

# PRECEDENT in April 2009 Victims' Cases

Nicolae Bairactari has become the first victim of the 7 April 2009 events to receive justice in court. On October 19, the Supreme Court of Justice ruled in favor of the young man who was ill-treated by investigators in April 2009, ordering the state to pay him 55,000 lei in compensation for moral damages.

The young man was arrested on the night of 7 into 8 April 2009 during peaceful demonstrations in the Great National Assembly Square, being subsequently ill-treated and humiliated, detained in very poor conditions without adequate food and sanitation. He was charged with "mass disorder", specifically being accused of active involvement in damaging government buildings. Nicolae Bairactari was detained at Penitentiary no.13 in Chisinau, being held in the same cell with persons charged with serious and very serious crimes, where his humiliations continued. He was also denied the right to a lawyer's assistance. Further, the applicant's image behind bars appeared on video footage and photographs showed by a number of media outlets which associated him with the persons who fomented violence and ransacked government buildings.

It was only on 29 October 2009 that the young man was notified by the Chisinau Prosecutor's Office that prosecution against him had been terminated on grounds that the act hadn't meet the elements of an offense, without affording him any moral or material damages. On 1 December 2009, Nicolae Bairactari took action in court requesting public apologies from the Prosecutor General's Office as well as compensation for the inflicted moral and material damages.

On 16 July 2010, the Riscani District Court satisfied the claim. This decision was subsequently appealed by the Ministry of Finance and the Prosecutor General's Office. Nicolae

Bairactari and his lawyer, Alexandru Postica, requested the rejection of the appeal as unfounded.

On 24 March 2011, the Civil and Administrative Chamber of the Chisinau Appellate Court accepted the appeal and reduced the amount of the compensation for moral damages from 80,000 lei to 5,000 lei. At the same time, the Appellate Court upheld the remainder of the district court's judgment, specifically the part ordering the Prosecutor General's Office to apologize publicly to Nicolae Bairactari. Eventually, the Supreme Court of Justice set the size of the compensation for moral damages at 55,000 lei.

The "Promo-LEX" Association notes with satisfaction that the decision of the Civil and Administrative Chamber of the Chisinau Appellate Court is a demonstration of the fact that ECHR precedents can be applied domestically and urges all the courts in Moldova to follow suit.

Nicolae Bairactari was represented in court by lawyer Alexandru Postica of the Promo-LEX Association.

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