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Submission by Human Rights Watch, the International Commission of Jurists, and the Turkey Human Rights Litigation Support Project pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments, Additional Observations on the Implementation of *Osman Kavala v. Turkey* (Application no. 28749/18) final judgment

I. Introduction

1. In line with Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, Human Rights Watch, the International Commission of Jurists and the Turkey Human Rights Litigation Support Project (“the NGOs”) hereby present an additional communication regarding the execution of the European Court of Human Rights (“the Court” or “ECtHR”) judgment in the case of *Osman Kavala v. Turkey* (Application no. 28749/18).

II. Failure of Turkey to execute individual measures by not releasing Osman Kavala

2. Turkey continues to defy compliance with the Court’s order to release Osman Kavala. Despite the Court order and the Committee of Ministers’ Interim Resolution of 3 December 2020 recalling its two previous decisions¹ on the execution of the judgment in *Osman Kavala v. Turkey*, the Istanbul 36th Assize Court ordered the continuation of Mr. Kavala’s pre-trial detention on 4 December 2020 (Annex I) in the case against Mr. Kavala on charges of “attempting to overthrow the constitutional order by force and violence” (Article 309 of the Criminal Code); and “securing for purposes of political or military espionage information that should be kept confidential for reasons relating to the security or domestic or foreign policy interests of the state” (Article 328 of the Criminal Code), in connection with his alleged involvement in the 15 July 2016 coup attempt.²
3. On 18 December 2020, the Istanbul 36th Assize Court held its first hearing in the above case and ordered the continuation of Mr. Kavala’s detention (Annex II).

¹ 1377bis meeting (1-3 September 2020) (DH) - H46-38 Mergen and Others (Application No. 44062/09) and Kavala (Application No. 28749/18) v. Turkey: [CM/Del/Dec\(2020\)1377bis/H46-38](#) and 1383rd meeting (29 September - 1 October 2020) (DH) - H46-22 *Kavala v. Turkey* (Application No. 28749/18): [CM/Del/Dec\(2020\)1383/H46-22](#).

² 1390th meeting(1-3 December 2020) (CM/ResDH(2020)361), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a09786

4. On 29 December 2020, the Constitutional Court delivered its judgment on Mr. Kavala's second individual application before the Constitutional Court concerning his continuing pre-trial detention. In contravention of the ECtHR's findings and the Committee of Ministers' two decisions and one interim resolution, the Constitutional Court held that Mr. Kavala's right to liberty and security guaranteed under Article 19(3) and (7) of the Turkish Constitution had not been violated. As of the date of this submission, the reasoned judgment of the Court has not been released.
8. On 8 January 2021, the Istanbul 36th Assize Court carried out its periodic 30-day review of Mr. Kavala's detention and once more ordered its prolongation (Annex III). On 22 January 2021, the Istanbul 3rd Criminal Chamber of the Regional Court of Appeal quashed the 18 February 2020 judgment of the Istanbul 30th Assize Court, which had acquitted Mr. Kavala and 8 other defendants of all charges in the Gezi Park trial (Annex IV). In its decision, the appeal court makes no reference to the ECtHR's *Kavala v. Turkey* judgment, completely disregarding its substantive evaluation of the state of evidence in the Gezi Park case-file and the Court's significant findings in relation to Article 18 of the Convention. The regional court of appeal raised, among other matters, the assessment that the Istanbul 30th Assize Court must determine whether the Gezi Park protests case should be merged with the later case against Mr. Kavala concerning his alleged involvement in the 15 July 2016 coup attempt and "espionage" currently before the Istanbul 36th Assize Court.
9. However, it should be recalled that these two cases were initially investigated jointly and then separated on 5 February 2019 by the Istanbul Chief Public Prosecutor's Office on the grounds that there was no *de jure* nor *de facto* connection between the alleged offences. As the NGOs discussed in their previous submissions to the Committee,³ Mr. Kavala's detention on suspicion of "attempting to overthrow the constitutional order" in the scope of the investigation relating to the 15 July 2016 military coup attempt ended on 11 October 2019 but his detention for the Gezi Park related case continued. On February 18, 2020, Mr. Kavala was acquitted in the Gezi Park trial, and on the same day, he was detained once again in the scope of the very same investigation file which had been disjoined on 5 February 2019 and on which he had been released on 11 October 2019. Mr. Kavala was kept in detention under this case until 20 March 2020. As the Committee is aware, Mr. Kavala's current detention is based on the decision of Istanbul 10th Magistrate Judgeship, dated 9 March 2020, which relied on the purported existence of a strong suspicion that he had allegedly committed the offence of "obtaining information which is classified on the grounds of national security concerns or foreign political interests with the intention of spying on political and military affairs" (Article 328/1 of the Criminal Code) in the same case.
10. Mr. Kavala's detention has been ongoing since 1 November 2017. The Government has attempted to justify this long detention period by arguing that there are two separate criminal proceedings against him. However, after three years and two months, the local

