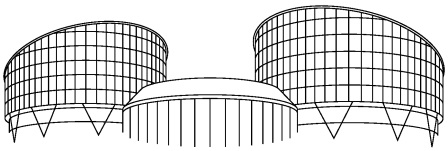

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF MARČAN v. CROATIA

(Application no. 40820/12)

JUDGMENT

STRASBOURG

10 July 2014

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Marčan v. Croatia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro-Lefèvre, *President,*
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Paulo Pinto de Albuquerque,
Linos-Alexandre Sicilianos,
Erik Møse,
Ksenija Turković, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 17 June 2014,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 40820/12) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Croatian national, Mr Goran Marčan ("the applicant"), on 18 June 2012.

2. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The applicant alleged, in particular, that the minor-offence proceedings against him had not been fair, as required by Article 6 §§ 1 and 3 (c) and (d) of the Convention.

4. On 3 June 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1967 and lives in Rijeka. He is a lawyer by profession.

6. On 7 July 2010 while driving his car near Vrogorac, Croatia, the applicant was stopped by a police officer alleging that he had dangerously overtaken another car and that he had inappropriate tyres on his car. The police officer drew up a report on the incident.

7. On 6 October 2010 the applicant received a penalty notice (*obvezni prekršajni nalog*) dated 12 July 2010 and issued by the Dubrovnik-Neretvanska Police Department (*Policijska uprava Dubrovačko-neretvanska*; hereinafter: "the police") which stated that he had committed the minor offences of dangerously overtaking another car under section 12 of the Road Traffic Safety Act, and driving a car with inappropriate tyres under section 236 of the same Act, fining him with 1,500 Croatian kunas (HRK). The statement of facts, which was printed on a form, stated that the offence had been established by the personal observations of a police officer, who had submitted a report on it.

8. On 7 October 2010 the applicant lodged a request for judicial review, challenging the statement that he had committed the offences and asking to be heard in court. The summary minor-offence proceedings were opened in the Vrgorac Minor Offences Court (*Prekršajni sud u Metkoviću, Stalna služba u Vrgorcu*).

9. The Vrgorac Minor Offences Court summoned the applicant for questioning on 23 February and 30 March 2011. The applicant did not appear for questioning, excusing his absence on account of professional commitments. He asked to be questioned by the Rijeka Minor Offences Court (*Prekršajni sud u Rijeci*) since he lived within its territorial jurisdiction.

10. On 3 May 2011 the Vrgorac Minor Offences Court forwarded the entire case file to the Rijeka Minor Offences Court and asked it to question the applicant, thereby also providing the applicant access to the case file.

11. On 17 October 2011 a judge of the Rijeka Minor Offences Court questioned the applicant. The applicant maintained his objection to the penalty notice, arguing that he had not overtaken a car at the time when he had been stopped by the police. He also contended that he had had factory tyres on his car and promised to submit a copy of the relevant documents to support that. He explained that he had no other evidence to put forward.

12. As the applicant failed to submit the documents concerning the tyres on his car within the relevant time-limit, on 28 October 2011 the Rijeka Minor Offences Court returned the case file to the Vrgorac Minor Offences Court.

13. On 21 November 2011 the Vrgorac Minor Offences Court found the applicant guilty of the charges of dangerously overtaking another car and driving a car with inappropriate tyres. The applicant was cautioned, fined with HRK 500 and ordered to pay HRK 100 in court fees. When convicting the applicant the Vrgorac Minor Offences Court relied on the police officer's report of 7 July 2010 (see paragraph 6 above), holding that the applicant's defence had not cast any doubt on the findings of the report.

14. On 2 March 2012 the applicant lodged a complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*). He argued that he had never seen the police report on which the verdict was based and that he

had had no opportunity to challenge the accusations contained in it. He also complained that the Vrgorac Minor Offences Court had relied solely on the report, without holding a hearing at which he could cross-examine the police officer who had drafted it.

15. On 2 May 2012 the Constitutional Court declared the applicant's constitutional complaint inadmissible as manifestly ill-founded. The Constitutional Court held:

> "In his constitutional complaint, the appellant was unable to show that the [Vrgorac Minor Offences Court] in the conduct of the proceedings or in the pronouncement of the judgment had acted contrary to the constitutional provisions concerning human rights and fundamental freedoms or had arbitrarily interpreted the relevant statutory provisions. The Constitutional Court therefore finds that the present case does not raise an issue in respect of the complainant's constitutional rights. Thus, there is no constitutional law issue in the case for the Constitutional Court to decide on. ..."

