



The applicant was prosecuted and punished twice for a breach of the peace during a football match, contrary to the Convention

In today's Chamber judgment¹ in the case of [Velkov v. Bulgaria](#) (application no. 34503/10) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 4 of Protocol No. 7 (right not to be tried or punished twice) of the European Convention on Human Rights.

The case concerned the applicant's complaint that he had been convicted twice of the same offence of breaching the peace during a football match.

The Court found that, while there had been a close connection in time between the administrative and criminal proceedings against the applicant, there had not been a sufficiently close connection in substance between the two sets of proceedings.

The Court therefore held that, given the lack of a sufficiently close connection in substance between the administrative and criminal proceedings against the applicant, he had been prosecuted and punished twice for the same offence, in breach of the *ne bis in idem* principle.

Principal facts

The applicant, Ivan Marinov Velkov, is a Bulgarian national who was born in 1974 and lives in Plovdiv (Bulgaria).

On 17 May 2008 two coaches with supporters of Lokomotiv Plovdiv (a football club playing in the Bulgarian premier league), including Mr Velkov, stopped near the Sandanski municipal stadium, where a match was taking place between the local team and CSKA Sofia. The Lokomotiv supporters got out of the coaches, walked towards the stadium, tried to enter it, threw objects towards the CSKA supporters' stand and the police officers providing security, and broke the windows of several vehicles parked in the stadium car park. The match was interrupted. At 8.50 p.m. on the same day, the prosecutor's office ordered Mr Velkov's detention for 72 hours.

On 18 May 2008 the police issued administrative-offence notices against Mr Velkov and six other Lokomotiv Plovdiv supporters and brought proceedings for an administrative penalty to be imposed on them.

On 29 May 2008 the Sandanski District Court found Mr Velkov guilty of breaching the peace during the football match on 17 May 2008. It ordered his imprisonment for 15 days and banned him from attending sporting events for two years.

In parallel with the administrative proceedings, the Sandanski district prosecutor's office initiated criminal proceedings against Mr Velkov for breaching the peace.

On 21 May 2008 the Sandanski District Court decided to remand him in custody.

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.

On 10 July 2008 the Sandanski district prosecutor's office issued an indictment. The applicant was accused of insulting police officers and other supporters, disobeying and offering resistance to the police and throwing stones at the officers and CSKA supporters during the football match on 17 May 2008. On 20 January 2009 the Sandanski District Court found Mr Velkov guilty on all charges and sentenced him to two years' imprisonment. He appealed against the decision.

On 24 April 2009 the Blagoevgrad Regional Court discontinued Mr Velkov's provisional detention and placed him under house arrest. That measure was lifted on 12 June 2009.

The Blagoevgrad Regional Court dismissed Mr Velkov's appeal against his conviction and sentence of 20 January 2009. On 11 June 2010 Mr Velkov lodged an appeal with the Supreme Court of Cassation. That court dismissed his appeal, taking the view that the Regional Court had based its decision on the applicable rules of domestic law and that the sanction had been correctly determined.

Complaints, procedure and composition of the Court

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

The application was lodged with the European Court of Human Rights on 2 June 2010.

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

Iulia Antoanella **Motoc** (Romania), *President*,
Yonko **Grozev** (Bulgaria),
Branko **Lubarda** (Serbia),
Carlo **Ranzoni** (Liechtenstein),
Stéphanie **Mourou-Vikström** (Monaco),
Jolien **Schukking** (the Netherlands),
Péter **Paczolay** (Hungary),

and also Andrea **Tamietti**, *Section Registrar*.

Decision of the Court

[Article 4 of Protocol No. 7](#)

The Court noted that the applicant's actions had given rise to two separate sets of proceedings, each concerning "criminal charges". It also observed that the offences for which he had been punished in both sets of proceedings related to the same wrongful conduct occurring during the same sporting event.

The two sets of proceedings had started at the same time and had been conducted in parallel until 29 May 2008, when the administrative proceedings had been concluded by a final judgment. The criminal proceedings had carried on and had concluded more than two years and four months later, in October 2010. In view of its case-law, the Court therefore considered that there had been a sufficiently close connection in time between the two sets of proceedings.

As to the existence of a connection in substance between the two sets of proceedings, the Court noted firstly that the administrative and criminal proceedings had pursued essentially the same purpose, namely to punish the breach of the peace caused by the applicant during the football match on 17 May 2008. Secondly, the establishment of the facts in the administrative proceedings had not been taken into account in the criminal proceedings. Thirdly, the custodial sentence imposed following the administrative proceedings had not been taken into consideration in the

criminal courts' decisions. The Court attached particular importance to the fact that the two sets of proceedings had pursued the same punitive purpose.

In the light of these considerations, the Court held that there had not been a sufficiently close connection in substance between the administrative and criminal proceedings against the applicant.

In sum, the Court held in particular that, given the lack of a sufficiently close connection in substance between the administrative and criminal proceedings against the applicant, those proceedings could not be regarded as forming part of an integral scheme of sanctions under domestic law aimed at combating the phenomenon of sports hooliganism. Hence, the applicant had been prosecuted and punished twice for the same offence, in breach of the *ne bis in idem* principle.

There had therefore been a violation of Article 4 of Protocol No. 7 to the Convention.

Just satisfaction (Article 41)

The Court held that Bulgaria was to pay the applicant 2,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses.

The judgment is available only in French.

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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.