

GREECE / GRÈCE
15 July / juillet 2015

1. Criminal proceedings.

According to the Article 525 par.1.5 of the Code of Criminal procedure (Presidential Decree 258/1986), which was added with the Article 11 of the Law 2865/2000, in criminal cases the procedure can reopen after a petition is filed by the applicant-convicted person where the Court has found a violation of a right concerning the fair character of the proceedings or the substantive provision applied. In accordance with the case-law of the Court of Cassation, the reopening of the proceedings presupposes that the violation found affected in a negative manner the national court's judgment and the restitution of the damage sustained can be achieved by the reopening of the proceedings (*Court of Cassation 415/2009, 1940/2010, 1138/2011, 831/2014*). Within the meaning of "the substantive provision applied" fall all the rights and guarantees of the Part I of the ECHR (*Court of Cassation 831/2014*).

However the Court of Cassation does not accept the reopening of the proceedings in cases where the violation found concerns the reasonable length of the proceedings.

In accordance with the Articles 525A and 533 of the Code of Criminal procedure partial reopening of the proceedings is provided in cases where it was held by the national court that the State has no obligation for compensation or the compensation adjudicated was insufficient regarding those who were provisionally detained and subsequently acquitted by an irrevocable judgment, those who were detained after being sentenced and subsequently the relevant judgment was quashed and those who were convicted and detained and subsequently were acquitted by a judgment issued after the reopening of the proceedings. The case can reopen after a petition is filed by the person sustained the damage under the condition that the Court has found a violation of the Convention by the State with regards to the national court's judgment.

Up today many cases have been brought before the national courts according the provisions of Articles 525 par.1.5, 525A and 533 of the Code of Criminal procedure.

2. Administrative proceedings

According to the Code of Administrative Procedure (Law 2717/1999) in cases before administrative courts the procedure can reopen after a petition is filed by the applicant or his successors where the Court has found a violation of a right concerning the fair character of the proceedings or the substantive provision applied. The petition must be filed within a time limit of ninety (90) days starting from the date when the Court's judgment becomes final, pursuant to the provisions of article 44 of the Convention (*Article 105A of the Code which was added by the Article 23 of the Law 3900/2010*).

3. Civil proceedings.

With regards to civil cases, Greek legislation does not provide for the reopening of the proceedings. The main obstacles for the introduction of the reopening are the *res judicata* and the legal security, considering the way third parties acted in good faith may be affected. However the issue is being considered.