³ Submission by Human Rights Watch, the International Commission of Jurists and the Turkey Human Rights Litigation Support Project pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments, Additional Observations on the Implementation of *Kavala v. Turkey* (Application no. 28749/18) final judgment, 2 November 2020, paragraph 15: <https://www.hrw.org/news/2020/11/03/submission-human-rights-watch-international-commission-jurists-and-turkey-human>

court of appeal decision turned the Government's argument on its head by requesting that the lower court determine whether in fact there should be only one case.

11. On 5 February 2021, the Istanbul 36th Assize Court heard a second hearing against Mr. Kavala and, following the court of appeal decision, ruled that the case before it be joined with the Gezi Park case before the Istanbul 30th Assize Court and that Mr. Kavala's detention be prolonged. A hearing of the newly joined cases – a retrial of the Gezi Park case merged with the case relating to Mr. Kavala's alleged role in the 15 July 2016 coup attempt – will take place on 21 May 2021. This latest court decision by the Istanbul 36th Assize Court further supports the NGOs' submissions that, through the whole process, judicial authorities have abused criminal procedural rules to prolong the detention of Mr. Kavala. At times they disjoined the two cases, at other times they rejoined them - with the result that Mr. Kavala's detention has been unlawfully extended. Furthermore, the fact that the judicial authorities have now agreed that there has been only one case against Mr. Kavala from the very beginning of his detention, removes the central basis on which the Government has justified non-implementation of the ECtHR judgment. The judicial decision to join the two cases in other words renders void the Government's argument that since March 2020 Mr. Kavala has been detained in the scope of another, separate prosecution not covered by the ECtHR judgment.
12. The developments outlined above, read in light of the NGOs' submissions dated 29 May 2020⁴ and 2 November 2020,⁵ demonstrate that the Convention violations which the ECtHR determined, in particular of Article 5 in conjunction with Article 18, are continuing, and that the urgent individual measure of the release of Mr. Kavala has not been implemented. As underlined in the NGOs' submission of 2 November 2020, Mr. Kavala's current detention was ordered in disregard of the ECtHR's judgment based on the same vague assertions and insufficient evidence that cannot justify suspicion against him.⁶ The 3 December 2020 Committee of Ministers Interim Resolution also confirms this finding.⁷ Since the Interim Resolution, four overlapping court orders have prolonged Mr. Kavala's detention, the Constitutional Court has found no violations of his rights, the local appeal court has quashed the Istanbul 30th Assize Courts acquittal of Mr. Kavala on all charges in the Gezi Park trial, and the Istanbul 36th Assize Court has ordered that the Gezi Park trial and 15 July 2016 coup attempt case files be joined. Taken together, these developments clearly demonstrate that Mr. Kavala continues to be the subject of a serious campaign of 'judicial harassment'. As found by the ECtHR in its judgment, all these actions targeting Mr. Kavala's legitimate activities as a human rights defender and civil society activist are intended to reduce him to silence and deter others from carrying out similar activities (paragraph 232).

⁴ Submission by Human Rights Watch, the International Commission of Jurists and the Turkey Human Rights Litigation Support Project pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments, Initial Observations on the Implementation of Kavala v. Turkey (Application no. 28749/18) final judgment, 29 May 2020: [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)501E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)501E).

⁵ Supra note 3.

⁶ Supra note 3, paragraph 22.

⁷ Supra note 2, the CM "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".

