COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 12 February 2016

DH-GDR (2015)008 Rev

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

_____

**COMMITTEE OF EXPERTS ON THE REFORM OF THE COURT
(DH-GDR)**

_____

# Overview of the exchange of views held at the 8th meeting of DH-GDR on the provision in the domestic legal order for the re-examination or reopening of cases following judgments of the Court[1]

(*prepared by the Secretariat*)

_____

[1] This overview reflects the situation in 46 member States of the Council of Europe. The United Kingdom dissociated itself from the exercise conducted by the Committee of Experts on the Reform of the Court (DH-GDR).

Introduction

1. At its 7th meeting, the Committee of Experts on the Reform of the Court (DH-GDR) decided to hold an exchange of information according to its terms of reference, on the implementation of the Convention and the execution of judgments on the provision in the domestic legal order for the re-examination or reopening of cases following judgments of the Court.[2] In so doing, the CDDH's earlier review of the implementation of the relevant Committee of Ministers' Recommendation No. R(2000)2[3] was recalled. The DH-GDR decided that the Committee would not repeat this review but rather concentrate on new or unresolved aspects, on the basis of information, including possible examples of good practice and details of how practical or procedural obstacles to the reopening had been addressed and, possibly, lifted.

2. In order to prepare the exchange of views, the Chair invited experts to submit elements in reply to the following identified questions:

- ***Criminal proceedings***

*1) How has the reopening of criminal proceedings been addressed in your domestic law and have there been examples of successful reopening in such cases?*

*2) What practical or procedural difficulties have been encountered in practice? How have they been overcome?*

*3) Have you encountered specific difficulties with respect to reopening of cases following friendly settlements or unilateral declarations?*

- ***Civil proceedings***

*1) How has the reopening of civil proceedings been addressed and have there been examples of successful reopening in such cases?*

*- What were the obstacles/How have they been overcome?*

*- What are the positive outcomes and remaining gaps?*

*2) If the reopening has been introduced on the basis of the case-law of domestic courts, it would be useful to share the relevant examples.*

3. Contributions submitted previously and subsequently to this exchange of views have been published on the dedicated webpage and will be updated regularly. The present document is a non-exhaustive overview prepared by the Secretariat and does not bind the DH-GDR nor the CDDH. It aims at presenting the main information, issues and challenges identified during the exchange of views, on the basis also of the written contributions submitted and their synthesis (doc. DH-GDR(2015)001).

4. It is further noted that following this exchange of views a round table was organised by the Department for the Execution of Judgments of the European Court of Human Rights on 5-6 October 2015 with the overall objective being to analyse the reopening of proceedings as a means of ensuring *restitutio in integrum* following a

[2]The United Kingdom expert dissociated himself from this decision (see doc. DH-GDR(2014)R7, para. 11).
[3] Document CDDH(2008)008 Addendum I.

judgment of the European Court, clarify the scope of the obligation to adopt such a measure, its limitations and alternatives.[4]

5. It should be noted from the outset that the issue at stake following the Court's judgments and as regards individual measures is what can be introduced in favour of the applicant to ensure *restitutio in integrum,* that is for him/her to be placed back in the situation he/she would be in had the violation not happened. It should be kept in mind that States are free to choose the means by which to achieve such a result. One of those means is the reopening of proceedings or the re-examination of the situation of the applicant. It is however not the one and only means, there is indeed a plethora of examples in the Committee of Ministers' practice within the framework of its supervisory role of execution of the Court's judgments, whereby other solutions were found and enabled the placement of the applicant back, insofar as possible, in the situation he/she would have been in had the violation not happened. It is noteworthy to mention ad hoc solutions through the re-examination of administrative proceedings or through compensation for the loss of an opportunity – which the Court itself has often applied in its case-law by affording the applicant pecuniary compensation for the loss of an opportunity to avoid dealing with sensitive matters such as legal security or third parties' interests. Reopening is thus a significant means, but one among many others. However, it is true that the possibility to obtain a re-examination or a reopening at domestic level often facilitates the execution process and speeds up its conclusion.

6. The reopening of investigations is a separate issue which will not be addressed in the present overview.

[4] "Reopening of proceedings following a judgment of the European Court of Human Rights", 5-6 October 2015 (Strasbourg); See in particular the Conclusions of the Round Table.

