



Plenary sitting

B9-0227/2022

3.5.2022

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 144 of the Rules of Procedure

on **The case of Osman Kavala in Turkey**
(2022/2656(RSP))

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on behalf of The Left Group

**European Parliament resolution on The case of Osman Kavala in Turkey
(2022/2656(RSP))**

The European Parliament,

- having regard to its previous resolutions on Turkey, in particular those of 7 July 2021 on the repression of the opposition in Turkey, specifically HDP, of 5 May 2021 on the 2019-2020 Commission Report on Turkey, of 20 January 2021 on the human rights situation in Turkey, notably the case of Selahattin Demirtaş and other prisoners of conscience and of 19 September 2019 on the situation in Turkey, notably the removal of elected mayors,
 - having regard to the Statement by the Chair of the EU-Turkey Parliamentary Delegation and the Standing Rapporteur for Turkey, “Little to none EU perspective for this Turkey, say MEPs”, 26 April 2022
 - having regard to the Statement by the EEAS, on the conviction of Mr. Osman Kavala, 26 April 2022,
 - having regard to the Statement by the Committee of Ministers of the Council of Europe refers Kavala v. Turkey case to the European Court of Human Rights, 3 February 2022,
 - having regard to the judgment of the European Court of Human Rights (ECtHR) of 10 December 2019 in the case of Kavala v. Turkey (28749/18),
 - having regard to Article 46 of the European Convention on Human Rights, which states that the contracting parties undertake to abide by the final judgments of the ECtHR in any case to which they are parties,
 - having regard to the Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the United Nations Declaration on Human Rights Defenders of 1998,
 - having regard to Rule 144 of its Rules of Procedure,
- A. Whereas on Monday 25 April in Gezi Parkı Case hearing, Osman Kavala was convicted of “attempting to overthrow the government” and sentenced to aggravated life in prison and was acquitted on the “political and military espionage” charge; whereas Mücella Yapıcı, Çiğdem Mater, Hakan Altınay, Mine Özerden, Can Atalay, Tayfun Kahraman and Yiğit Ali Ekmekçi, the seven other co-defendants, were each sentenced to 18 years in prison; whereas the case will now go to the court of appeals and could continue to the Supreme Court;

- B. whereas Kavala has been arbitrarily detained since October 2017, on baseless charges of attempting to overthrow the constitutional order and political and military espionage in relation to allegations linking him to the 2016 failed coup, and attempting to overthrow the government in relation to his alleged role in the mass 2013 Gezi Park protests;
- C. whereas the Gezi Park trial began in June 2019 and on 18 February 2020 Osman Kavala, along with other defendants, was acquitted of all charges, and the judge ordered his release; whereas hours after his acquittal another court ordered Kavala's detention in the scope of an investigation into his alleged role in the July 2016 attempted coup, preventing his release from prison; whereas in March 2020, the charges were changed to "political and military espionage"; whereas in January 2021, the Istanbul regional appeals court overturned the acquittals of Osman Kavala and eight others in the Gezi Park case, and this case was combined with the other charges against him;
- D. whereas according to the allegations, the prosecuting authorities failed to present evidence to support the charges and the fair trial standards were not guaranteed during the process; whereas since Kavala's arrest, several high-level figures in Turkey, including President Recep Tayyip Erdoğan, issued statements targeting Osman Kavala, violating the principle of presumption of innocence by accusing him of committing a crime, and attempting to influence the judiciary;
- E. whereas the European Court of Human Rights (ECtHR)' judgment ordered on 10 December 2019 Kavala's immediate release on the grounds that his detention was politically motivated; whereas the ECtHR concluded that there were no reasonable suspicion that Kavala had committed a crime either in connection with the Gezi protests or the July 15 coup attempt, and that he had been arbitrarily detained; whereas as a member of the Council of Europe, Turkey has an obligation to implement the court's decisions;
- F. whereas after six decisions and an Interim Resolution, in February 2022, the Committee of Ministers of the Council of Europe (CoE) launched infringement proceedings against Turkey for refusing to implement the legally-binding judgement of the European Court of Human Rights;
- G. whereas thousands of people demonstrated on 26 April in Turkey in rejection of the Gezi verdict; whereas according to Istanbul's Governor, 51 protesters were detained for "joining the unauthorised demonstration"; whereas the right to freedom of assembly and expression are in practice, impossible to exercise due to these rights have been steadily eroding through arbitrary and restrictive interpretations of legislation, pressure, dismissals, and frequent court cases;
- H. whereas as found by the ECtHR, Kavala's detention had an "ulterior purpose, namely to reduce him to silence as an NGO activist and human rights defender, to dissuade other persons from engaging in such activities and to paralyse civil society in the country"; whereas human rights defenders and activists, media workers, opposition leaders and in general people perceived as government critics are attacked, harassed and prosecuted in Turkey; whereas thousands of people have been arrested and many more were removed from their public jobs; whereas the criminalisation of Osman

