

Council of Europe
The Secretary General

Strasbourg, 21 February 2020

Dear Minister,

Following our meeting in Istanbul last December during the Launching Conference for the project "Supporting the Implementation and Reporting on the Action Plan on Human Rights", I am now contacting you to share my concerns about Mr Osman Kavala's re-arrest last Tuesday on suspicion of attempting to overthrow the constitutional order during the attempted coup of 15 July 2016.

As I said during my intervention at the Conference in Istanbul, any deprivation of liberty must be strictly lawful and justified on grounds which are both well-reasoned and compliant with the European Convention on Human Rights. Pre-trial detention must be founded on objective evidence showing a reasonable suspicion that the person concerned committed the offence charged. Thus, in its judgment of 10 December 2019 concerning the case of *Kavala*, the Chamber of the European Court of Human Rights underlined that "a suspicion of attempting to overthrow the constitutional order by force and violence must be supported by tangible and verifiable facts or evidence, given the nature of the offence in question" (§ 155).

Moreover, pre-trial detention must also be reasonable in length and supported by relevant and sufficient reasons demonstrating that alternative means of restraint are not practicable.

Against this background, I would be grateful if you could inform me when a judicial assessment will be made of the lawfulness of his continued detention, as well as of the judge's findings in due course.

I must also express my concern about the investigation announced by the Council of Judges and Prosecutors against the three judges of the Istanbul Assize Court who delivered the verdict of acquittal in favour of Mr Kavala and his co-accused. The decision to investigate the judges sends a strong chilling message to the Turkish judiciary. It also runs counter to one of the aims set out in the Judicial Reform Strategy and the recent circular of the Council of Judges and Prosecutors concerning the promotion of judges and prosecutors, which is to encourage judges to deliver judgments in conformity with the European Court's case-law.

I look forward to your reply and our continued co-operation.

Yours sincerely,



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