

The Norwegian Criminal Cases Review Commission

Information to anyone petitioning for a criminal case to be reopened

Objective assessment

The Commission is an independent body that is to decide whether a convicted person with a final and enforceable judgment is to have his/her case retried in court. Following an objective assessment, the Commission is to decide whether the conditions for reopening the case are present. It determines its own working procedures and cannot be instructed as to how to exercise its authority.

Conditions for reopening a case

The most important reasons for a final and enforceable conviction in a criminal case being retried in court are:

- There is new evidence or a new circumstance that seems likely to lead to an acquittal or a substantially more lenient sanction.
- An international court has concluded that the decision on or hearing of the convicted person's case conflicts with a rule of international law, so that there are grounds for assuming that a retrial will lead to a different result.
- Someone who has had crucial dealings with the case has committed a criminal offence that may have affected the judgment.
- There are special circumstances that cast doubt on the correctness of the judgment and weighty considerations indicate that the case should be retried.

Active guidance and investigation

A petition to reopen a case must be submitted in writing on the prescribed form. There is no time limit. The Commission has a duty to provide guidance to anyone petitioning for his/her case to be reopened. The Commission is responsible for ensuring that all relevant information on the case is produced. It is therefore not necessary for the petitioner to be assisted by a lawyer or private investigator.

The Commission will usually contact the petitioner directly unless he/she is represented by a lawyer. It is only when there are special grounds for this that a legal counsel for the petitioner will be appointed at public expense.

Thorough review

The Commission is responsible for ensuring that there is a thorough review of the legal and factual aspects of the case, and it may gather information in any way it sees fit. Among other things, the Commission may summon the convicted person and witnesses, including the victim, for questioning and it can make compulsory disclosure orders and appoint expert witnesses. The Commission has its own secretariat with investigators who assist in the investigation of the cases.

The relationship to the victim in the case

If the petition is not rejected by the Commission and is reviewed in greater detail, the victim/ surviving next-of-kin of the victim is to be informed that a petition to reopen the case has been received.

The victim/surviving next-of-kin of the victim is usually entitled to examine the criminal case documents and to submit a written statement regarding the petition. They are also entitled to ask to make a statement to the Commission and are usually entitled to see the information which the Commission has gathered during its review.

The Commission's decision

The Commission's chairperson may reject a petition if, due to its nature, the decision cannot be reopened or if the petition clearly cannot succeed. Other cases are to be determined by the Commission. If the Commission finds that the conditions for reopening are present, the petition will be allowed and the case will be retried in court.

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Section 397 of the Criminal Procedure Act

§ 397. The Commission is obliged to provide guidance to any person who petitions for the reopening of a case so that he or she may safeguard his or her interests as well as possible. The Commission shall on its own initiative consider whether a person charged needs guidance.

The Commission may appoint an official defence counsel for a person charged when special reasons so indicate. In such cases, the provisions of sections 101 to 107 shall apply correspondingly. The Commission may appoint legal counsel for the victim pursuant to the rules stipulated in sections 107a-107d in so far as these are applicable. The Commission's decisions pursuant to section 78, second subsection, regarding remuneration to the defence counsel and counsel for the victim are final.

If the petition concerns a decision that by reason of its nature cannot be reopened, or if it contains no grounds that may pursuant to statute lead to a reopening of the case, the Commission may without further process reject the petition pursuant to the provisions relating to a court order. The same applies when for other reasons the petition obviously cannot succeed. The decision may be made by the chairperson or deputy chairperson of the Commission. When a decision according to the first sentence is not doubtful, it may be made on no grounds other than a reference to this provision.

If the petition is not rejected pursuant to the provisions of the third subsection, it shall be submitted to the opposite party. If the preliminary review is based on information other than that appearing in the petition, such information shall also be submitted to the parties for comment before the decision is made. This does not, however, apply to information with which a person charged is not entitled to become acquainted pursuant to section 264 or which is derived from the party in question.

The Commission informs the victim or victim's surviving next-of-kin in the order stipulated by law of the petition unless the petition is rejected pursuant to the third subsection. The victim or surviving next-of-kin in the order stipulated by law is to be made aware of his/her right to see documents, state his/her views and ask to make a statement to the Commission, and of the opportunity to have a counsel for the victim/surviving next-of-kin appointed.

The Commission's members and secretariat

<p>The members of the Norwegian Criminal Cases Review Commission</p> <p>The Commission's members are appointed by the King in Council and there are five permanent members and three alternate members. The chairperson, vice chairperson and one of the members must have law degrees.</p> <p>The chairperson is appointed for a period of seven years and may not be reappointed. The members are appointed for a period of three years and may be reappointed once.</p>	<p>The members have in total sound, wide experience from the courts, prosecuting authority, defence counsel activities, research and civic life in general.</p> <p>Own investigators</p> <p>In addition to the chairperson, the Commission has a secretariat consisting of 10 employees, of whom eight are investigators and two are office staff. Six of the investigators are lawyers while two have police backgrounds.</p>
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Contact information

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If you have any questions concerning the conditions for reopening a case or the procedures involved, please contact the Commission.