III. Lack of individual and general measures to address the root causes of violations found in *Kavala v. Turkey* in the Action Plan of 19 January 2021

15. The Committee of Ministers in its decision adopted during the 1-3 September 2020 meetings “encouraged the [Turkish] authorities, in view of the Court’s findings in particular under Article 18 in conjunction with Article 5, to provide in their forthcoming action plan information on measures envisaged to strengthen the Turkish judiciary against any interference and ensure its full independence, by drawing on the relevant Council of Europe standards”.⁸
16. On 19 January 2021, the Government of Turkey submitted its Action Plan.⁹ As regards individual measures, the Action Plan mainly reiterates the content of the explanations in its communications dated 29 May 2020,¹⁰ 11 September 2020¹¹ and 30 October 2020¹² with regard to why the applicant is still in detention. The Action Plan states that Mr. Kavala’s current pre-trial detention is based on allegedly “securing for purposes of political or military espionage information that should be kept confidential for reasons relating to the security or domestic or foreign policy interests of the state” (Article 328 of the Criminal Code) and that this is not a matter determined by the ECtHR in the judgment.¹³ As such, the Government’s Action Plan rejects the applicability of the ECtHR judgment to Mr. Kavala’s continuing detention.
17. As regards general measures, the Action Plan claims that there is no need to take any general measures because the case of Mr. Kavala is an isolated one. The judgment of the Court and the evidence from judicial practices, however, show that this is not the case.
18. In response to the Court’s finding of a violation of Article 5(1) of the Convention, the Action Plan states that the existing legal safeguards in Turkish law concerning pre-trial detention provide a Convention-compliant legal framework.¹⁴ The plan refers to Article 100 *et seq* of the Code of Criminal Procedure which set out the grounds for pre-trial detention, and Law no. 7188 which reduced the maximum period of pre-trial detention during the investigation period.¹⁵ As regards the Court’s finding of a violation of Article 5(4) of the Convention, the Government stated the Court found for the first time that the requirement of “speediness” had not been respected in the context of an individual

⁸ *Supra* note 1.

⁹ See Government of Turkey, Action Plan concerning *Kavala v. Turkey*, 19 January 2021, <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a121bd>.

¹⁰ [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)477E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)477E)

¹¹ [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)800E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)800E)

¹² [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)957E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)957E)

¹³ *Supra* note 9, paragraph 18.

¹⁴ *Supra* note 9, paragraphs 29-38.

¹⁵ Law no. 7188, added as Article 102 § 4 of the Code of Criminal Procedure, entered into force on 24 October 2019. (see para. 35 of the Action Plan : “In the case of crimes within the jurisdiction of the assize courts, this period is one-year maximum and in the case of crimes that are not within the jurisdiction of the assize courts, this period is six-month maximum. However, in terms of the crimes defined in the Fourth, Fifth, Sixth and Seventh Chapters of the Fourth Section of the Second Book of the TCC, crimes within the scope of the Anti-Terror Law and crimes committed collectively, this period is one year and six months maximum, and may be extended for another six months by describing the reason. Accordingly, the public prosecutors have to finish the investigation within these periods in cases where the suspect is in pre-trial detention. Otherwise, the suspect shall be released.”).

application lodged with the Constitutional Court. The Government then contended that this violation was not related to a systemic or structural problem.¹⁶

19. The Government also considers that the closure of the Demirel group of cases before the Committee of Ministers is a proof of the effectiveness of the measures taken by the authorities to date.¹⁷
20. None of these statements, however, reflects the judicial practice concerning the implementation of Article 5 safeguards in Turkey.
21. Judicial and prosecutorial practice in Turkey has been extensively documented and criticized by the Commissioner for Human Rights in her recent report about the situation of human rights in Turkey.¹⁸ The Commissioner identified the following systemic practices: “(i) the lack of restraint by prosecutors in initiating proceedings, including in unmeritorious cases; (ii) arrests of suspects occurring at a very early stage of the investigations, leading to long detentions before even their indictment; (iii) a long-established practice among Turkish prosecutors of going from arrest of suspected persons towards evidence, rather than collecting evidence to establish well-founded suspicions in the first place; (iv) defective reasoning of detention decisions, and particularly the automaticity of those extending detention; (v) failure, to resort to alternatives to detention; (vi) long periods spent in detention amounting to ‘internment by remand’”¹⁹.
22. The coup attempt on 15 July 2016 and state of emergency following it exacerbated the systemic and/or structural problems around Article 5 of the Convention. Tens of thousands of people have been detained since the declaration of a state of emergency in 2016.²⁰ The ECtHR has identified serious problems related to the Turkish judicial system in several judgments after the state of emergency.²¹ An analysis of the cases before the ECtHR shows that the main issue brought to the attention of the ECtHR since the coup attempt has been arbitrary detention and that the number of similar cases communicated to the Government by the Court which are still pending judgment is around 600.²²

¹⁶ Supra note 9, paragraphs 40-49.