# I. Criminal proceedings

7. Thirty-three States allow the reopening of criminal proceedings.[5] In thirty countries the reopening of criminal proceedings is provided for by laws.[6] Two States indicated that, before being introduced into criminal legislation, reopening was first introduced by a judgment of the Constitutional Tribunal through a dynamic interpretation of the existing provisions.[7]

8. The obstacles to reopening are those of *res judicata* and legal certainty *(*finality of litigation, statute of limitation). These reasons justify the absence of the possibility to reopen proceedings.[8]

9. Reopening is never automatic but subject to specific conditions and circumstances.[9] In a number of States it can also be initiated by state authorities, notably the Prosecutor.[10] The request for reopening may be deemed inadmissible notably if the time-limit for its introduction has expired, or if the consequences of the violation have ceased to exist.[11]

10. The following solutions were noted to overcome obstacles:

a) The impossibility of reopening can be overcome by a dynamic interpretation of an existing provision of the Constitution, the Organic Law regarding the Constitutional Tribunal and the Law on Criminal Procedure.[12]

b) *Res judicata* and *ne bis in idem* – To overcome the procedural bars to reopening, such as *res judicata* of the domestic judgments, the principle of direct application of the Convention and the direct effects of the Court's judgments in the national legal order could be of relevance. The Court's judgments are to be considered "writ for execution" and "an exceptional circumstance" requiring extraordinary revision of judgments.[13]

---

[5] Albania, Armenia, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Italy, Latvia, Lithuania, the Republic of Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and Turkey.

[6] Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Estonia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Latvia, Lithuania, the Republic of Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Switzerland, Turkey.

[7] Spain, judgment 245/1991 of 16 December 1991 and Italy, judgment No. 113 of 4 April 2011.

[8] Liechtenstein and Ireland.

[9] In Greece, for example, reopening is ordered only in cases where the violation found has negative repercussions for the judgment of the criminal court and the damage caused can only be repaired through re-examination of the case. It is for this reason, moreover, that the Court of Cassation has refused reopening in cases of excessive length of proceedings, holding that this violation does not affect the judgment of the domestic court. Amendments to legislations have also been presented (e.g. France).

[10] Austria, Bosnia and Herzegovina, Estonia, Finland, the Republic of Moldova.

[11] See, for example, Czech Republic, Finland and Spain.

[12] Spain.

[13] The Republic of Moldova.

c) Restrictive criteria for reopening were overcome by a non-formalistic interpretation by a domestic court.[14] For instance, in Poland, the Supreme Court applied a non-formalistic interpretation of a relevant provision to allow the reopening of compensatory proceedings for unjustified detention (violation of Article 5 para. 5 of the Convention). Furthermore, during the exchange of views and the round table organised by the Department for the Execution of the Court's judgments, it was noted that, time-limits[15] for seeking reopening shall be reasonable, take into account the length of proceedings before the Court, and be more clearly defined.

d) Errors in the procedure committed by the applicant and lack of information – The relevant judicial organ and parties are kept informed of the judgment finding a violation.[16] If a court learns that a reason for reopening criminal proceedings exists, it shall inform the convicted person or the person authorised to file the motion on his/her behalf.[17] The Office of the Government Agent can help in redirecting the application.[18]

e) Procedural difficulties linked to the passage of time can be dealt with by allowing other persons to reopen, such as the prosecutor or family members in case of death or absence of the person concerned.[19] One State amended its law to this purpose and provided for an extensive list of representatives.[20] In case the passage of time affects the possibility to hear witnesses, efforts shown by the jurisdictions to locate them are considered sufficient for the Committee of Ministers to close the case.[21]

f) In order to avoid cases of *reformatio in peius*, the roles of the Prosecutor and the Government Agent were mentioned.[22]

11. Successful cases of reopening were mentioned by a number of member States,[23] where the reopening of many cases in which the Court found Article 6 violations led to the annulment of the initial impugned domestic judgments and the re-examination of the case resulting in the rectification of the shortcomings identified by the Court with the same or a different outcome (e.g. acquittal, reduction or suspension of a sentence).[24]

