of England and Wales (BHRC) expresses its grave concern over the flagrant and persistent disregard of the Turkish state to comply with the ruling of the Court and to discharge its international obligations. It joins the calls of various countries, the Council of Europe Commissioner for Human Rights⁵, and a wide range of international

¹ <https://www.osmankavala.org/en/statements-about-osman-kavala/1496-statement-by-osman-kavala-upon-completion-of-his-4th-year-in-prison>

² https://hudoc.echr.coe.int/fre#_Toc26784028

³ <https://www.euronews.com/2021/10/24/turkey-expels-european-u-s-ambassadors-over-osman-kavala-statement>

⁴ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a43be3

⁵ <https://www.coe.int/en/web/commissioner/-/turkey-decision-to-prolong-the-detention-of-osman-kavala-displays-contempt-for-human-rights-and-the-rule-of-law>

organisations, in urging Turkey to comply with the rule of law and to release Mr Kavala immediately from his ongoing and arbitrary detention.

BHRC has observed and monitored the ‘Gezi Park’ trial of sixteen leading civil society individuals in Turkey, including Osman Kavala and Yiğit Aksakoğlu, publishing a full trial observation report⁶ - and it will continue to do so. The practice of joining and merging separate proceedings against him, as has taken place, constitutes a clear abuse of and criminal procedural rules and international human rights obligations. BHRC agrees with the Commissioner for Human Rights’ description of Mr Kavala’s case as an “emblematic case for human rights defenders in general”⁷.

BHRC notes that the Kavala case is but one of a number of examples of the marked erosion of the rule of law in Turkey in recent years. BHRC has issued a number of trial observation reports relating to the trial of Selahudin Demirtas⁸, the former co-chair of the HDP party, and Turkish journalists and media workers who have been indicted on freedom of expression charges in the aftermath of the 2016 attempted coup⁹. BHRC notes that, as in Osman Kavala’s case, the Grand Chamber of the European Court of Human Rights found a violation of Article 18 in conjunction with Article 5 in the case of Mr Demirtas, again directing his release¹⁰. As an opposition presidential candidate, the detention and prosecution of Mr Demirtas was held by the Court to have been undertaken for political motives and to silence him in the democratic sphere. BHRC calls also on the Turkish state to comply with the Court’s ruling and to release Mr Demirtas immediately and to implement critical measures to prevent the misuse of criminal procedures to silence human rights defenders.

BHRC urges the Committee of Ministers at its upcoming meeting to take full account of the Turkish authorities’ repeated failures to comply with these grave findings by the European Court of Human Rights, and to take robust steps to halt a disturbing practice of misusing criminal proceedings to prolong arbitrary detentions.

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Note to Editors:

The Bar Human Rights Committee of England and Wales (BHRC) is the independent, 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 autonomous of the Bar Council. For more information on BHRC, visit our website at <http://www.barhumanrights.org.uk>.

⁶ <https://barhumanrights.org.uk/bhrc-publishes-full-trial-observations-of-the-gezi-park-trial-as-the-ecthr-confirms-osman-kavala-must-be-immediately-released/>

⁷ <https://www.coe.int/en/web/commissioner/-/the-turkish-authorities-should-release-osman-kavala-and-take-far-reaching-measures-to-prevent-the-misuse-of-detentions-on-remand>

⁸ <https://barhumanrights.org.uk/bhrc-raises-concern-over-apparent-political-prosecution-in-latest-turkey-trial-report/>

⁹ <https://barhumanrights.org.uk/bhrc-publishes-latest-observations-from-altan-case/>

¹⁰

<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22Demirtas%22%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22:%5B%22001-207173%22%5D%7D>