¹⁷ Supra note 9, paragraph 36.

¹⁸ Commissioner for Human Rights of the Council of Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: see [168099823e \(coe.int\)](#), paragraph 52.

¹⁹ Ibid, paragraph 52.

²⁰ In November 2019, Turkish Ministry of Interior figures revealed that since the 2016 attempted coup, 559,064 individuals had at that point been investigated on terrorism charges, 261,700 people taken into custody and 91,287 people detained on remand – see ‘İçişleri Bakanı Soyly açıkladı: FETÖ'den 511 bin kişi gözaltına alındı’ (Interior Minister Soyly explained: 511 thousand people were taken into custody from FETÖ), CNN TURK, 20 November 2019.

²¹ See *Selahattin Demirtaş v. Turkey (No. 2)* [GC] (Application no. 14305/17), 22 December 2020; *Atilla Taş v. Turkey* (Application no. 72/17), 19 January 2021; *Sabancı and Others v. Turkey* (Application no. 23199/17), 10 November 2021; *Şık v. Turkey (No.2)* (Application no. 36493/17), 24 November 2020; *Alparslan Altan v. Turkey* (Application no. 12778/17), 16 April 2019; *Mehmet Hasan Altan v. Turkey* (Appl. no. 13237/17) 20 March 2018; *Şahin Alpay v. Turkey* (Application no. 16538/17), 20 March 2018; *Baş v. Turkey*, (Application no. 66448/17), 3 March 2020;

²² See for example, *Taner Kılıç v. Turkey* (Application no. 208/18); *Ahmet Hüsrev Altan v. Turkey* (Application no. 13252/17); *İlıcak v. Turkey* (Application no. 1210/17); *Murat Aksoy v. Turkey* (Application no. 80/17), *Yücel v. Turkey* (Application no. 27684/17); *Abdullah Zeydan v. Turkey* (Application no. 25453/17), *Ayhan Bilgen v. Turkey* (Application no. 41087/17), *Besime Konca v. Turkey* (Application no. 25445/17), *Çağlar Demirel v. Turkey* (Application no. 39732/17), *Ferhat Encü v. Turkey* (Application no. 25464/17), *Figen Yüksekdağ Şenoğlu v. Turkey* (Application no. 14332/17), *Gülser Yıldırım v. Turkey* (Application no.

Journalists, opposition politicians, hundreds of judges and prosecutors, lawyers, and human rights defenders are among the applicants in those cases.

23. Lastly, the Demirel group of cases consisted of 196 cases decided by the ECtHR between 2003-2015. All the problems identified by the ECtHR in its *Kavala* judgment concern practices which intensified after 2015.

IV. General Measures to remedy Article 5 violation in conjunction with Article 18 of the Convention

24. As regards the Court's finding of a violation of Article 18 taken in conjunction with Article 5(1), the Government first notes existing safeguards ensuring the independence and the impartiality of the judiciary under Turkish law, and then mentions in very general terms, lacking detail or a timeframe, further plans to strengthen the independence and impartiality of the judiciary.²³ The Government argues that the case of *Kavala v. Turkey* has an isolated nature and that there is no systemic or structural problem with respect to independence of the judiciary, and that the Istanbul 30th Assize Court's acquittal of Mr. Kavala in the Gezi Park trial demonstrated this.²⁴ It also contends that the executive respected the presumption of innocence and that the references to the high profile cases by the country's authorities, including the President, should not be construed as interference with the judiciary.²⁵ Lastly, the Action Plan notes projects and awareness-raising activities to further improve judicial practice with respect to the right to liberty and security.
25. The NGOs submit that there is no doubt in the judgment of the ECtHR (particularly in paragraphs 215-232 of the judgment) that the Kavala case is part of a larger pattern concerning the lack of independence of the judiciary in handling cases of those critical of the government.²⁶ In respect to unlawful detention practices, it is not only the number of cases but the nature of the problems in those cases that proves political influence is a systemic problem in Turkey, undermining fundamental principles of rule of law.
26. In *Şahin Alpay v. Turkey* and *Mehmet Hasan Altan v. Turkey*, the lower courts refused to implement the decisions of the Constitutional Court which had ordered the release of the applicants, on the ground that the Constitutional Court's decisions were not binding upon them. In *Alparslan Altan v. Turkey* and *Baş v. Turkey*, the ECtHR held that the pre-trial detention of the applicants, who were judges, had been based on an unreasonable extension of the concept of *in flagrante delicto*. Hundreds of other judges and prosecutors