---

[14] See Czech Republic, Poland.
[15] There could be two types of time-limits: a time-limit calculated as from the date of the ECtHR judgment and the one calculated as from the finalisation of a ruling of a domestic authority. Depending on legal systems, both time-limits could apply.
[16] Turkey.
[17] Bosnia and Herzegovina.
[18] See Bosnia and Herzegovina and the Republic of Moldova.
[19] Bosnia and Herzegovina, France and Poland, for example.
[20] France has amended its law, Law No. 2014-640 of 20 June 2014, so that concubines, children, parents, grandchildren, great grandchildren and universal legatees and legatees by universal title can also reopen proceeding as a way to address the effects of the passage of time, such as the death or absence of the person concerned.
[21] Romania.
[22] See Bosnia and Herzegovina and the Republic of Moldova.
[23] See, for example, Estonia, France, Poland, Russian Federation, Slovak Republic.
[24] Estonia, France, the Netherlands, Poland.

12. The reopening of criminal proceedings following judgments of the Court finding violations of substantive articles of the Convention led to the revision, in favour of the applicant (usually acquittal) of the initial impugned judgment.[25]

13. The possible and actual application of the principle of *beneficium cohaesionis* was mentioned.[26] The decision allowing the reopening of the case was thus also beneficial to the applicant's co-accused.[27] The possibility of reopening in respect of other accused persons in other criminal proceedings where the same violation (in terms of the combination of factual or legal circumstances) occurred was also highlighted.[28] It was noted that other accused persons in other criminal proceedings should submit their requests for having their proceedings reopened, i.e. it does not take place automatically by virtue of one decision allowing the reopening.

## II. Civil Proceedings

14. The possibility of reopening civil proceedings exists in twenty-three member States[29] and is currently under consideration in one of them.[30] Among those where the possibility exists some take a cautious approach, their internal judicial system prevails and reopening is rather exceptional.[31] A few States accept to reopen in exceptional cases.[32] In other States reopening can take place based on general provisions governing reopening.[33] In some cases, general provision or general measures and ad hoc solutions are preferred.[34] In one State, considerations have been made regarding a possible legislative reform to allow the reopening of civil proceedings following a judgment of the Court.[35] Norway and Finland also have the possibility of reopening following an opinion issued by the Human Rights Committee of the United Nations. Poland provides for the possibility of reopening for violation of the principle of equal treatment, in accordance with the 2010 Act on Implementing Certain Legislative Provisions of the European Union in Respect of Equal Treatment.

15. Reopening was provided through legislation explicitly mentioning Court judgments or implicitly through interpretation or general wording.[36] The obstacles in States not allowing for reopening were those of *res judicata,*[37] *l*egal certainty[38], third-

[25] See Poland, Russian Federation, Slovak Republic.
[26] Bulgaria, Czech Republic.
[27] See Czech Republic, Greece.
[28] See Finland, Poland.
[29] Albania, Armenia, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Latvia, Lithuania, the Republic of Moldova, Norway, Portugal, Romania, Russian Federation, San Marino, Serbia, the Slovak Republic, Spain, Switzerland and Turkey.
[30] In Italy, following a question introduced by the Council of State to the Constitutional Court.
[31] Portugal, for example.
[32] Slovenia: reopening exceptionally on the grounds that reopening is indicated by the Court.
[33] Poland: depending on the circumstances of the case, a violation of the right to a fair trial established by the Court can constitute a basis for reopening under general provisions governing invalidity of civil proceedings. Family and guardianship law contains some special provisions that provide for wide possibilities of changing even final court rulings.
[34] Finland.
[35] Greece.
[36] For example, Denmark, Spain.
[37] France, Greece, Ireland, the Netherlands, Poland, Slovenia.
[38] Greece, the Netherlands, Poland, Slovenia**.**

party protection,[39] the impossibility to rectify shortcomings of the rulings adopted many years ago in view of the dynamic nature of private-law relations.[40]

16. Tort against State (unlawful dispensation of justice)[41] and compensation for loss of opportunity[42] were the alternatives to reopening.

