

REOPENING CRIMINAL PROCEEDINGS ON THE BASIS OF NEW EVIDENCE: CASE STUDIES FROM THE FEDERATION OF BOSNIA AND HERZEGOVINA AND THE NETHERLANDS AND THE STANDARDS OF THE EUROPEAN COURT OF HUMAN RIGHTS

Abstract: *This paper analyses the institute of reopening criminal proceedings on the basis of new evidence as an extraordinary mechanism for correcting final judgments. Drawing on two selected cases from the case law of the Federation of Bosnia and Herzegovina and the Netherlands, the paper examines evidentiary situations in which courts, in the earlier proceedings, attached decisive weight to witness testimony, including eyewitness identifications, while material evidence pointing to an alternative version of events remained disregarded. The paper highlights the reasons why witness testimony, particularly eyewitness testimony, may be erroneous, especially in the context of identifications and suggestive circumstances in which testimony is given. These issues are examined in connection with the concept of so-called tunnel vision, which is used as one possible interpretative framework for understanding the focus of the investigation and evidentiary assessment on a single theory of the case. A separate, concise section is devoted to the relevant Convention framework, in particular Article 4(2) of Protocol No. 7 to the European Convention on Human Rights, and to the basic standards of the European Court of Human Rights that define the limits of reopening criminal proceedings in relation to the principles of legal certainty and the prohibition of double jeopardy (*ne bis in idem*).*

Keywords: *reopening of criminal proceedings; extraordinary legal remedy; new evidence; tunnel vision; wrongful convictions; European Court of Human Rights*