

NOTA INFORMATIVA

19/11/2025

COMPENSATION FOR UNLAWFUL IMPRISONMENT - THE SUPREME COURT OF JUSTICE RULING OF 17.06.2025

RELEVANT LEGAL FRAMEWORK

- Article 225 (1) (c) of the Portuguese Code of Criminal Procedure;
- Constitutional Court Ruling No. 284/2020 of July 8th;
- Supreme Court of Justice Ruling of June 17, 2025.

FACTUAL CONTEXT AND PROCEDURAL HISTORY

The case in question concerns a situation of deprivation of liberty that occurred in the context of criminal proceedings, partly in preventive detention and partly subject to the obligation to remain at home. These proceedings culminated in the acquittal of the defendant of all the crimes of which he had been accused, a decision that became final. Subsequently, a claim for compensation was brought against the State on the grounds of unjustified deprivation of liberty and damages resulting therefrom.

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The Author, considering himself to have been the victim of unjustified deprivation of liberty, brought an action against the Portuguese State, claiming compensation for pecuniary and non-pecuniary damage, under Article 27 (5) of the Constitution of the Portuguese Republic and Article 225 (1) of the Code of Criminal Procedure.

He claimed that the deprivation of his liberty had been unlawful and unjustified and that his acquittal imposed a duty on the State to compensate him, in accordance with Judgment No. 284/2020 of the Constitutional Court, which declared unconstitutional the restrictive interpretation of Article 225 (1) (c) of the Code of Criminal Procedure, in the sense of excluding from compensation cases of acquittal based on the principle of *in dubio pro reo*.

DECISIONS OF THE LOWER COURTS

The Court of First Instance ruled out the direct application of Constitutional Court Ruling No. 284/2020, aligning itself with the case law of the Courts of Second Instance, according to which the restrictive interpretation of the rule in question is not unconstitutional.

The Author appealed to the Court of Appeal, arguing the need to apply the understanding of Judgment No. 284/2020 of the Constitutional Court, which ruled unconstitutional the aforementioned restrictive interpretation of Article 225 (1) (c) of the CCP.

The Court of Appeal upheld the judgment of the Court of First Instance in its entirety, maintaining the decision to acquit the State of the claim. Specifically, the Court of Appeal held that the article in question requires the Plaintiff to demonstrate positively that he was not the perpetrator of the crime, and that acquittal based on the principle of *in dubio pro reo* is not sufficient. In this understanding, the right to compensation is conditional on such proof and does not violate the principles of presumption of innocence or equality enshrined in Articles 32 (2) and 13 (1) of the Constitution of the Portuguese Republic.

Thus, both the Court of First Instance and the Court of Appeal rejected the framework defended by the Plaintiff and maintained a restrictive interpretation of Article 225 (1) (c) of the CCP. With the Court of Appeal's full confirmation of the decision, a double conformity was formed, which, as a rule, would make the decision unappealable, allowing access to the Supreme Court of Justice only through the exceptional review procedure provided in Article 672 of the Code of Civil Procedure.

EXCEPTIONAL REVIEW ADMITTED BY THE SUPREME COURT OF JUSTICE

The Author lodged an exceptional appeal under Article 672 (1) (a) and (b) of the Code of Civil Procedure, arguing that issues of high legal and social relevance were at stake and that their assessment was necessary for a better application of the law.

The Supreme Court of Justice considered that the issue in question was of clear legal and social relevance, justifying clarifying and standardizing intervention, recognizing that the Appellant had fully complied with the burden of proof required for the admission of an exceptional review.

This admission of review, in a case where there was double conformity, reflects recognition of the exceptional and paradigmatic nature of the matter in question. More than an individual dispute, what is at stake is the balance between the State's judicial function and the consistent application of the constitutional principles of equality and the presumption of innocence, so as to ensure that the compensation regime for deprivation of liberty remains in line with the values of a democratic rule of law.

DECISION OF THE SUPREME COURT OF JUSTICE ON COMPENSATION FOR THE DEFENDANT FOR UNLAWFUL IMPRISONMENT

At issue was the interpretation of Article 225 (1) (c) of the Code of Criminal Procedure, specifically whether the award of compensation for unjustified pretrial detention depends on an express declaration of innocence or whether an acquittal based on the principle of *in dubio pro reo* is sufficient.

In reviewing the exceptional appeal, the SCJ upheld the guidance established by the Constitutional Court in Judgment No. 284/2020, which had already been recognized in case No. 4978/16.4T8VIS.S1, of 2020, considering unconstitutional the restrictive interpretation of Article 225 (1) (c) of the Code of Criminal Procedure, according to which only defendants whose acquittal was based on a positive affirmation of their innocence would be entitled to compensation.

The SCJ reaffirmed that this interpretation violates the constitutional principles of equality (Article 13 (1) CPR) and the guarantees of defense and presumption of innocence (Article 32(2) CPR), by introducing an unjustified distinction between defendants acquitted on the basis of the principle of *in dubio pro reo* and those whose innocence is expressly affirmed.

The High Court emphasized that, once an acquittal has been handed down, regardless of whether it results from reasonable doubt as to the commission of the crime, the defendant fully regains the status of innocent, and the State cannot require him to provide positive proof of his innocence for the purposes of compensation, as such a requirement would be contrary to the essential core of the presumption of innocence, which prevents any residual suspicion from remaining after acquittal.

Thus, the SCJ concluded that acquittal based on *in dubio pro reo* is sufficient to justify the right to compensation provided for in Article 225 (1) (c) of the CCP, and that the courts of First Instance must decide in accordance with this constitutionally binding guideline, putting an end to the discussion on the State's non-contractual liability for coercive measures applied to those who are acquitted and on how the right to compensation should be understood when the acquittal results from doubt.

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