17. A series of obstacles were faced and practices were developed to overcome them:

a) Time-limits and statutes of limitation in combination with the length of proceedings before the Court. An example of reopening after the period of limitation by taking into account the length of proceedings before the Court was given.[43] Indeed, as an exception, this case was reopened after nine years despite a period of limitation of five years, since the length of proceedings before the Court resulted in the deadline being missed. In addition, a legislative initiative is currently under consideration in that State, whereby the Code of Civil Proceedings shall be amended to lift the period of limitation for the reopening of civil proceedings on the grounds of the Court's judgments. A ten-year statute of limitation can be useful[44] given the length of proceedings before the Court, although, at times, even such a timeframe may not be sufficient. In Slovakia, the principle of *restitutio in integrum* is applied by the Article 228 § 1 (d) of the Code of Civil Procedure, providing the applicants the possibility to challenge the relevant judgment of the domestic court by a motion for re-opening of the proceedings in case of the judgement of the Court in their favour. The request for the re-opening of the proceeding shall be lodged within three month time-limit, starting from the day when the judgment of the Court became final. The determination of the start of the period on the domestic level by the final judgment of the Court prevents the problems concerning the length of proceedings before the Court.

b) For a few States third-part interest was a real concern and could be ground for the refusal to reopen proceedings. The wish was expressed that information be gathered regarding the impact that the reopening of proceedings may have on third parties who have not had the opportunity to submit observations to the European Court.[45] It was also suggested that it should really be envisaged that the European Court of Human Rights, in cases where a possible reopening may affect third parties, invite the parties to the proceedings in accordance with Article 36 (2) of the Convention.[46]

c) A few States noted practices where third parties' interests were taken on board.[47] In one State, the Government Agent informs third parties whenever it becomes apparent that their interest would be affected in the proceedings before the Court,

[39] Austria, Greece, the Netherlands, Poland.
[40] See Poland.
[41] Belgium, the Netherlands, Poland.
[42] Belgium, the Netherlands.
[43] *Digrytė Klibavičienė v. Lithuania,* Supreme Court's judgment of 22 April 2015.
[44] Norway and Turkey.
[45] Spain.
[46] See Croatia, Spain.
[47] Germany, the Republic of Moldova, Switzerland.

while a law provides for legal aid if they wish to appear before the Court.[48] In another State, the legislation has been amended to provide for the possibility, once the request for reopening has been found admissible, of also communicating this to third parties and obliging the federal tribunal to invite each and every party to the original proceedings that led to the application to the Court to give their written observations or oral pleadings for the reopening proceedings.[49]

18. Successful examples of reopening, mainly in cases involving the State as a defendant, were mentioned by a number of States.[50]

## III. Constitutional proceedings

19. Certain member States[51] mentioned the creation of constitutional remedies for allegations of human rights violations. As this was not the subject of the exchange of views, it is not addressed as such in the present document. It should be noted however that the possibility of such a remedy may allow for the reopening of national procedures before the lodging of an application before the Court, if the Constitutional Court finds a violation of rights guaranteed under the Convention and quashes the domestic decision.[52] Two member States provided information regarding the reopening of constitutional proceedings following a judgment of the Court.[53] One State gave a detailed example of a case related to its Constitutional Court Law not allowing the reopening of constitutional proceedings following the Court's judgments, and provided the reasoning for not amending the existing system.[54]

20. In the Czech Republic, the Constitutional Court has a general competence in the re-opening of criminal and civil proceedings following a judgment of the Court. It was noted that, for the reopening to be possible, the applicant must have had his case brought before the Constitutional Court, which is also the last instance before which the case is brought before the lodging of an application before the European Court. The criteria for reopening are based on the Recommendation (2000) 2; even if the applicant's situation is redressed (by the Court or otherwise), reopening may still be permitted if it is in the general interest. Reopening is thus examined by the Constitutional Court, which can quash domestic court decisions and decide on reopening before other domestic courts. In cases of the reopening of constitutional proceedings, a plenary assembly will examine the previous procedure and use the Court judgment to come to a new decision. The applicant can also ask for legislation taken into account in the previous proceeding and contrary to the Constitution or Law (of the Convention) to be abrogated. Specific examples were highlighted, including a case of *beneficium cohaesionis* when the reopening criminal proceedings was authorised in favour of the co-accused.

