

SECRETARIAT / SEKRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SEKRÉTARIAT DU COMITÉ DES MINISTRES



Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1514th meeting (December 2024) (DH)

Communication from the authorities (14/11/2024) concerning the case of Kavala v. Türkiye (Application No. 28749/18).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1514^e réunion (décembre 2024) (DH)

Communication des autorités (14/11/2024) relative à l'affaire Kavala c. Türkiye (requête n° 28749/18)
[anglais uniquement].

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

Updated Information
Kavala v. Türkiye (Appl. No. 28749/18)

1. In addition to the information submitted on 5 September 2024, the Turkish authorities would like provide the following information on individual measures to update the Committee of Ministers (hereinafter “the CM”).
2. In respect of individual measures, the Government would like to provide the following information, recalling their previous submissions in this regard.

Just satisfaction with respect to the cost and expenses

3. In its Article 46 § 4 judgment, the Court awarded the applicant EUR 7.500 in respect of costs and expenses.
4. The authorities would like to indicate that the applicant denied submitting information required for payment.

Current state of the domestic proceedings

5. As concerns the current state of the criminal proceedings against the applicant, as submitted previously, on 25 April 2022 the Istanbul 13th Assize Court (“the trial court”) sentenced the applicant to aggravated life imprisonment. The trial court further ordered the applicant’s detention with his conviction (*hükmen tutuklu*). Therefore, his pre-trial detention ended on that date.
6. On 20 June 2022, the applicant filed an appeal on points of fact and law against the reasoned decision of the trial court before the 3rd Criminal Chamber of the İstanbul Regional Court of Appeal. This court pronounced its decision on 28 December 2022 upholding the applicant's conviction. It further decided the applicant’s continued detention with his conviction.
7. The applicant filed an appeal against this decision as well. On 28 September 2023 the 3rd Criminal Chamber of the Court of Cassation upheld the applicant’s conviction with a reasoned decision. The applicant is currently in prison as a convict.
8. At this point, the authorities would like to recall that on 9 June 2022, the applicant lodged an individual application before the Turkish Constitutional Court complaining about his detention -with conviction- ordered by the Istanbul Assize Court on 25 April 2022 (App. No. 2022/60891). This individual application is pending before the Plenary of the Constitutional Court.

9. Furthermore, on 24 October 2023 the applicant lodged another individual application with the Constitutional Court complaining about his finalised conviction (App. No. 2023/94719). In his application the applicant particularly claimed that his right to liberty and security, right to a fair trial, right to respect for private and family life, freedom of expression, freedom of assembly and association, the principle of “no punishment without law” as well as prohibition of ill-treatment had been violated on account of his conviction. This application is also pending before the Constitutional Court.
10. Moreover, on 18 January 2024, the applicant lodged a similar application with the European Court as well. In the said application, the applicant alleges violations of Articles 3, 5, 6, 7, 10, 11 and 18 of the Convention in connection with the criminal proceedings which resulted in his detention and sentencing to aggravated life imprisonment. The Government submitted their observations on this application on 16 September 2024.

High level technical contacts

11. The Government would like to reiterate that it assumes its responsibilities as a Respondent State and maintain close cooperation with the CM.
12. In this respect, the former chairs of the CM held meetings at Ministerial and Deputy Ministerial levels, among other issues, to discuss this case. The Chair of the CM at the time also had a Ministerial level bilateral contact with his Turkish counterpart.
13. The authorities would like to underline the high level technical contacts. In this respect the Government would first like to note that the Secretary General had paid an official visit to Türkiye on 13 November 2023. In the course of this visit, the Secretary General had a meeting with the Minister of Foreign Affairs in which execution of judgments, among other subjects, was discussed and a mutual understanding was reached to strengthen technical dialogue.
14. In line with the understanding reached during the Secretary General’s visit, at their 1483rd CM-DH meeting in December 2023, the CM requested the authorities to hold high-level technical contacts with the Secretariat before the March 2024 (DH) meeting and engage in constructive and results-oriented dialogue. In line with this, the representatives of the Secretariat paid a visit to Türkiye on 15 February 2024. During this visit, high-level technical meetings were held with a delegation of high level representatives of the domestic authorities, including the Deputy Minister of Justice and possible legal avenues were discussed.

15. Finally, in view of the Committee's decision taken at their 1492nd meeting on 14 March 2024 (DH) encouraging the authorities to continue their high-level technical dialogue with the Secretariat, during the 1501st June 2024 DH meeting, the Government responded that a further meeting could be held after the summer break. On this basis, a mutual understanding with the Secretariat has been reached.
16. Moreover, the authorities would like to note that on 11-14 June 2024, the Co-Rapporteur of the Parliamentary Assembly of the Council of Europe (PACE), Stefan Schennach, visited Türkiye. During his visit, Mr Schennach met the representatives of all political groups as well as members of the Committees on Human Rights Inquiry and on Justice at the Grand National Assembly, members of Türkiye's delegation to PACE, the Deputy Ministers of Justice and of Foreign Affairs, judges at the Constitutional Court, the Chief Public Prosecutor at the Court of Cassation, the representatives of a number of different NGOs and members of the diplomatic community. He also visited the applicant in Silivri Prison¹.
17. At their 1507th CM-DH meeting, the CM noted that the second-high level technical meeting would be held in Türkiye on 24 October 2024. In this respect, the representatives of the Secretariat paid a visit to Türkiye on 24 October 2024. During this visit, high-level technical meetings were held with a delegation of high level representatives of the domestic authorities, including the Council of Judges and Prosecutors, the Constitutional Court, the Court of Cassation, the Ministry of Justice and the Ministry of Foreign Affairs. The representatives of the Secretariat also met with the Deputy Minister of Justice. In this meeting, all issues concerning the execution of the judgment at hand were discussed in a comprehensive manner.
18. Furthermore, on 25 October 2024, the representatives of the Secretariat visited Osman Kavala in Silivri Prison.
19. Lastly, the authorities would like to indicate that the Commissioner for Human Rights, Council of Europe, Michael O'Flaherty, visited Türkiye on 4-8 November 2024 and he met the representatives of Ministry of Justice, Ministry of Foreign Affairs, the Ministry of Family and Social Services, members of Türkiye's delegation to PACE, the Chief Ombudsman, the Chairman of the Human Rights and Equality Institution of Türkiye, the representatives of a number of different NGOs and the other members of Turkish authorities. He also visited Osman Kavala in Silivri Prison on 5 November 2024.

¹ <https://pace.coe.int/en/news/9508/pace-monitor-ending-visit-again-urges-turkish-authorities-to-implement-strasbourg-court-judgments>

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20. As it is seen, the Government always maintains a constructive co-operation with the relevant bodies of the Council of Europe within the context of the supervision of the present case. The Turkish authorities will remain open and ready for co-operation with the bodies of the Council of Europe.
21. The Turkish authorities will maintain submitting further information on the measures taken or envisaged to be taken in due time. In this respect, the Committee of Ministers will be kept informed on further developments.