

Interim Resolution CM/ResDH(2020)361
Execution of the judgment of the European Court of Human Rights
Kavala against Turkey

*(Adopted by the Committee of Ministers on 3 December 2020
at the 1390th 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, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”);

Recalling the Court’s findings 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 § 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);

UNDERLINED that the obligation of *restitutio in integrum* calls for measures to restore the applicant as far as possible to the position he would have enjoyed had the violations not occurred and that such measures should be compatible with the conclusions and spirit of the Court’s judgment, involving good faith on the part of the respondent State, which is of paramount importance where the Court has found a violation of Article 18;

RECALLED that, during its two previous examinations of this case, the Committee considered that the information available to it raised a strong presumption that the applicant’s current detention is a continuation of the violations found by the Court;

NOTED that the information which has become available to the Committee since its last examination does not refute this presumption;

EXPRESSED its profound concern that the applicant has been continuously deprived of his liberty since October 2017;

REGRETTED that no date has yet been indicated for the determination by the Constitutional Court of the applicant’s complaint lodged on 4 May 2020;

URGED the authorities to take all steps at their disposal to ensure that the Constitutional Court completes its examination of the applicant’s complaint without further delay and in a manner compatible with the spirit and conclusions of the Court’s judgment;

STRONGLY URGED again the authorities, in the meantime, to assure the applicant’s immediate release;

DECIDED to resume examination at its 1398th meeting (March 2021) (DH) at the latest.