

Interim Resolution CM/ResDH(2021)432
Execution of the judgment of the European Court of Human Rights
Kavala against Turkey

*(Adopted by the Committee of Ministers on 2 December 2021
at the 1419th meeting of the Ministers' Deputies)*

Application	Case	Judgment of	Final on
28749/18	KAVALA	10/12/2019	11/05/2020

The Committee of Ministers, under the terms of Article 46, paragraph 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”), which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (“the Court”),

Recalling the Court’s findings in the present case that the applicant’s arrest and pre-trial detention took place in the absence of evidence to support a reasonable suspicion he had committed an offence (violation of Article 5, paragraph 1, of the Convention) and pursued an ulterior purpose, namely to silence him and dissuade other human rights defenders (violation of Article 18 taken in conjunction with Article 5, paragraph 1); and that the one year and nearly five months taken by the Constitutional Court to review his complaint was insufficiently “speedy”, given that his personal liberty was at stake (violation of Article 5, paragraph 4);

Recalling the respondent’s State’s obligation under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, in addition to the payment of the just satisfaction awarded by the Court, the adoption by the authorities of the respondent State, where required, of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*;

Recalling also the Court’s indication in the present case under Article 46 of the Convention that any continuation of the applicant’s pre-trial detention would entail a prolongation of the violations of Article 5, paragraph 1, and of Article 18, as well as a breach of the obligations on respondent States to abide by the Court’s judgment in accordance with Article 46, paragraph 1, of the Convention, and that in consequence Turkey was required to take all necessary measures to put an end to the applicant’s detention and to secure his immediate release;

Recalling the Committee’s eight decisions and interim resolution strongly urging the authorities to, on the one hand, ensure the applicant’s immediate release and, on the other, ensure the conclusion, on the basis of the European Court’s findings and without delay, of the criminal proceedings against him which have been criticised by the European Court or are based on evidence found insufficient by that Court to justify his detention;

Considers that by failing to ensure the applicant’s immediate release, Turkey is refusing to abide by the final judgment of the Court in the present case;

Therefore, serves formal notice on Turkey of its intention, at its 1423rd meeting on 2 February 2022, to refer to the Court, in accordance with Article 46, paragraph 4, of the Convention, the question whether Turkey has failed to fulfil its obligation under Article 46, paragraph 1, of the Convention with particular regard to the Court’s indication under Article 46 and the individual measures required, and invites Turkey to submit in concise form its view on this question by 19 January 2022 at the latest.