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**THE PLENARY SESSION OF THE CONSTITUTIONAL COURT  
UNANIMOUSLY CONSIDERS THAT THE PREVENTIVE DETENTION OF  
CARME FORCADELL ISSUED BY THE SUPREME COURT IS BASED ON  
THE LEGITIMATE AIM OF AVOIDING THE RISK OF ESCAPE**

The Plenary of the Constitutional Court unanimously dismissed Ms. Forcadell's appeal for *amparo* against the order of 23 March 2018 by the investigating judge, who ordered her provisional detention with visiting rights but without bail, and the order of 17 May 2018 of the Appeals Chamber of the Criminal Division of the Supreme Court, which dismissed her appeal in its entirety.

The judgement explains that her rights to personal freedom and to due process have not been violated, first, because the challenged decisions are based on a “*constitutionally legitimate aim -to avoid the risk of escape-, and second, because the trial is formulated on the basis of a set of circumstances concurring in this case, such as the proximity of the trial, the affirmation of the prosecution, the nature of the offence and the severity of the sentence*”.

Regarding the violation of this right due to the lack of objective impartiality of the investigating judge, the Court clarifies that “*the mere notice of the hearing set out in articles 539 and 505 of the Criminal Procedure Act only implies the exercise of a procedural power that is inherent to the status of director of the investigation procedure. This managerial position -the driving force behind the various procedures and incidents- in the Spanish legislation in force, corresponds to the investigating judge*”. It is clear that “*the investigating procedure in question had experienced a qualitative leap with the formalisation of the judicial accusation through the prosecution order*”.

With respect to the complaint made by the appellant on the fact that her personal and family circumstances have not been taken into account, the judgment refers to the Order of 17 May 2018, which stated that “they are not sufficiently relevant to reduce the risk of escape, given the proven ease with which it is possible to change the family domicile within the European Union thanks to the help of the international support structure available to the defendants”.

The possible violation of article 17 of the Spanish Constitution regarding the rights to ideological freedom, freedom of expression and political participation and representation has also been dismissed. The judgment emphasises that the provisional assessment made by the judicial bodies in the challenged decisions is that such actions, as part of a joint and preconceived plan in which each defendant fulfilled the role that had been previously assigned to them to achieve their criminal aims, did not involve the legitimate exercise of any right, since there are no absolute and unlimited rights. On the contrary, these actions constituted a criminal instrumentalisation of the public institutions.

Madrid, 22 January 2020.