



No breach of the right not to be tried or punished twice in driving offence case

In today's **Chamber judgment**¹ in the case of [Bajčić v. Croatia](#) (application no. 67334/13) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 4 § 1 of Protocol No. 7 (right not to be tried or punished twice) to the European Convention on Human Rights.

The case concerned the applicant's complaint that he had been tried and punished twice for the same driving offence. In particular, he had first been convicted in minor offence proceedings for speeding and later on in criminal proceedings for causing a fatal road accident. He was fined in the first set of proceedings and given a prison sentence in the second.

In the Court's opinion, the aims of punishment, whereby different aspects of the same conduct were addressed, ought to be considered as a whole. In the applicant's case such aims had been realised through two complementary sets of proceedings, which were sufficiently connected in substance and in time to be considered to form part of an integral scheme of sanctions under Croatian law for his failure to comply with road-traffic safety regulations which had, as a result, caused a fatal road accident.

The Court therefore found no abuse of the State's right to impose a punishment in the applicant's case. Nor could it conclude that the applicant had suffered any disproportionate prejudice resulting from the duplication of proceedings and penalties.

Principal facts

The applicant, Sanjin Bajčić, is a Croatian national who was born in 1966.

In October 2004 the applicant, who was driving over the speed limit, caused a road accident in which a person died.

In July 2006 the Rijeka Minor Offences Court fined him for exceeding the speed limit, driving a defective car and for leaving the scene without informing the police. He was also given a six-month driving ban and five points on his licence.

In the meantime, in June 2005 the Rijeka State Attorney's Office had indicted the applicant on criminal charges of causing a fatal road accident. In March 2011 the Rijeka Municipal Court found him guilty and sentenced him to one year and six months' imprisonment. The judgment was upheld on appeal, with the appeal court rejecting his argument that he had already been punished by the Minor Offences Court.

The appeal court held that the crime in question, which had caused danger in traffic and ultimately death, was not classified as a minor offence, so he had not been charged in substance with the same facts. Further appeals to the Supreme Court and the Constitutional Court were unsuccessful.

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 § 1 of Protocol No. 7 (right not to be tried or punished twice) to the Convention, the applicant complained that he had been tried and punished twice for the same offence.

The application was lodged with the European Court of Human Rights on 13 October 2013.

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

Krzysztof **Wojtyczek** (Poland), *President*,
Ksenija **Turković** (Croatia),
Linos-Alexandre **Sicilianos** (Greece),
Armen **Harutyunyan** (Armenia),
Pauliine **Koskelo** (Finland),
Tim **Eicke** (the United Kingdom),
Raffaele **Sabato** (Italy),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

The Court reiterated that the object of Article 4 of Protocol No. 7 was to prevent the injustice of a person's being prosecuted or punished twice for the same criminal conduct. The prohibition under this Article concerned the prosecution or trial of a second "offence" in so far as the latter arose from identical facts or facts which were substantially the same.

The facts for which the applicant had been punished in the minor-offence proceedings relating to driving a defective car and leaving the scene without informing the police had not been covered by the subsequent criminal charges, and could not therefore be regarded as substantially the same as the facts for which he had subsequently been punished in the criminal proceedings.

The speeding, on the other hand, had been central to the applicant's conviction in the minor-offence proceedings and had formed an important part of his criminal charge and conviction in the criminal proceedings of causing a fatal road accident.

Dual proceedings such as this were not precluded under Article 4 of Protocol No. 7, provided that they were "sufficiently closely connected in substance and in time" to show that they formed an integrated and coherent approach to the wrongdoing in question.

In the applicant's case, the Court found that the proceedings and penalties had formed a coherent and proportionate whole.

In particular, the proceedings against the applicant had been complementary. The minor-offence proceedings aimed to address the applicant's failure to comply with road-traffic regulations, notably speeding, and to ensure public safety, while the criminal proceedings were to address and to penalise him for the consequence of his speeding, namely the death of a pedestrian.

Furthermore, the applicant could have foreseen that such dual-track punitive proceedings would be brought against him. Under Croatian law, causing a death in a road-traffic accident could not be prosecuted in minor-offence proceedings. Combining minor-offence and criminal proceedings formed part of the actions commonly taken at the time to impose sanctions for failure to respect road-traffic safety regulations and for reckless driving causing a fatal accident.

Moreover, the two sets of proceedings had been initiated at practically the same time and had then run in parallel for almost another 14 months until July 2006, when the penalty in the minor offence proceedings had become final. The criminal proceedings had then lasted another six years and ten

months at four levels of jurisdiction, a period which was not sufficient to disconnect in time the minor-offence proceedings and the criminal proceedings.

Finally, the Court considered that there had been an adequate level of interaction between the two courts in both sets of proceedings, and that the punishments imposed, taken together, had not made the applicant bear an excessive burden, but had been limited to what was strictly necessary in relation to the seriousness of the offence. Indeed, he had been sentenced to one and a half years' imprisonment, whereas the maximum sentence at the time for causing a fatal road accident was five years.

The Court therefore found no abuse of the State's right to impose a punishment. Nor could it conclude that the applicant had suffered any disproportionate prejudice resulting from the duplication of proceedings and penalties. Rather, they had formed part of an integral scheme of sanctions under Croatian law for failure to comply with road-traffic safety regulations which had, as a result, caused a fatal traffic accident.

There had accordingly been no violation of Article 4 of Protocol No. 7 to 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.