



Penalty points and subsequent driving ban not double punishment

In its decision in the case of [Matijašić v. Croatia](#) (application no. 38771/15) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

Principal facts

The applicant, Darko Matijašić, is a Croatian national who was born in 1963 and lives in Motovun (Croatia).

In 2013 and 2014 in the Istria area the applicant was given a speeding fine in minor-offence proceedings and three penalty points were added to his licence on three separate occasions. On 6 August 2014 the police in Istria banned him from driving all motor vehicles on account of the penalty points he had collected. An appeal by the applicant was deemed to be unfounded. The High Minor Offences Court stated that the measure was not a penalty, merely a consequence of having accumulated too many penalty points within a statutory period of time.

A constitutional complaint by the applicant to the Constitutional Court was declared inadmissible on 27 January 2015.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 29 July 2015.

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice), the applicant complained that his prosecution and punishment for minor road traffic offences, and the subsequent application of a driving ban on account of the same offences, had violated the Convention.

The decision 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),
Lorraine **Schembri Orland** (Malta),
Ioannis **Ktistakis** (Greece),

and also Liv **Tigerstedt**, *Deputy Section Registrar*.

Decision of the Court

Article 4 of Protocol No. 7

The Court noted at the outset that the case concerned a situation in which the driving ban had been imposed on the applicant as a result of the fact that he had collected a certain number of penalty points for traffic violations he had committed over a statutory period of time and should therefore

be distinguished from previous cases it had examined in which the imposition of the driving ban had been issued as part of the sanction for a particular road traffic offence.

The Government argued that the driving ban imposed on the applicant as a result of the penalty points collected could not be considered “criminal” in nature.

Under the relevant domestic law, a driving ban under section 286(6) of the Road Traffic Safety Act was classified as a preventive administrative measure, distinct from any penalty that may be applied in criminal or minor offences proceedings. Noting that a number of countries implemented a system of penalty points in traffic, and that its own case-law stressed the importance of putting in place a legislative and administrative framework designed to provide effective deterrence against threats to the right to life in the context of road traffic, the Court was satisfied that the primary aim of the driving ban had been preventive, to ensure road traffic safety.

Consequently, Mr Matijašić had not been subjected to a criminal charge when the police had applied the driving ban on account of his accumulated penalty points under section 286(6) of the Road Traffic Safety Act. The Court therefore concluded that Article 4 of Protocol No. 7 did not apply in his case and rejected his application as inadmissible.

The decision is available only in English.

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Press contacts

During the current public-health crisis, journalists can continue to contact the Press Unit via echrpess@echr.coe.int. | tel : +33 3 90 21 42 08

Neil Connolly (tel : + 33 3 90 21 48 05)

Tracey Turner-Tretz (tel : + 33 3 88 41 35 30)

Denis Lambert (tel : + 33 3 90 21 41 09)

Inci Ertekin (tel : + 33 3 90 21 55 30)

Jane Swift (tel : + 33 3 88 41 29 04)

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.