16. The decision of the Constitutional Court was served on the applicant on 18 May 2012.

17. On 20 September 2012 the Vrgorac Minor Offences Court forwarded the judgment to the Rijeka Revenue Service (*Porezna uprava u Rijeci*) requesting that the fine be enforced. The enforcement proceedings are still pending.

II. RELEVANT DOMESTIC LAW

A. Constitution

18. The relevant provision of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*, Official Gazette nos. 56/1990, 135/1997, 8/1998, 113/2000, 124/2000, 28/2001, 41/2001, 55/2001, 76/2010, 85/2010) provides:

Article 29

> "In the determination of his rights and obligations or of any criminal charge against him, everyone is entitled to a fair hearing within a reasonable time by an independent and impartial court established by law.
>
> In case of any criminal charge brought against him, the suspect, defendant or accused shall have the following rights ...
>
> - to defend himself ... ,
>
> - to be present at the hearing ... ,
>
> - to question or to have witnesses for the prosecution questioned and to have witnesses for the defence questioned under the same conditions as witnesses for the prosecution ..."

B. Constitutional Court Act

19. The relevant part of the Constitutional Court Act (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette no. 49/2002) reads as follows:

Section 62

"1. Anyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the individual act of a state body, a body of local or regional self-government, or a legal person with public authority, concerning his or her rights and obligations, or a suspicion or an accusation of a criminal act, has violated his or her human rights or fundamental freedoms or his or her right to local and regional self-government guaranteed by the Constitution (hereinafter: a constitutional right) ...

2. If another legal remedy exists in respect of the violation of the constitutional right [complained of], a constitutional complaint may be lodged only after that remedy has been used."

C. Road Traffic Safety Act

20. The relevant provisions of the Road Traffic Safety Act (*Zakon o sigurnosti prometa na cestama*, Official Gazette nos. 67/2008, 48/2010) read:

Section 12

" ...

(4) Drivers are obliged to comply with the limitations, prohibitions and requirements displayed on traffic signs.

...

(8) Drivers who do not comply with paragraph 4 of this section shall be fined for a minor offence with 500 Croatian kunas."

Section 236

"(1) Vehicles circulating on the roads must ... have up-to-date and suitable equipment.

...

(7) A driver of a vehicle which does not meet the required standards as regards ... its tyres shall be fined for a minor offence with 1,000 Croatian kunas."

D. Minor Offences Act

21. The relevant parts of the Minor Offences Act (*Prekršajni zakon*, Official Gazette no. 107/2007) provide:

Chapter one (I)

Minor offence

"A minor offence is an act which breaches the public order, social discipline or other social values and is not listed as an offence under the Criminal Code or other regulation listing offences."

Chapter five (V)

Enforcement of a fine

Section 34

"(1) If a fine is not fully or partially paid within the time-limit set out in the decision imposing it, such fine shall be enforced under the provisions of this Act.

(2) If a fine is not fully or partially paid within a year after the competent body received the decision for enforcement, the competent court shall, save in the case of a legal entity or a minor, impose a sentence of imprisonment for non-payment of a fine by replacing every unpaid three hundred Croatian kunas with one day of imprisonment, taking into account that the minimum such sentence can be three days and the maximum sixty days. ..."

Chapter eleven (XI)

The purpose of the procedural rules

"(1) The procedural rules of this Act provide regulations which ensure that proceedings before the courts and other bodies conducting minor-offence proceedings are fair, that human rights are protected, that the facts are properly assessed and that any finding of guilt of a minor offence is made lawfully, so that nobody innocent is convicted and that the perpetrator of the minor offence is sentenced.

...

(3) In matters not regulated by this Act, taking into account the nature of minor-offence proceedings, the provisions of the Code of Criminal Procedure shall apply accordingly."

Chapter twelve (XII)

Composition of the courts

"(1) In minor-offence proceedings all decisions shall be rendered by a single judge. ..."

Chapter twenty-eight (XXVIII)

SUMMARY PROCEDURE

Conditions for summary procedure

Section 221

"(1) Summary proceedings shall be conducted:

1. for a minor offence punishable by a fine of up to 10,000 Croatian kunas for a physical person ...”

