



No double jeopardy in domestic violence case

The case [Galović v. Croatia](#) (application no. 45512/11) concerned the applicant's convictions for domestic violence in several sets of minor-offence proceedings and in criminal proceedings on indictment.

In today's **Chamber** judgment¹ in the case, the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 6 §§ 1 and 3 (b) and (c) (right to a fair trial) of the European Convention on Human Rights as regards the time the applicant had had to prepare his defence before an appeal court session on his case;

a violation of Article 6 §§ 1 and 3 (c) of the Convention as regards the applicant's absence from the appeal court session; and

no violation of Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the Convention.

The Court found in particular that the two sets of proceedings in the applicant's case had been part of an integrated and coherent approach to domestic violence under Croatian law. Such an integrated system had allowed the applicant's punishment for individual acts of violence via a less severe response in the minor-offence proceedings, followed by a more serious criminal response for his pattern of behaviour.

Principal facts

The applicant, Miljenko Galović, is a Croatian national who was born in 1957 and lives in Zagreb.

Between 2006 and 2008 the applicant was convicted of a series of minor offences for various assaults against his children and wife. He was arrested and detained in November 2008 during the minor-offence proceedings, and was given, among other things, prison sentences.

In July 2009 he was also convicted of domestic violence and child neglect in criminal proceedings on indictment. The conviction covered incidents against his family between 2005 and 2008. He was sentenced cumulatively to five years' imprisonment and was required to have treatment for alcohol addiction.

Following a remittal, the appeal court examined the case afresh on 16 February 2010, without the applicant being invited to that court's session. It reduced the applicant's sentence to four years' and three months' imprisonment but dismissed the remainder of his appeal.

All further challenges were unsuccessful.

He was conditionally released from prison in March 2012.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the Convention, Mr Galović complained that he had been tried and convicted twice of the same offence.

He also made complaints under Article 6 § 3 (b) and (c) (right to adequate time and facilities for preparation of defence/right to legal assistance of own choosing) concerning the appeal stage of the proceedings. He alleged in particular that he had only been notified four days in advance of the appeal court's session of 16 February 2010 on his case and had not been given the opportunity to attend that session.

The application was lodged with the European Court of Human Rights on 18 July 2011.

Judgment was given by a Chamber of seven judges, composed as follows:

Péter **Paczolay** (Hungary), *President*,
Ksenija **Turković** (Croatia),
Krzysztof **Wojtyczek** (Poland),
Alena **Poláčková** (Slovakia),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),
Ioannis **Ktistakis** (Greece),

and also Renata **Degener**, *Section Registrar*.

Decision of the Court

Article 4 of Protocol No. 7

The Court noted that the facts in two of the sets of minor-offence proceedings against the applicant had in part been identical to the facts in the subsequent proceedings on indictment.

In assessing whether there had been a prohibited duplication of proceedings, the Court found that the two types of proceedings brought against the applicant had been complementary and foreseeable, and had been sufficiently connected in substance and in time, to be considered to form part of an integral scheme of sanctions under Croatian law for offences of domestic violence.

In particular, minor-offence proceedings were to address an individual incident of domestic violence and to prevent further escalation, while proceedings on indictment for the continuous offence of domestic violence were instituted once his unlawful behaviour had reached a certain level of severity in order to sanction an ongoing pattern of violent behaviour.

Moreover, there had been an adequate level of interaction between the courts in the various proceedings, and the punishments imposed had not made the applicant bear an excessive burden. The criminal court had deducted from the applicant's sentence the period which he had spent in detention on the basis of the two minor-offence convictions.

In sum, the proceedings and penalties against the applicant were sufficiently connected in substance and in time and formed a coherent and proportionate whole. The legal system in Croatia had allowed the punishment both of the individual acts as well as of the applicant's pattern of behaviour in an effective, proportionate and dissuasive manner.

It followed that there had been no violation of Article 4 of Protocol No. 7 to the Convention.

Article 6 §§ 1 and 3 (b) and (c)

The Court considered that the four days between the applicant being informed of the appeal court session and that session actually taking place had not restricted his rights to such an extent that it

could be said that he did not have the benefit of a fair trial. There had accordingly been no violation of Article 6 §§ 1 and 3 (b) and (c) of the Convention as concerned legal representation in the appeal proceedings and adequate time and facilities for preparation of defence.

As concerned the applicant's absence from the appeal court session, the Court found a violation of Article 6 §§ 1 and 3 (c) of the Convention, following its conclusions in other cases against Croatia raising similar issues.

Just satisfaction (Article 41)

The Court held that Croatia was to pay the applicant 1,500 euros (EUR) in respect of non-pecuniary damage for the violation of Article 6 §§ 1 and 3 (c) of the Convention.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.