



Plenary sitting

B9-0237/2022

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 Renew Group

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

The European Parliament,

- having regard to the Turkish membership of the United Nations and the UN Charter making the promotion and protection of human rights a key purpose;
 - having regard to the Turkish membership of the Council of Europe, since 9 August 1949, which binds Turkey to the European Convention on Human Rights and the rulings of the European Court of Human Rights (ECtHR);
 - having regard to the Commission communication of 19 of October 2021 on EU Enlargement Policy {COM(2021) 644 final} and to the accompanying progress on the Turkey 2021 Report {SWD(2021) 291 final};
 - having regard to the European Council conclusions of 24 June 2021, and to other relevant Council and European Council conclusions on Turkey;
 - having regard to the Council conclusions communication of 14 of December 2021 on Enlargement and Stabilisation and Association process (COM(2021) 644 final);
 - having regard the ECtHR judgement of 10 of December 2019 on the Case of Kavala vs Turkey (28749/18);
 - having regard to Resolution 2156 (2017) of the Parliamentary Assembly of the Council of Europe on the functioning of democratic institutions in Turkey and to decision by the Committee of Ministers of the Council of Europe of February 2nd to launch infringement proceedings against Turkey due to its refusal to implement the 2019 judgment of the ECtHR and release Osman Kavala;
 - having regard to the ruling of the Istanbul 13th Assize Court of 25 April on the case of Osman Kavala;
 - having regard to Rule 144 of its Rules of Procedure;
- A. Whereas philanthropist, businessman and human rights defender Osman Kavala has been held in prison in Turkey since October 2017 on suspicion of attempting to overthrow the government and the constitutional order during the Gezi Park protests in 2013 as well as during the 2016 coup;
- B. Whereas the ECtHR concluded in 2019 that Osman Kavala's arrest and pre-trial detention took place in the absence of evidence that he had committed any offence and that his case had an ulterior purpose, namely, to silence him and dissuade other human rights defenders;

- C. Whereas on 18 February 2020, the trial ended with his full acquittal on all charges and with the judgment he should be immediately released from prison; whereas Mr Kavala was taken into police custody and returned to prison the next day;
- D. Whereas there has not been any progress towards his release despite the binding judgment of the ECtHR in 2019, several decisions and two Interim Resolutions by the Committee of Ministers of the Council of Europe calling for his immediate release and whereas the lack of legitimate reasons to re-arrest Osman Kavala and to unlawfully prolong his detention, further damages the credibility of Turkey's judiciary and put its independence and impartiality into question;
- E. Whereas Kavala's re-arrest is an example of maltreatment, defined by the Council of Europe Commissioner for Human Rights Dunja Mijatovic; whereas the punitive decision of re-arrest constitutes an open violation to both national and international law;
- F. Whereas on the 2nd of February the Committee of Ministers of the Council of Europe decided to launch infringement proceedings against Turkey due to its refusal to implement the 2019 judgment of the ECtHR and immediately release Osman Kavala;
- G. Whereas on 25 April the 13th High Criminal Court of Istanbul sentenced Osman Kavala to life prison without parole, finding him guilty of attempting to overthrow the government; whereas the court also sentenced seven other persons (architect Mucella Yapici, documentary filmmaker Cigdem Mater, civil rights activist Ali Hakan Altinay, director Mine Ozerden, lawyer Can Atalay, academic Tayfun Kahraman and founder of many Turkish NGOs Yigit Ali Emekci) to 18 years in jail each for aiding an attempt to overthrow the government and ordered their arrests;
- H. Whereas judicial harassment is widely used to crackdown on any dissent and specifically against human rights and political activists, in particular since the coup d'état attempt in 2016;
- I. Whereas the Turkish ruling party has been consistently eroding rule of law, democratic, and human rights standards, with frequent crackdown on political opponents and human rights defenders often accused of broadly defined terrorism charges;
- J. Whereas Turkey is the largest beneficiary of EU funding among countries that intend to join the European Union with a responsibility to manage these funds transparently respecting rule of law and democratic standards; and a responsibility for the EU to strictly monitor this respect for the rule of law;
- K. Whereas one of the judge members of the tribunal was a candidate to the National Assembly for the ruling party, showing the political interference and judicial manoeuvres in disregard of standards for fair trials, and whereas the Turkish courts and prosecutors have engaged in a series of tactics to circumvent the authority of the ECtHR and the Council of Europe, using domestic court decisions to prolong Kavala's detention;
- L. Whereas Turkey as a candidate country and long-standing member of the Council of Europe is expected to apply the highest democratic standards and practices, including the right to a fair trial, the strict respect of the principle of presumption of innocence and a legal process,

