
Compensation for Detention in Jordanian Criminal Law-A Comparative Study

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This paper provides an account of the state liability to compensate the detainees before trial for illegal detention. It aims to explore the criteria according to which such compensation can be determined if such an idea is adopted under the Jordanian laws. At the outset, it is worth mentioning that the Criminal Procedural Law in Jordan No 9 year 1961 (CPLJ) includes some articles (178, 298(1,2) which recognize certain forms of moral compensation to the detainee, in addition to the monetary compensation which can be imposed on the plaintiff after a successful civil case. It is vitally important to stress the need for a legislative intervention to acknowledge and regulate the issue of compensation for illegal detention for the individuals whom have been illegally detained or legally detained during the investigatory stage but acquitted by the court at the end of the criminal trial. This approach is required because Jordan has joined several international treaties under which such right to compensation is recognized as one aspect for promoting human rights. For the purpose of exploring this matter, the paper is divided into two sections. The first section deals with the elements of the state's liability for compensation, and in the second section, the procedural rules according to which such compensation can be claimed are considered. In particular, section 1, covers the requirements necessary for a successful legal claim. Among others, such requirements involve issuing illegal detention order by the judge, the occurrence of judicial mistake when such order is rendered and the inflection of harm upon the detainee. In section 2, some procedural aspects are mapped out including filing a request for compensation, criteria according to which the amount of compensation can be decided. It is contended that the court should not apply one fixed criterion, rather it should take into consideration the amount of harm caused by the detention order, the social and personal status of the detainee, the nature of alleged charges, the reason for the acquittal, whether it is a complete absence of evidence or just a lack of such evidence. Moreover, the paper contends that if, sometimes, a new criminal suit is filed against the compensated detainee on the same criminal ground, then the judgment by which the compensation is granted should not be carried out until the new criminal trial is finalized. But if the

compensation is already been paid, then it is recommended to reclaim it from the defendant until the final criminal judgment is rendered. At the end of the paper, various recommendations which can be adopted in any future law reform are provided.

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