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THE TRANSFORMATION OF A SAFEGUARD: THE ROLE OF THE *NE BIS IN IDEM* PRINCIPLE FROM THE NECESSARY GUARANTEE OF THE ACCUSED TO AN INSTRUMENT OF VICTIM'S PROTECTION

The principle of *ne bis in idem* has generally constituted a fundamental safeguard for the accused. The European Court of Human Rights, however, delivered some recent decisions which dealt with this guarantee with an original approach. This calls for a redefinition of *ne bis in idem* in the light of a new overall concept of the right to a fair trial, which takes into account the victim's position. Thanks to this interesting understanding, the *ne bis in idem* principle should not bar future prosecutions against the same person and for the same facts when the procedure firstly concluded did not satisfy the victims' claim for protection.

This paper analyses this problematic field along the lines of ECtHR and ECJ judgments regarding *ne bis in idem* principle in order to understand whether and how the European courts took into consideration the interests of the aggrieved parties. The evolution of European case law is of the utmost relevance to verify whether the effects of *res judicata* can be mitigated with the purpose of protecting interests of people involved in criminal proceedings other than the accused.