31033/17), *İdris Baluken v. Turkey* (Application no. 24585/17), *Nihat Akdoğan v. Turkey* (Application no. 25462/17), *Nursel Aydoğan v. Turkey* (Application no. 36268/17), *Selahattin Demirtaş v. Turkey* (Application no. 14305/17), *Selma Irmak v. Turkey* (Application no. 25463/17).

Also see cases about judges and prosecutors: *Ulusoy v. Turkey and 168 others*, (Application no. 73062), *Sevinç v. Turkey and 252 other applications*, (Application no. 63634/16), *Ataman v. Turkey and 53 others*, (Application no. 14676/17), *Kuris v. Turkey and 104 other applications* (56483/16).

²³ Supra note 9, paragraphs 50-88.

²⁴ Supra note 9, paragraph 94.

²⁵ Supra note 9, paragraph 99.

²⁶ ICJ, *The Turkish Criminal Peace Judgeships and International Law*, Briefing Paper, Geneva, 2018, p. 5; ICJ, *Turkey: the Judicial System in Peril - A Briefing Paper*, Geneva, June 2016, p.18; and see also supra note 4, paragraphs 46-54.

have also lodged applications to the Court with similar complaints.²⁷ After the ECtHR *Kavala v Turkey* judgment, the Grand Chamber of the Court held in *Demirtaş v. Turkey* (no. 2) that Turkey had violated Article 18 of the Convention taken together with Article 5(1) and that political statements of the President and the overlaps between such statements and judicial actions against Mr. Demirtaş were clear. Finally, in *Atilla Taş v. Turkey*, despite the government’s opposing arguments, the Court held that Mr. Taş’s continuing detention under two different charges but based on the same facts should be seen as a single continuing detention.

27. The NGOs submit that all of this information and these concrete cases clearly show that *Kavala v. Turkey* is not an isolated case but is part of a broader pattern of ‘judicial harassment’ by way of arbitrary use of criminal proceedings, particularly arrest and detention, against various groups expressing dissent or criticism of the Government through legitimate expression and activities protected under the Convention.²⁸
28. Considering that Mr. Kavala has been targeted by judicial action and pre-trial detention as an integral part of this pattern of repression, the NGOs conclude that the Government’s Action Plan fails to identify and commit to enforcing concrete measures capable of preventing future violations under Article 5 of the Convention in light of Article 18. The Action Plan does not address how the main problem of the failure of the judiciary to apply the limitations prescribed in the law in accordance with the principles enshrined in the Constitution and the Convention can be secured, and how political influence over judicial decisions concerning those who are critical of the government and its policies can be ended. As found by the ECtHR, in those cases, the domestic courts adopted an arbitrary and punitive approach favouring restriction of the rights of the individuals concerned. The Action Plan clearly fails to address and remedy this issue.
29. In their initial submission dated 29 May 2020, the NGOs made several recommendations to the Committee of Ministers on the issue of general measures for Turkey 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.²⁹ The NGOs reiterate and draw the Committee’s attention to those recommendations which Turkey has failed to address in its Action Plan and invite the

²⁷ See *Ulusoy v. Turkey and 168 others*, (Application no. 73062), *Sevinç v. Turkey and 252 other applications*, (Application no. 63634/16), *Ataman v. Turkey and 53 others*, (Application no. 14676/17), *Kuris v. Turkey and 104 other applications* (56483/16).