Conduct of summary proceedings and application of other provisions of this Act

Section 222

“(1) When conducting summary proceedings, the provisions of this Act shall apply, unless otherwise provided for by the provisions of this Chapter.

(2) In summary proceedings, individual actions shall be taken in accordance with this Act, whereas the provisions of this Act regarding the main hearing, its convening and conduct are not applicable.

(3) In accordance with the provisions of this Act, the court shall summon the defendant, witnesses, court experts and others for questioning, and based on the evidence adduced and other evidence in the case file and when ... all the relevant issues have been established, shall render its decision on the minor offence.

(4) ... the prosecutor and other parties to the proceedings can participate in the proceedings in the manner provided for by this Act.”

Chapter thirty-one (XXXI)

1. MANDATORY PENALTY NOTICE

General conditions for issuing a mandatory penalty notice

Section 239

“(1) The prosecutor under section 109 paragraph 1(1) and (2) of this Act shall, before instituting minor-offence proceedings, issue a penalty notice ... for:

...

2. the minor offences proscribed by law punishable by a fine of up to 2,000 Kunas for a physical person ...”

Objection to a mandatory penalty notice

Section 241

“(1) An objection to a mandatory penalty notice may be lodged within eight days by:

1. the defendant,

2. the defendant’s legal representative,

3. [the defendant’s relatives] ... “

Grounds for objection

Section 242

“(1) The objection may:

1. challenge the finding of guilt ,

2. challenge the sanction imposed and order to pay costs and expenses.

(2) In the objection the complainant must specify the grounds on which he or she challenges the finding of guilt (e.g. that he or she did not commit the minor offence, that the act at issue is not a minor offence, that there are circumstances excluding guilt).

..."

Decision on an objection

Section 244

"(1) If the court has not rejected an objection challenging [a conviction of] a minor offence, or adopted a judgment under section 196(1)-(4) of this Act, it shall conduct summary proceedings (section 221) and adopt a judgment which shall not be subject to appeal.

(2) If the objection relates to the sentence imposed or order to pay costs and expenses, the court shall, without holding a hearing or conducting summary proceedings, dismiss the objection and uphold the penalty notice if it finds the objection ill-founded, or lift the sanction or order to pay costs and expenses in the penalty notice by a judgment if it finds the objection wholly or partially well-founded.

(3) The judgment under paragraph 2 of this section shall not be subject to appeal."

22. Amendments to the 2007 Minor Offences Act introduced on 1 June 2013 (Official Gazette no. 39/2013) provided, *inter alia*, for the possibility of imposing a sentence of imprisonment for non-payment of a fine only when the fine imposed exceeded HRK 2,000 (sections 11 and 43).

The amendments are applicable to all proceedings where the enforcement of a fine imposed under the 2007 Minor Offences Act has not commenced or is still pending (section 58 § 3).

Under these amendments a mandatory penalty notice must be issued for minor offences punishable by a fine of up to HRK 5,000 for a physical person. The procedures for imposing or objecting to such a penalty remain the same as those provided for in the 2007 Minor Offences Act.

THE LAW

ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (c) AND (d) OF THE CONVENTION

23. The applicant complained that the summary minor-offence proceedings against him had not been fair in that he had not been given the opportunity to defend himself, examine evidence and have evidence against him examined at an adversarial hearing. He relied on Article 6 §§ 1 and 3 (c) and (d) of the Convention, which, in so far as relevant, read as follows:

"1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...

3. Everyone charged with a criminal offence has the following minimum rights:

...

(c) to defend himself in person ...;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

... "

A. Admissibility

1. The parties' arguments

24. The Government submitted that the applicant had not properly argued his case before the Constitutional Court, which had resulted in his constitutional complaint being declared inadmissible. Thus, in the Government's view, the applicant had failed to properly exhaust the available and effective domestic remedies.

25. The applicant considered that by submitting complaints about the lack of fairness of the minor-offence proceedings against him to the Constitutional Court he had properly exhausted the domestic remedies.

2. The Court's assessment

26. The Court reiterates that under Article 35 § 1 of the Convention it may only deal with an application after all domestic remedies have been exhausted. The purpose of Article 35 is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court (see, for example, *Mifsud v. France* (dec.) [GC], no. 57220/00, § 15, ECHR 2002-VIII). The obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are effective, sufficient and accessible in respect of his Convention grievances. To be effective, a remedy must be capable of directly resolving the impugned state of affairs (see *Balogh v. Hungary*, no. 47940/99, § 30, 20 July 2004).

