

**THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF TURKEY**

**PLENARY SESSION
SUMMARY JUDGMENT**

Application Number: 2016/16092

Date of Judgment : 11/1/2018

Applicant : Şahin ALPAY (ID: 17032557358)

Representative : Att. Veysel OK

I. SUBJECT OF THE APPLICATION

The application concerns claims by the applicant that his right to personal freedom and security has been violated by reason of his arrest on rubber-stamp grounds despite the nonexistence of strong suspicion of crime and grounds for his arrest, and the rejection of his objection to his detention without explaining the grounds for the rejection; that the absolute ban on ill-treatment has been violated by reason of his imprisonment disregarding his health issues that require close monitoring; and that his rights to freedom of expression and freedom of press have been violated on grounds that his actions within the meaning of journalism and freedom of expression were subjected to arrest.

II. JUDGMENT

A. It was decided UNANIMOUSLY that,

1. the applicant's allegation that his right to personal freedom and security has been violated by reason of his unlawful arrest is ADMISSIBLE;

2. the applicant's allegation that his rights to freedom of expression and freedom of press have been violated by reason of his detention is ADMISSIBLE;

3. the applicant's allegation that the ban on ill-treatment has been violated is INADMISSIBLE as it is *manifestly ill-founded*;

B. It was decided on 11/1/2018 by a MAJORITY VOTE that,

1. the applicant's right to personal freedom and security enshrined in Article 19 of the Turkish Constitution has been VIOLATED;

2. the applicant's rights to freedom of expression and freedom of press enshrined in Articles 26 and 28 of the Turkish Constitution have been VIOLATED;

C. a copy of the judgment is SENT to the Istanbul 13th High Criminal Court (E.2017/112) with a view to eliminating the consequences of the violation;

D. the applicant's claim for pecuniary compensation be REJECTED;

E. the court expense of TL 2,219.50, consisting of the application fee of TL 239.50 and the counsel's fee of TL 1,980 be PAID to the applicant;

F. the payment will be made within four months of the applicant's application to the Ministry of Finance following the notification of this judgment, and that in the event of a delay, statutory INTEREST will be charged for the period from the expiration date of the prescribed period to the date of the actual payment.

G. a copy of the judgment is SENT to the Ministry of Justice.

President
Zühtü ARSLAN

Vice-President
Burhan ÜSTÜN

Vice-President
Engin YILDIRIM

Judge
Serdar ÖZGÜLDÜR

Judge
Serruh KALELİ

Judge
Osman Alifeyyaz PAKSÜT

Judge
Recep KÖMÜRCÜ

Judge
Nuri NECİPOĞLU

Judge
Hicabi DURSUN

Judge
Celal Mümtaz AKINCI

Judge
Muammer TOPAL

Judge
M. Emin KUZ

Judge
Hasan Tahsin GÖKCAN

Judge
Kadir ÖZKAYA

Judge
Rıdvan GÜLEÇ

Judge
Recai AKYEL

Judge
Yusuf Şevki HAKYEMEZ