²⁸ See also, Commissioner for Human Rights, “Third party intervention by the Council of Europe Commissioner for Human Rights” in applications *Abdullah Zeydan v. Turkey* (no. 25453/17), *Ayhan Bilgen v. Turkey* (no. 41087/17), *Besime Konca v. Turkey* (no. 25445/17), *Çağlar Demirel v. Turkey* (no. 39732/17), *Ferhat Encü v. Turkey* (no. 25464/17), *Figen Yüksekdağ Şenoğlu v. Turkey* (no. 14332/17), *Gülser Yıldırım v. Turkey* (no. 31033/17), *İdris Baluken v. Turkey* (no. 24585/17), *Nihat Akdoğan v. Turkey* (no. 25462/17), *Nursel Aydoğan v. Turkey* (no. 36268/17), *Selahattin Demirtaş v. Turkey* (no. 14305/17), *Selma Irmak v. Turkey* (no. 25463/17), 2 November 2017, paragraphs 18 and 23: <https://rm.coe.int/third-party-intervention-12-cases-v-turkey-on-freedom-of-expression-an/1680764ef6>;

Commissioner for Human Rights, “Third party intervention by the Council of Europe Commissioner for Human Rights” in applications *Ahmet Hüsrev Altan v. Turkey* (no. 13252/17), *Alpay v. Turkey* (no. 16538/17), *Atilla Taş v. Turkey* (no. 72/17), *Bulaç v. Turkey* (no. 25939/17), *Ilıcak v. Turkey* (no. 1210/17), *Mehmet Hasan Altan v. Turkey* (no. 13237/17), *Murat Aksoy v. Turkey* (no. 80/17) *Sabuncu and Others v. Turkey* (no. 23199/17), *Şik v. Turkey* (no. 36493/17), *Yücel v. Turkey* (no. 27684/17), 10 October 2017, paragraphs 37 and 44: <https://rm.coe.int/third-party-intervention-10-cases-v-turkey-on-freedom-of-expression-an/168075f48f>.

²⁹ *Supra* note 4, pp. 22 and 23.

Committee of Ministers once again to consider adopting the recommendations formulated in that submission and below to ensure execution of *Kavala v. Turkey*.

V. Recommendations to the Committee of Ministers

Regarding individual measures, the NGOs urge the Committee of Ministers to:

- i.** Call on Turkey to comply with the ECtHR judgment and ensure the immediate and urgent release of Osman Kavala; and
- ii.** In the event that Osman Kavala remains in pre-trial detention at the time of the 1398th 9-11 March 2021 meeting, to trigger infringement proceedings against Turkey under Article 46(4) of the Convention.

Regarding general measures, to properly address and implement the ECtHR's findings of violations in relation to Articles 5 and 18 of the Convention, the NGOs invite the Committee of Ministers to:

- iii.** Request Turkey to inform the Committee of Ministers about the number of people detained on remand since 15 July 2016, including information on the details of the accusations against the detained individuals and the duration of the detentions;
- iv.** Urge Turkey to revise its Action Plan and address in full the structural problems identified in the ECtHR *Kavala v. Turkey* judgment;
- v.** Invite Turkey to take into account in its revised Action Plan the problems raised by the Council of Europe Commissioner for Human Rights in her February 2020 report and the recommendations made by the NGOs in this submission and their previous submission of 29 May 2020;
- vi.** Call on Turkey to implement general measures required by recurring violations the ECtHR found in the judgment of *Kavala v. Turkey* and other judgments referred to in paragraph 26 of the submission including *Selahattin Demirtaş v. Turkey (No. 2)*, *Alparслан Altan v. Turkey*, *Baş v. Turkey* and *Taş v. Turkey*;
- vii.** Call on Turkey to pursue a clear and detailed strategy to prevent violations of the rights protected in the Convention such as freedoms of expression, association and assembly, exercises of which are being arbitrarily used as grounds for prosecutions and lengthy and punitive pre-trial detention;
- viii.** Urge Turkey to monitor all court decisions ordering detention and prosecutors' request for detention to ensure that they rest on sufficient facts establishing the existence of reasonable suspicion of criminal activity and that detention is a measure of last resort not pursued for ulterior purposes; and
- ix.** Invite Turkey to provide credible grounds to justify wide lapses of time between the events that give rise to the suspicion of crimes and the application of criminal charges and measures such as detention.