27. The rule of exhaustion of domestic remedies normally requires that complaints intended to be made subsequently at the international level should have been raised before the domestic courts, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law. The object of the rule on exhaustion of domestic remedies is to allow the national authorities (primarily the judicial authorities) to address an allegation that a Convention right has been violated and, where appropriate, to afford redress before that allegation is submitted to the

Court. In so far as there exists at national level a remedy enabling the national courts to address, at least in substance, any argument as to an alleged violation of a Convention right, it is that remedy which should be used (see *Azinas v. Cyprus* [GC], no. 56679/00, § 38, ECHR 2004-III).

28. The Court notes that in his complaint before the Constitutional Court the applicant argued that his right to a fair trial had been violated in that he had not had an effective opportunity to challenge the accusations against him. He also complained that when convicting him the Vrgorac Minor Offences Court had relied solely on the police report without holding a hearing and cross-examining the police officer who had drafted it (see paragraph 14 above). Therefore, the applicant, not having had the opportunity to challenge the first-instance minor-offence proceedings at any other level of the domestic jurisdiction (see paragraph 21; section 244 § 1 of the Minor Offences Act), appropriately brought the complaints about the alleged violation of his rights guaranteed under Article 29 of the Croatian Constitution (see paragraph 18 above) and Article 6 of the Convention before the Constitutional Court. The applicant thereby provided the national authorities with the opportunity which is in principle intended to be afforded to Contracting States by Article 35 § 1 of the Convention, namely, of putting right the violations alleged against them (see, for example, *Tarbuk v. Croatia*, no. 31360/10, § 32, 11 December 2012).

29. The Government's objection therefore must be rejected.

30. The Court notes that the applicant's complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

31. The applicant contended that he had never been provided with the police report containing the accusations against him although it had been the sole piece of evidence on which the judgment of the Vrgorac Minor Offences Court had been based. Moreover, he had not known that the report even existed. When requesting his questioning by the Rijeka Minor Offences Court, the Vrgorac Minor Offences Court had not sent a copy of the report to him or to the Rijeka Minor Offences Court, nor had it disclosed that it had been included in the case file. He had only learned about the report and its substance from the reasoning of the Vrgorac Minor Offences Court's judgment. He had thus been prevented from challenging the accusations against him or arguing his case effectively. Since there had been no cross-examination of the police officer who had drafted the report at the trial, the allegations contained in it had not been examined in an adversarial

procedure. Lastly, the applicant pointed out that the domestic legal system had not provided him with any possibility of challenging the arbitrariness of the first-instance court as there had been no possibility of appeal and the Constitutional Court had not afforded adequate protection.

32. The Government submitted that the applicant had had the opportunity to seek judicial review when confronted with the penalty notice of the police. He had used that opportunity and had taken judicial proceedings with all the guarantees of a fair trial. In his objection to the penalty notice he had had the opportunity to put forward all his arguments, which had been duly examined by the competent court. Moreover, he had had the opportunity to bring his complaints before the Constitutional Court and therefore, in accordance with the requirement of efficiency when dealing with minor-offence cases, he had had access to an effective domestic judicial procedure. Given that the applicant had been questioned before the Rijeka Minor Offences Court and that he had been allowed to put forward all his arguments, there had been no reason to question him again before the Vrgorac Minor Offences Court. The minor-offence proceedings had met the requirement of efficiency and it had not been expedient to insist on all the formal guarantees of a fair trial applicable to criminal cases. The Government pointed out that it had not been necessary to allow the applicant to cross-examine the police officer who had drafted the report at the trial because there had been no indication that he would not maintain the allegations contained in the report. It was also the well-established case-law of the Court that a hearing was not necessary in all cases concerning criminal charges. The Government also pointed out that the entire case file of the Vrgorac Minor Offences Court, which included the police report, had been forwarded to the Rijeka Minor Offences Court and that the applicant had had every opportunity to read the report and to comment on it. The applicant had been questioned by the Rijeka Minor Offences Court instead of by the Vrgorac Minor Offences Court because he had made a request to that effect. He had never requested that the police officer be questioned or that any other evidence be taken during the proceedings. Therefore, the fact that no further evidence had been taken or examined had been a result of his own conduct.