[48] Germany, Court Assistance with Costs Act of 20 April 2013.
[49] In particular, Switzerland; see also the Republic of Moldova.
[50] See Romania, Slovak Republic, Switzerland.
[51] Serbia, Slovak Republic, Spain, Turkey.
[52] Slovak Republic, Turkey.
[53] Bosnia and Herzegovina and Slovak Republic.
[54] See Order No. U-I-223/09, Up-140/02, 14 April 2011, of the Slovene Constitutional Court following the Court's judgment in *Gaspari v. Slovenia* (21 July 2009, No. 21055/03).

21. The following obstacles may be encountered:

- the impossibility of re-opening a case following a judgment by the Court which was not previously examined by the Constitutional Court;

- third parties' interest may be overlooked when the reopening of civil and administrative proceedings are ordered by the Constitutional Court even if the Civil Code of Procedure provides that the rights of third parties should be protected. However, the weighting of different private interests at stake is not clearly regulated by the legislation.

## IV. Administrative proceedings

*Estonia, Finland, France, Greece, Latvia, Lithuania, Poland, Romania, Serbia and Turkey[55] provided in addition information on the reopening in respect of administrative proceedings[56]*

22. The criteria for reopening reflected Recommendation 2000(2), that is that when there is a (procedural and/or substantive) violation of the Convention and the need for *restitutio in integrum* when justified for, it is the only way to remedy the situation completely and place the person back to his/her situation before the violation.[57] In one State, the obligation to reopen administrative proceedings concerns the implementation of a judgment of the European Court of Human Rights or any other international or supranational court.[58] In one State a similar possibility is envisaged by law with respect to administrative judiciary proceedings.[59] Despite the absence of specific provisions explicitly providing for the possibility of the reopening of administrative proceedings directly on the basis of Court judgments and systems' specificities, general regulations governing the reopening of administrative proceedings could be of use.[60] In one State, the mechanism for reopening administrative proceedings was put in place by the Supreme Court, in the absence of a specific legal framework.[61] The court in question held that when the violation found by the European Court of Human Rights concerns an administrative sanction, to which *res judicata* does not apply, the finding by the Court of a violation of the rights guaranteed by the Convention constitutes a new element which must be taken into consideration by the authority with the power to impose sanctions. Consequently, when an application to this effect is made to it and the sanction imposed continues to produce effects, this authority must assess whether the continued enforcement of that sanction violates the requirements of the Convention and, if so, put an end to it, having regard to the interests for which it is responsible, the sanction and the seriousness of its effects, and the nature and gravity of the violations found by the Court.

[55] Administrative judiciary and administrative military proceedings.
[56] This possibility may be opened in Italy (pending case before the Constitutional Court).
[57] In Poland, the reopening of administrative proceedings can be also requested if a court has adopted a ruling finding a violation of the principle of equal treatment.
[58] Latvia.
[59] Poland.
[60] For example, Poland.
[61] France.

23. In most cases, the application is filled in by the applicant. It is also possible for his/her representative[62] and successors[63] to do so. One State mentioned that a party to the administrative proceedings or any other person whom the court should have joined to the proceedings can also request reopening provided that the infringement have affected the determination of the matter and cannot reasonably be cured, and the harm that it caused cannot be compensated, otherwise than by means of review.[64]

24. The criteria for the timeframe for filling in and submitting a request for reopening vary from three months[65] to one year[66] following the Court judgment. One State applies a time-limit of six months.[67] Turkey specified that application for reopening in any event can be filled in up to ten years from the date of finalisation of the domestic judgment in order to ensure legal certainty.

25. Applications for reopening are submitted to the relevant bodies such as the Supreme Court[68] or Supreme Administrative Court,[69] the administrative tribunal which issued the decision challenged by the European Court or the institution which issued the administrative act[70] for examination and decision on reopening. In one State, if the court fails to establish newly disclosed circumstances and dismisses the application, the applicant may submit an ancillary complaint against the decision.[71]

26. The examples provided concern:

- procedural violations of Article 6 § 1: In two cases, the Supreme Administrative Court left its previous decision unchanged as it was established that the violation of the Convention found had no influence upon the lawfulness and validity of the decision.[72]

- substantial violations where the reopening could lead to recovery of the costs of detention in the expulsion centre and/or the reversal of an administrative act[73]; administrative proceedings reopened by considering the Court's judgment finding a violation of Article 8 of the Convention –expulsion – as a "newly disclosed circumstance".[74]

