



PERMANENT MISSION OF THE REPUBLIC OF TURKEY  
TO THE UNITED NATIONS OFFICE IN GENEVA

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-URGENT-

The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint urgent appeal letter by Ms. Elina Steinerte, Chair of the Working Group on Arbitrary Detention, Mr. Fernand de Varennnes, Special Rapporteur on minority issues, Ms. Karima Bennouna, Special Rapporteur in the field of cultural rights, Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders dated 2 November 2017 (Ref: UA TUR 12/2017) ), has the honour to enclose herewith an additional information note comprising the response of the Government of the Republic of Turkey.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Encl: As stated

Office of the High Commissioner for Human Rights  
Special Procedures Branch  
Geneva

**Information Regarding the Joint Urgent Appeal of the Working Group on Arbitrary Detention; the Special Rapporteur on minority issues; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders dated 2 November 2017  
(REFERENCE: UA TUR 12/2017)**

1. The Government would like to present relevant information herein below in respect of the Joint Urgent Appeal of the Working Group on Arbitrary Detention; the Special Rapporteur on minority issues; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders dated 2 November 2017 (REFERENCE: UA TUR 12/2017).

2. An investigation was initiated ( ) regarding Osman Kavala by the İstanbul Chief Public Prosecutor's Office, on suspicion of attempting to abolish the Constitutional order by use of force and violence according to Article 309 of Turkish Criminal Code (Law No. 5237) and to abolish the government of the Republic of Turkey or to prevent it, in part or in full, from fulfilling its duties according to Article 312/1 of Law No. 5237 and carrying out activities on behalf of the terrorist organization. A decision of restriction was imposed on the case file.

3. Within the framework of the present investigation, Kavala was arrested on 18 October 2017 at 21:35 pm in Atatürk Airport and taken into custody. On the same day, at 21:45 pm, he was informed that he was arrested and taken into custody at the order of the Prosecutor, charged with the offenses stated above.

4. Just like every other person arrested and taken into custody, Osman Kavala was informed on his rights under the criminal procedure. Particularly, he was informed; of the right to remain silent; that he could inform his relatives on his custody; that he could put forward all elements in his favor to dissipate the suspicion of guilt; that he could appoint a defense lawyer; that a defense lawyer would be appointed by the Bar if he lacks the means to do so; and that he had the right to object against the instruction given by the Prosecutor concerning his arrest and custody and also the extension of his custody period, if decided, before the Magistrate's Office for immediate release.

5. Moreover, as the Prosecutor's Office has regarded that a delay would be prejudicial, by a search and seizure order, a search was conducted, at Kavala's workplace, in his presence. During the search that ended at 23:05 pm, a number of electronic devices which was suspected to constitute evidence or tools of crime, were seized.

6. On 19 October 2017 at 00:25 pm, at Osman Kavala's request, ( ) was notified of the former's arrest and custody.

7. Kavala met six attorneys on the same day (19 October) between 01.02-01.25, 01.14-01.25, 14.50-15.15, 18.30-18.34, 20.46-20.59. During his custody period, he also met a large number of representatives; accordingly, on 20 October 2017, 18.48-19.20; on 22 October 2017, 11.53-12.04, 22.23-22.55; on 23 October 2017, 14.20-14.27, 17.00-17.05; on 24 October 2017, 11.26-11.32, 10.58-11.20, 13.42-14.35; on 26 October 2017 18.03-18.42; 27 October 2017, 15.00-

15.40; 28 October 2017, 11.58-12.15; 29 October 2017, 12.05-12.23, 20.20-20.45; 30 October 2017, 15.50-16.40, 19.42-20.24 and 31 October 2017, 14.01-14.25.

**8.** On 31 October 2017 at 14:35 pm, in the presence of his defense lawyers, officials from the İstanbul Anti-Terror Department took Kavala's statements. He was informed of the charges against him along with all details and supporting documents, while the suspect submitted his defense, accompanied by two lawyers.

**9.** On 1 November 2017 Osman Kavala was brought before the Istanbul 1<sup>st</sup> Criminal Magistrate's Office with the request of his detention on remand. The Magistrate, following the assessment made in the presence of the defense lawyers, taking into account the search and seizure reports, communication records, physical tracking reports, digital examination reports and other evidence found within the investigation file, and making an evaluation on the gravity of the issue and the likely sentence, ruled in accordance with the principle of proportionality under Article 13 of the Constitution that judicial control measures would not be sufficient at this stage. Therefore, the Magistrate decided that the suspect should be detained on remand regarding the charges stated above.

**10.** Kavala's objection to the decision was examined before the İstanbul 1<sup>st</sup> and 2<sup>nd</sup> Criminal Magistrate's Offices and rejected by the decision of 13 November 2017.