

The Supreme Court of Justice directly applied the provisions of the ECHR and ordered the collection from the state budget of the amount of 72,000 MDL for the benefit of a man illegally deprived of liberty in prison



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On 16 June 2020, the Supreme Court of Justice issued a Decision by which it is found a violation of the right to liberty for a period of 36 days to the applicant Vladimir Karatun, represented by the lawyer of the Promo-LEX Association, with full compensation of material and moral damages.

The applicant was to be released from detention on 9 August 2019. However, due to the fact that the decision of the Chisinau Court (Ciocana headquarters) was not sent immediately for execution to the penitentiary institution, Vladimir Karatun was released from detention, only on 18 September 2019.

In these circumstances, the magistrates found that the detention of the applicant between 9 August and 18 September 2019, was arbitrary and unjustified, contrary to the provisions of art. 5 of the European Convention of Human Rights.

The applicant claimed that he had been detained over time and had the right to compensation for non-pecuniary damage caused by illegal detention and estimated this damage at 72,000 MDL (two thousand MDL for each day of illegal detention).

By the decision of 31 October 2020, the Chisinau Court (Centru headquarters), partially admitted the action. The violation of the applicant's right, provided by art. 5 § 1 of the European Convention on Human Rights (ECHR), as a result of the delay in his release from detention for 36 days. Therefore, the court ordered the collection of the amount of 15,200 MDL as moral damage for the benefit of the applicant.

In November 2020, both the applicant and the National Administration of Penitentiaries (ANP) appealed against the first instance decision. However, they were rejected by the Chisinau Court of Appeal, by the decision of 11 March 2021, maintaining the decision of the Chisinau Court (Centru

headquarters) of 31 October 2020.

In April 2021, the applicant and the ANP appealed against the decision of the Chisinau Court of Appeal of 11 March 2021. In the motivation of the appeal, the National Administration of Penitentiaries invoked the illegality of the decision of the court of appeal and indicated that the applicant does not have the right to request pecuniary compensations in view of the provisions of Law no. 1545 of 25 February 1998.

On the other hand, Vladimir Karatun expressed his disagreement with the court's solution and noted that the amount of compensation of 72,000 MDL is a fair and equitable reward for the suffering caused to him and his family members. Thus, the court, when determining the amount of compensation for the moral damage suffered by him, was to take into account the decisions of the ECHR in which, for violating the art. 5 of the Convention, the Court granted a compensation of approximately 2,000 MDL for each day of illegal detention.

By the decision of the Supreme Court of Justice of 16 June 2021, the appeal of the ANP was rejected, the decision of the Chisinau Court of Appeal of 11 March 2021 was amended, but also the decision of the Chisinau Court (Center headquarters) of 31 October 2020. At the same time, it was ordered to repair the material and moral damage and to compensate the court costs, by collecting from the state budget the amount of 72,000 MDL considered by the magistrates as fair for the benefit of Vladimir Karatun.

According to the lawyer of the Promo-LEX Association, Donica (Gamurari) Victoria: "In the court acts of disposition, we note that regarding the plaintiff, the violation of the provisions of art. 5 paragraph 1 of the Convention was found, as a result of unlawful deprivation of liberty for a period of 36 days, with the direct application of the Convention. It is gratifying that the Supreme Court of Justice took into account, when determining the amount of compensation, the

amount of just satisfaction granted by the ECHR in similar situations for violating art. 5 of the Convention. ”

Details about a similar case can be found [here](#)