[62] France, Poland.
[63] Greece.
[64] Estonia.
[65] Greece, Latvia, Lithuania, Poland, Romania.
[66] Turkey.
[67] Estonia.
[68] Estonia.
[69] Lithuania and Poland.
[70] Latvia and France.
[71] Latvia.
[72] Lithuania and France.
[73] Estonia: Supreme Court judgment of 8 June 2011 in administrative case No. 3-3-2-2-10 referring to the judgment of the Court of 8 October 2009 (application No. 10664/06, *Mikolenko v. Estonia)*
[74] Latvia: Department of Administrative Cases of the Supreme Court on 10 August 2004, following the Court's judgment of 9 October 2003 in the case *Sļivenko v. Latvia* (application No.48321/99).

27. The main legal and practical obstacle noted were the time limits regarding the request to reopen administrative proceedings.[75] *Res judicata* may also constitute an obstacle to the reopening of judicial proceedings relating to administrative decisions. [76]

## V. Friendly settlements and unilateral declarations

28. Six States allow the reopening of criminal proceedings following unilateral declarations or friendly settlements.[77] One State indicated that its domestic regulations governing the reopening do not refer to "judgments" only but use a more general term "rulings" of an international body[78]. Two States indicated that such a possibility could be granted through an extensive interpretation by the domestic courts.[79] Belgium indicated during the exchange of views that the possibility to reopen proceedings in case of unilateral declarations and friendly settlements was being considered with a draft law. Some States allow the reopening of civil or administrative proceedings following unilateral declarations and friendly settlements.[80]

29. The very definition of friendly settlements being the final resolution of the case of the Court[81] and ending the applicant's status of victim,[82] were presented as legal obstacles for reopening. In some States, legislation in its current form provides only for reopening following the Court's judgments.[83] This could be overcome through extensive interpretations or legislative changes.[84]

30. Regarding obstacles in practice, certain States explained that governments' commitments in unilateral declarations and friendly settlements cannot be imposed on the judiciary or legislative power and may not be possible for practical reasons (i.e. absence of legislation).[85] In one State, the Government Agent explained that it was possible to work with the prosecution service in order to give effect to a friendly settlement or unilateral declaration.[86]

31. To facilitate the reopening process, some States considered that more details could be given in friendly settlements and unilateral declarations notably on the subject matter of the proceedings before the Court and the relevant WECL case-law.[87]

32. Concerns were raised as to third persons/parties affected (victims, private parties, etc.).[88] An example of a refusal of reopening was given. In *Jeronovičs v. Latvia* (application No. 547/02), the competent prosecutor refused the applicant's request, which

[75] i.e. Lithuania, Poland; See also footnote No. 15.
[76] France.
[77] Czech Republic, Georgia, Latvia, the Republic of Moldova, Poland, Slovenia.
[78] Poland
[79] Czech Republic, Lithuania.
[80] Czech Republic (only in relation to friendly settlements), Georgia (only in relation to civil proceedings).
[81] Austria, Estonia, Switzerland.
[82] Austria, Greece and Switzerland.
[83] Spain, for example.
[84] For example, Czech Republic, Lithuania and the Republic of Moldova.
[85] Czech Republic, Estonia, Poland, Turkey.
[86] The Republic of Moldova.
[87] Georgia, Poland, Spain.
[88] Czech Republic, Latvia.

was based on the government's unilateral declaration as a newly disclosed circumstance, to reopen the criminal proceedings against the third persons. This has generated a fresh application before the Court (application No. 44898/10) subject to the Grand Chamber proceedings.

33. Several examples of reopening were provided. For example, in December 2014, two Czech Constitutional Court decisions allowed reopening requested based on unilateral declarations. The case of *Taktakishvili v. Georgia* resulted in the applicant's retrial and acquittal following the government's unilateral declaration containing a passage entitling the applicant to address a domestic court with a view to reopening the case. Poland indicated a successful example of a reopening of criminal proceedings following a unilateral declaration in the case of *Sroka v. Poland* under the Court's decision approving a unilateral declaration in the applicant's case. Earlier judgments were quashed and criminal proceedings discontinued in respect of the applicant having found that the act of which he had been accused no longer constituted a criminal offence, since, in the meantime, the relevant statutory provision had been repealed.