2. The Court's assessment

(a) General principles

33. The Court notes at the outset that minor-offence proceedings concerning road traffic offences fall to be examined under the criminal limb of Article 6 of the Convention (see, for example, *Baischer v. Austria*, no. 32381/96, § 22, 20 December 2001; *Berdajs v. Slovenia* (dec.), no. 10390/09, 27 March 2012; and *Mesesnel v. Slovenia*, no. 22163/08, § 28, 28 February 2013).

34. The Court reiterates that while entrusting the prosecution and punishment of minor offences to administrative authorities is not inconsistent with the Convention, the person concerned must have an opportunity to challenge any decision made against him before a tribunal that offers the guarantees of Article 6 (see, amongst many others, *Lauko v. Slovakia*, 2 September 1998, § 64, *Reports of Judgments and Decisions* 1998-VI). An oral and public hearing constitutes a fundamental principle enshrined in Article 6 § 1. This principle is particularly important in the criminal context, where generally there must be at first instance a tribunal which fully meets the requirements of Article 6 (see *Findlay v. the United Kingdom*, 25 February 1997, § 79, *Reports* 1997-I), and where an applicant has an entitlement to have his case "heard", with the opportunity, *inter alia*, to give evidence in his own defence, hear the evidence against him, and examine and cross-examine the witnesses (see *Jussila v. Finland* [GC], no. 73053/01, § 40, ECHR 2006-XIII).

35. The Court has, however, accepted that there could be exceptional circumstances dispensing the obligation to hold an oral hearing in cases not belonging to the traditional categories of criminal law (see *Jussila*, cited above, § 43) such as proceedings concerning traffic offences (see, for example, *Suhadolc v. Slovenia* (dec.), no. 57655/08, 17 May 2011) where the issues at stake were of a rather technical nature (see *Marguč v. Slovenia* (dec.), no. 14889/08, 15 January 2013), or even relating to a factual matter (see *Berdajs*, cited above), and where the accused had been given an adequate opportunity to put forward his case in writing and to challenge the evidence against him (see *Jussila*, cited above, §§ 41-42 and 47-48, *Andria Oy and Kari Karanko v. Finland* (dec.), no. 61557/00, 13 March 2007; *Suhadolc*, cited above; and *Berdajs*, cited above). These considerations are not limited to the issue of the lack of an oral hearing but may be extended to other procedural requirements covered by Article 6 (see *Kammerer v. Austria*, no. 32435/06, § 27, 12 May 2010).

36. Therefore, in each case, when assessing whether the requirements of a fair trial have been met, the Court must examine the manner in which the applicant's interests were actually presented and protected in the proceedings and particularly in the light of the nature of the issues to be decided by the domestic courts (see *Flisar v. Slovenia*, no. 3127/09, § 36, 29 September 2011).

(b) Application of these principles to the present case

37. The Court notes at the outset that the minor road traffic offences for which the applicant was convicted, as such, do not belong to the traditional categories of criminal law to which the criminal-head guarantees of Article 6 apply with their full stringency (see, amongst others, *Kammerer*, cited above, §§ 27 and 28; and *Suhadolc*, cited above).

38. Nevertheless, there might be instances even in the cases concerning minor offences, such as the threat of imprisonment if a fine is not paid, which could legitimately call for stronger guarantees to apply to the proceedings at issue (see *Marguč*, cited above). However, in the present case, although during the proceedings the relevant law envisaged the possibility of imprisonment for non-payment of a fine (see paragraph 21 above; section 34 of the Minor Offences Act), that possibility was removed by the 2013 amendments to the Minor Offences Act applicable to the procedure of enforcement of the applicant's sentence (see paragraphs 21 and 22 above) and therefore any threat of imprisonment was in reality eliminated.

39. The Court notes that the applicant's case was dealt with under the Minor Offences Act using the summary procedure provided for by that Act (see paragraph 21 above; section 244). The summary procedure is a form of judicial review procedure applicable, *inter alia*, to objections against mandatory penalty notices issued by the police. The procedure entails full jurisdiction to entertain questions of fact and law based on the issues raised in the request for judicial review (see paragraph 21 above, and sections 222 and 244 of the Minor Offences Act). However, the provisions of the Minor Offences Act concerning main hearings, which mandate for an adversarial trial, do not apply to summary proceedings. The Act, nevertheless, does allow the trial judge, at his or her discretion, to take certain actions such as questioning the defendant or witnesses and taking other evidence (see paragraph 21 above; section 222 §§ 2 and 3) with the possible participation of the parties (see paragraph 21 above; section 222 § 4).