and whereas there are concerns over the on-going deterioration in fundamental freedoms and the rule of law in Turkey;

- M. Whereas Recep Erdogan threatened to declare ambassadors from the US, Canada, Germany, France, the Netherlands, Denmark, Sweden, Finland, Norway, and New Zealand persona non grata, following the issuing of their joint statement demanding the urgent release of Osman Kavala in October 2021;
 - N. Whereas as a Member of the Council of Europe, Turkey has an obligation to implement the decisions of the ECtHR and whereas it continues refusing to enforce the rulings increasing EU's concerns over the Turkish judiciary's adherence to international and EU standards;
 - O. Deplores vigorously the Court's verdict, which comes less than three months after the Committee of Ministers of the Council of Europe launched infringement proceedings against Turkey for refusing to implement the legally binding judgement of the ECtHR;
 - P. Calls on Turkey as a Member of the Council of Europe to implement the decisions of the Court and assure Osman Kavala's immediate release, drop the criminal accusations against him, and guarantee his rights and freedoms in full;
1. Urges the Turkish authorities to uphold the respect for human rights, the rule of law including the fundamental freedoms and the universal right to a fair trial and to ensure the human rights of all people, including those in need in international protection residing in Turkey;
 2. Condemns that Osman Kavala has been continuously deprived of his liberty since October 2017 and calls on the Turkish government to comply with its international commitments;
 3. Strongly urges the Turkish judiciary to addresses the Council of Europe's recommendations regarding strengthening the rule of law, democracy and fundamental rights, and implement the ECtHR judgement that calls for Osman Kavala's immediate release:
 4. Reiterates its profound concern at the on-going deterioration in fundamental freedoms and the rule of law in Turkey, and condemns the use of arbitrary detention, judicial and administrative harassment, travel bans along with other means to persecute thousands of Turkish citizens, including politicians and elected officials, human rights defenders, civil servants, members of civil society organisations, academics and countless ordinary citizens; expresses concerns over reported continuous prosecutions and investigations for overly broad and vague terrorism offences;
 5. Express our full solidarity with Osman Kavala and the rest of the defendants in this "Gezi" trial, who also received long jail sentences, and with their families;
 6. Points out the fact that this decision reconfirms the authoritarian character of the current political leadership in Turkey, and shows the lack of willingness of the government to make real reforms in the field of fundamental rights and rule of law;
 7. Urges the Commission to freeze accession negotiations and neither open new or close chapters and to seriously consider further cuts of the pre-accession assistance to Turkey;

8. Calls on the Council, the Commission and the Member States to maintain pressure on the Turkish government on the case of Osman Kavala, and the many others unjustifiably detained in Turkey; underlines that Mr Kavala and other Turkish citizens in similar situations can be granted political asylum inside the EU if needed;
9. Notes the possibility to appeal the Last court ruling to the Turkish Court of Cassation of Turkey and to the Constitutional Court;
10. Calls on Turkey to amend the “Law on Preventing Financing of Proliferation of Weapons of Mass Destruction” with a view to exclude items placing excessive restrictions on the free operation of democracy or human rights NGOs and the civil society as a whole;
11. Welcomes Committee of Ministers of the Council of Europe decision of February 2nd to launch infringement proceedings against Turkey and calls on the ECtHR to consider granting this case an exemption from the rule that all domestic legal remedies should be exhausted before the ECtHR can deal with a case;
12. Instructs its President to forward this resolution to the Council, the Commission, and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, and the President, Government and Parliament of Turkey and asks for this resolution to be translated into Turkish language.