



Recommendation 2261 (2023)¹

Call for the immediate release of Osman Kavala

Parliamentary Assembly

1. The Parliamentary Assembly reiterates that the persistent refusal of a Council of Europe member State to implement a judgment of the European Court of Human Rights (“the Court”), notwithstanding an Article 46(4) judgment of the Court in infringement proceedings, is unprecedented. Moreover, the fact that this particular judgment, *Kavala v. Turkey*, found a violation of Article 18 of the European Convention on Human Rights (ETS No. 5, “the Convention”) – namely that the proceedings against him constituted a misuse of the criminal justice system, undertaken for the purpose of reducing Osman Kavala to silence – indicates a serious, systemic issue relating to the rule of law.
2. The Assembly regrets that the Turkish prosecutorial, judicial and executive authorities have so far been unable or unwilling to effectively comply with the judgments of the Court, the rule of law and human rights. The Council of Europe must support Türkiye in improving its processes for respecting the rule of law and human rights and, in particular, for implementing the judgments of the Court.
3. The Assembly concludes that country monitoring, focusing on measures to ensure execution of judgments of the Court, should urgently be undertaken to establish a meaningful and effective process for improving these systems within Türkiye, with the full and earnest co-operation of the Turkish authorities. This measure is necessary in light of the wider rule of law concerns patently evident in the Kavala case. This mechanism should cover the execution of judgments in general and not only the Kavala judgment. It should consider ways of addressing both the general measures and individual measures necessary for execution of the Court’s judgments.
4. The Assembly is deeply concerned that the ramifications of this case go beyond Türkiye. The continued, persistent refusal by the Turkish authorities to implement the Court’s judgments in this uniquely egregious case constitutes a significant risk to the credibility and mission of the Council of Europe as a whole. It is therefore incumbent upon the leaders of the Organisation to intervene to resolve this situation, including by securing the immediate release of the human rights defender Osman Kavala.
5. Therefore, the Assembly calls on the Secretary General of the Council of Europe to take all the actions within her power to seek to secure the effective implementation of the Kavala judgment.
6. It also calls on the Committee of Ministers to:
 - 6.1. establish country monitoring in respect of the execution of judgments of the European Court of Human Rights by Türkiye, in line with the 1994 Declaration on compliance with commitments accepted by member States of the Council of Europe. This monitoring should focus on the execution of both individual and general measures and should relate to all judgments against Türkiye pending their implementation, with a particular focus on those indicating significant problems with the system of implementing judgments of the Court or concerns about the functioning of the justice system and the rule of law;

1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc.15841](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Petra Bayr). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting). See also [Resolution 2518 \(2023\)](#).



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6.2. engage in dialogue at the highest levels, including by involving groups of ministers, ambassadors or former high-level politicians, to secure the implementation of the Court's judgments, in particular through the immediate release of Osman Kavala, and to resolve the situation of any other eventual political prisoners in Türkiye.