40. The summary procedure in the case at issue was opened based on the applicant's objection to the police penalty notice related to the minor offences of dangerously overtaking another car and driving a car with inappropriate tyres. In his request for judicial review the applicant asked to be heard in court, and the Vrgorac Minor Offences Court scheduled two hearings for his questioning. However, both were adjourned on account of the applicant's inability to attend due to professional commitments (see paragraphs 8 and 9 above). At his own request, the applicant was eventually heard by the Rijeka Minor Offences Court assisting the competent Vrgorac Minor Offences Court (see paragraphs 10 and 11 above).

41. Having regard to the fact that the applicant had the opportunity to present arguments in favour of a hearing in his request for judicial review, the Court does not find the above-described system, which leaves the decision as to the need to hold an oral hearing or particular procedural actions with the possible participation of the parties to the judge's discretion, to be incompatible *per se* with the guarantees enshrined in Article 6 (see *Suhadolc*, cited above).

42. The Court shall thus proceed to examine whether in the circumstances of this case, having regard to the manner in which the

applicant's interests were actually presented and protected in the proceedings and particularly in the light of the nature of the issues to be decided by the Vrgorac Minor Offences Court, the lack of an adversarial hearing allowing the applicant to challenge the police report and to question the officer who had drafted it was justified (see *Suhadolc*, cited above, and *Flisar*, cited above, § 36). In other words, the Court will examine whether, in the present case, the domestic courts' discretion as to the conduct of the summary minor-offence proceedings was exercised in a way which was compatible with the requirements of Article 6 (see *Marguč*, cited above).

43. In this connection, the Court notes that the applicant was able to deny that he had committed the offences and to submit all factual and legal arguments which he considered helpful to his case, firstly in his written objection to the penalty notice by which he sought the judicial review and then during his questioning at the hearing before the Rijeka Minor Offences Court.

44. Although the applicant challenged the police officer's observations of him having committed the offences, which in principle warranted an adversarial hearing allowing the applicant to put the credibility of the police officer's findings to the test (see *Milenović v. Slovenia*, no. 11411/11, § 32, 28 February 2013), he never requested that the police officer be heard as a witness (compare *Aubrecht v. Slovenia* (doc.), no. 57653/08, 10 January 2012, and, by contrast, *Milenović*, cited above, § 31; and *Mesesnel*, cited above, § 39). The applicant did not argue that he was prevented from making such a request and, given that the domestic courts accepted his request to be questioned at a hearing, there is no reason for the Court to believe that any request on his part for the questioning of the police officer, which would have allowed the applicant to put the credibility of the police officer's findings to the test in an adversarial procedure, would not have been granted.

45. The Court cannot accept the applicant's arguments that he had not known about the record of the incident submitted by the police officer. The documents submitted to the Court show that the penalty notice made reference to it (see paragraph 7 above) and that it was part of the case file which was forwarded to the Rijeka Minor Offences Court before the applicant's questioning to which the applicant had full access (see paragraph 10 above).

46. Moreover, the Court notes that the applicant's arguments during the proceedings before the domestic courts were of a general nature and that he merely objected to the allegations of him having committed the offences without specifying any details relevant to the event or to the material elements of the offences (compare *Berdajs*, cited above). During his questioning before the Rijeka Minor Offences Court the applicant undertook to submit a copy of the relevant documents supporting his assertion that he had had factory tyres on his car. Without providing any explanation, he

nevertheless failed to submit these documents and thus left his arguments wholly unsubstantiated.

47. Against the above background, in the particular circumstances of the present case the Court is unable to conclude that the minor-offence proceedings before the domestic courts fell short of the requirements of a fair trial guaranteed under Article 6 of the Convention.

48. There has therefore been no violation of Article 6 §§ 1 and 3 (c) and (d) of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 6 §§ 1, 3 (c) and (d) of the Convention.

Done in English, and notified in writing on 10 July 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Isabelle Berro-Lefèvre
President