Kavala is the latest examples of Turkey's hostile environment for rights activists and opposition leaders;

- I. whereas Selahattin Demirtaş, former member of the Turkish Parliament between 2007 and 2018, former co-chair of the Turkish Peoples' Democratic Party (HDP) and presidential candidate during the elections of 2014 and 2018, has been detained for more than 5 years on unsubstantiated charges and despite of two ECtHR rulings in favour of his release;
 - J. whereas the various legislative changes to the judiciary, have generally limited the independence of the judiciary which has been used as a tool to suppress critical voices and to intimidate human rights defenders; whereas the purge of the judiciary and the prosecutions of lawyers during the State of Emergency have seriously undermined the ability of the criminal justice system to deliver fair and impartial trials;
1. Condemns the sentence of Osman Kavala, calls for his immediate and unconditional release in accordance with the 2019 ruling of the European Court of Human Rights as well as for the release of Mücella Yapıcı, Çiğdem Mater, Hakan Altınay, Mine Özerden, Can Atalay, Tayfun Kahraman and Yiğit Ali Ekmekçi; highlights that the criminalisation of Osman Kavala is the latest examples of Turkey's hostile environment for rights activists and opposition leaders;
 2. Expresses its full solidarity with Osman Kavala and the rest of the co-defendants in the Gezi trial and with their families;
 3. Considers that the decision in the Gezi Park case is not an isolated instance but an example of a systematic trend aiming at creating a chilling effect on potential demonstrators and thus restricting civic space in Turkey;
 4. Is deeply concerned by the serious backsliding on fundamental freedoms and the human rights in Turkey and the continued erosion of democracy and the rule of law;
 5. Urges the Turkish authorities to put an end to all forms of harassment and repression, including the arbitrary and prolonged detention of activists, political opponents, human rights defenders, civil servants, journalists, writers and academics; calls for the release of all detained for peacefully exercising their rights to freedom of expression and assembly and that the charges against them be immediately dropped or cancelled;
 6. Strongly condemns the way in which the Turkish authorities are treating and attacking the opposition, and more specifically the People's Democratic Party (HDP); calls on Turkish authorities to put an immediate end to the suppression of opposition voices, notably the systematic repression and hate campaign against HDP and against the Kurds; strongly condemns the continued detention since November 2016 of former HDP co-chairs Figen Yüksekdağ and Selahattin Demirtaş, and calls for their immediate and unconditional release as well as all other political prisoners serving or awaiting prison sentences due to their affiliation with the democratic opposition in Turkey; recalls the ruling by the ECtHR on Demirtaş's case of 20 November 2018, confirmed by the ruling of its Grand Chamber on 22 December 2020, which calls on the Turkish authorities to immediately release him;

7. Strongly condemn the use of the Turkish justice system for political purposes; calls on the Turkish authorities to ensure the independence of the judiciary, and to guarantee the right to due process including the right to have their cases reviewed by an independent judicial court, in accordance with international standards;
8. Asks the Turkish authorities to refrain from using language that vilifies human rights defenders and take steps to address the climate of fear and intimidation by positively and publicly recognising the important role of human rights defenders and the legitimacy of their work;
9. Calls Turkey to stop the crackdown on the right to peaceful assembly and association, to remove the arbitrary ban on rallies and demonstrations and to end all kinds of discriminatory practices towards human rights defenders practising their freedom of assembly and association, specifically in relation to women and LGBTI+ human rights advocates;
10. Urges the Turkish authorities to ensure that existing legislation – in particular the anti-terrorism Law, the Criminal Code, the law on assemblies and demonstrations– is revised to comply with international standards and is implemented in a manner which does not curtail freedom of expression and ensures proportionality and equality before the law;
11. Considers that the proposed “positive EU-Turkey agenda” offered by the Council is incompatible with the sentencing of Osman Kavala and other co-defendants in the Gezi trial and the disregard by the Turkish government of its obligations as a member of the Council of Europe;
12. States that an upgrade of the Customs Union can only begin when Turkey fully implements and comply with all its obligations deriving from the current Custom Union including tangible progress on improving their human rights record and ensuring the independence of its judiciary, which would be reflected for example in by implementing judgments from the European Court of Human Rights, repealing the Gezi trial verdict and releasing Osman Kavala and others arbitrarily detained;
13. Urges the Council to ensure that full implementation by Turkey of its rule of law and fundamental rights obligations be an integral part of the EU-Turkey relationship;
14. Emphasizes that the war in Ukraine and the role played by Turkey, should not allow Turkey’s international allies to turn a blind eye to the severe crisis for the rule of law and human rights in the country;
15. Regrets that although Kavala’s sentence coincided with a visit by United Nations Secretary General António Guterres to Turkey, he did not say anything about the trial or the human rights situation in the country;
16. Instructs its President to forward this resolution to the Council, the Commission, the Vice President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Governments and Parliaments of the Member States and the Government and Parliament of the Republic of Turkey.