

New Kavala hearing: a symptom of Turkey's gangrened justice system

Tomorrow, Friday 18 December 2020, marks the 1,144th day of detention for human rights defender Osman Kavala.

On the same day, the first hearing of his trial based on the [October 2020 indictment](#) (*see recent developments section below*) will take place: if convicted Mr. Kavala risks a life-long prison term.

Mr Kavala's case is just one example which reveals the deep dysfunctionality and politicisation of Turkey's legal system. The control of Legislative and Executive powers over the appointment of judges and prosecutors, contrary to international standards of judicial independence, means that human rights defenders and figures of independent civil society, including Mr Kavala, are kept behind bars indefinitely.

The October 2020 indictment against Mr Kavala lacks any causal relation between the information provided and the crimes with which Osman Kavala is charged. It also targets Anadolu Kultur, a non-profit cultural organisation founded by Mr Kavala. The public prosecutor has called Anadolu Kultur's activities "divisive" and discriminatory because they focus on the cultural rights of minority groups in Turkey.

The [64-page indictment](#) accuses Mr Kavala of "*securing, for purposes of political or military espionage, information that should be kept confidential for reasons relating to the security or domestic or foreign policy interests of the state*" without any credible evidence. Mr. Kavala also stands accused of "*attempting through force and violence to overthrow the constitutional order of the Republic of Turkey or introduce a different order or prevent this order*". Under articles 328 and 309 of the Turkish Penal Code, these are punishable with up to 20 years imprisonment and life in prison without parole, respectively.

This new hearing takes place a year after the European Court of Human Rights issued its [binding judgement](#) which stated that Mr 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*". Accordingly, the European court called for Mr Kavala's immediate release, which Turkey [has ignored](#). Tomorrow's hearing demonstrates only one thing: the authorities' flagrant travesty of the courts for political ends and their fundamental disregard for due process, human rights, fundamental freedoms, and respect for the rule of law.

We, the undersigned human rights organisations, believe that the only just outcome in the unfair prosecution against Mr. Kavala is his acquittal and call on the authorities to uphold its domestic and international commitments, and dismiss all charges against the human rights defender.

List of signatories

- EuroMed Rights
- Human Rights Association
- Citizens' Assembly
- Civil Rights Defenders
- Research Institute on Turkey
- Turkish German Forum of Culture
- IFoX Initiative for Freedom of Expression
- AMER (Association for Monitoring Equal Rights)
- Media and Law Studies Association (MLSA)
- Truth Justice Memory Center

- Civic Space Studies Association
- P24
- FIDH, within the framework of the Observatory for the Protection of Human Rights Defenders
- OMCT (World Organisation Against Torture), within the framework of the Observatory for the Protection of Human Rights Defenders
- POMED

Recent developments on Mr Kavala's case

The trial beginning in Istanbul tomorrow, Friday 18 December 2020, was scheduled following a decision taken in October 2020 to issue an indictment against Mr Kavala. On 15 December 2020, the first chamber of the Constitutional Court, tasked of reviewing the constitutional legality of Mr Kavala's continued detention, referred the case to the General Assembly of the Constitutional Court.

[Early December 2020](#), the Council of Europe Committee of Ministers issued a strongly worded resolution demanding the authorities to immediately release Mr Kavala who is held in pre-trial detention since 1 November 2017. The Council of Europe Committee of Ministers noted that Turkey had failed to challenge the presumption that Mr Kavala's detention is a continuation of the violations found by the European Court of Human Rights. They denounced the inaction from the Turkey's Constitutional Court.

Despite the European Court of Human Rights' ruling and the threat posed by the current pandemic worldwide, [Turkey's authorities disregarded](#) its international obligations as well as the health risk of keeping Mr Kavala in prison (aged 63, over 3 years in prison). This decision openly infringes on the United Nations Human Rights Committee stance on the failure of a state in taking positive steps towards the prevention of the spread of contagious diseases in prison would amount to a violation of Article 6 ([right to life](#)) and Article 9 ([right to liberty](#)) of the International Convention on Civil and Political Rights (ICCPR).