Criminal justice: ne bis in idem principle or prohibition of double jeopardy

2003/0811(CNS) - 02/09/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Maurizio TURCO (Ind, Italy) and made some amendments to the Greek initiative: - certain amendments deal with the situation where exceptionally, there is proof of new facts or circumstances which emerged after the judgement and which could not reasonably have been discovered by the prosecuting authorities at the time of the trial; or if there was a fundamental error in the previous procedures which could have affected the outcome of the proceedings, in accordance with the criminal law and the criminal procedure of the Member State of the proceedings. The procedure might be repeated, provided that, according to the law of that Member State, such a fresh procedure would be competent by way of a vertical application of ne bis in idem. In all cases, violation of the rights of the accused will be deemed a fundamental error in the previous procedure; - all proceedings are suspended until the determination of the Member State to be given preference; - if other judgements concerning the same criminal acts are issued in violation of the ne bis in idem principle in other Member States, the "favor rei" principle will apply; - Parliament has deleted the exceptions to the rule; it has also deleted provisions on the accounting principle of penalties and sentences; - instead of "acts", the amendment "acts, facts and behaviour" is applied throughout the draft; - the Commission must submit a report on application three years after the date of entry into force.