

Summary of Points

EIN online briefing to the Committee of Ministers on 18th August 2020

The following recommendations were presented at the briefing by:

- 1) Emma Sinclair-Webb, Human Rights Watch, on the [Kavala v Turkey case](#)
- 2) Professor Philip Leach, European Human Rights Advocacy Centre on the [Ilgar Mammadov v. Azerbaijan group of cases](#)

EIN recommends that both cases remain on the agenda of the Committee of Ministers in upcoming CM/DH meetings.

Kavala v Turkey

We request that the Committee of Ministers considers the following recommendations:

- Call on the Government of Turkey to ensure the immediate release of Osman Kavala as required by the Court's judgment, stressing that the Court's judgement clearly applies to his ongoing detention which constitutes a part of the same persecution;
- Ensure that Kavala v. Turkey be placed under enhanced procedure and treated as a leading case under Article 18 of the Convention;
- Recognize that the continuing detention of Osman Kavala violates Article 46 of the Convention concerning the binding nature of final judgments of the ECtHR, and that a failure to release Kavala may trigger an Article 46(4) procedure (infringement proceedings);
- Emphasize to the Government of Turkey that Osman Kavala's release is of added urgency in the context of the Covid-19 pandemic which enhances the risk to his health in detention;
- Request the Government of Turkey to drop all charges under which Kavala has been investigated and detained to silence him, in conformity with the Court's findings that his rights have been violated and that his exercise of rights to freedom of expression, assembly and association was wrongfully used as evidence to incriminate him.

Further recommendations to Turkey focus on general measures that should be addressed in the Government's action plan to implement the ECtHR's findings of violations in relation to Articles 5 and 18 of the Convention, to prevent repetition, and in that context measures to end the judicial harassment of human rights defenders. To address structural rule of law problems, the Committee of Ministers should request the government of Turkey to adopt constitutional amendments to secure the structural independence and impartiality of the judiciary.

[Rule 9.2 - Communication from NGOs \(Human Rights Watch, the International Commission of Jurists and the Turkish Human Rights Litigation Project\) \(29/05/2020\) in the case of Kavala v. Turkey \(Application No. 28749/18\) \(Mergen and others group\)](#)

[Rules 9.4/9.6 - Communication from other organisation: the Council of Europe Commissioner for Human Rights \(19/06/2020\) in the case of Kavala v. Turkey \(Application No. 28749/18\) \(Mergen and Others group\) and reply from the authorities \(02/07/2020\) \[Anglais uniquement\] \[DH-DD\(2020\)577-rev\]](#)

[Rule 9.2 - Communication from an NGO \(İfade Özgürlüğü Derneği \(İFÖD\)\) \(18/06/2020\) in the case of Kavala v. Turkey \(Application No. 28749/18\) \(Mergen and Others group\) \[Anglais uniquement\] \[DH-DD\(2020\)575\]](#)

[Rule 9.2 - Communication from an NGO \(Amnesty International\) \(19/05/2020\) in the case of Kavala v. Turkey \(Application No. 28749/18\) \(Mergen and others group\) \[Anglais uniquement\] \[DH-DD\(2020\)472\]](#)

Ilgar Mammadov v Azerbaijan

We recommend that the Committee of Ministers request that the Government of Azerbaijan takes the necessary general measures to improve the situation for civil society in Azerbaijan in a meaningful way. In particular, the Government should ensure an enabling environment for human rights defenders and their organisations, and bring to an end political prosecutions, by taking the following steps:

- Substantially amend the current overly restrictive domestic laws regulating NGO activities so that they are brought into line with relevant international human rights standards, and the recommendations of the Venice Commission, ensuring that:
 - The current NGO registration procedures, and also the procedures for registering NGO grants, are abolished and substituted with simple notification procedures;
 - All burdensome barriers to the operation of international donors in Azerbaijan are eliminated and donor organisations are able to provide grants to Azerbaijani NGOs without prior approval by the authorities, or any other hindrance;
 - Heavy fines and other disproportionate sanctions in the Code of Administrative Offences for violations of domestic legislation relating to NGO operations are lifted; Further, the legislative process in relation to such changes should be the subject of open, public consultations and discussions, with contributions sought from civil society and independent experts.
- Discontinue with immediate effect the persecution of members of civil society and end all restrictions of their rights. These measures should include:
 - The termination of the criminal case initiated by the General Prosecutor's Office in 2014 against Azerbaijani human rights organizations and international donor NGOs, which currently still remains open;
 - The lifting of all criminal and tax sanctions which were imposed on NGOs and their leaders in the context of the joint criminal case, as well as other restrictions stemming from criminal prosecutions, such as the freezing of bank accounts and travel bans (bans on leaving the country).
 - The quashing of the applicants' convictions.

Joint [EHRAC-Amnesty International Rule 9\(2\) submission](#) on the Mammadov group, April 2020.
EHRAC latest [Rule 9\(1\) in the case of Aliyev v Azerbaijan \(68762/14\)](#), part of the Mammadov group.