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

THIRD SECTION

DECISION

Application no. 10359/25
J.H.
against Slovenia

The European Court of Human Rights (Third Section), sitting on 28 April 2026 as a Committee composed of:

Lətif Hüseynov*, President*,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 10359/25) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 27 March 2025 by a Slovenian national, Mr J.H. ("the applicant"), who was represented by Ms B. Petek, a lawyer practising in Ptuj;

the decision not to have the applicant's name disclosed;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns proceedings in which the applicant was placed under the guardianship of his brother.

2. On 24 February 2022 the Ljubljana Local Court issued a decision placing the applicant under guardianship and appointing his brother, P.H., as his guardian. Throughout the proceedings, the applicant was represented by a lawyer. Following an appeal, the Ljubljana Higher Court, by a decision of 26 July 2022, referred the case back to the first-instance court on the grounds that it had failed to appoint the applicant a temporary guardian to ensure that his rights and interests were protected during the proceedings. Consequently, a temporary guardian was appointed on 27 October 2022.

3. In the fresh proceedings, the Ljubljana Local Court placed the applicant under guardianship in respect of financial representation, the disposal of

property, and participation in legal proceedings, on account of his mental developmental disability. It appointed the applicant's brother, P.H., as his guardian. In reaching its decision, the court relied on the opinions of the welfare centre that proposed the applicant's placement under guardianship and of an expert witness. It also heard members of the applicant's family as witnesses. It further relied on the statement given by the applicant in the first set of proceedings, and heard him again.

4. Relying on the expert opinion, the Ljubljana Local Court found that the applicant had an intellectual disability accompanied by behavioural impairments. The applicant was found capable of handling only small sums of money and unable to manage his property independently. On that basis, the court placed him under partial guardianship in respect of issues relating to the management of his financial affairs.

5. As to the question of who should be appointed as the applicant's guardian, the court took into account the opinion of the welfare centre. The centre had recommended the applicant's brother as his guardian, considering him to have the personal qualities and abilities necessary to perform the duties of a guardian. He was also willing to take the role, had no conflicting interests with the applicant and had previously exercised the role of special-case guardian adequately. According to the welfare centre, when the applicant had lived with his father (during which time his brother had not been the special-case guardian), it was unclear how his money had been spent, leading to financial problems. However, since the brother's appointment, those issues had been resolved – a state of affairs which was also confirmed by the applicant's temporary guardian. The court noted that the applicant had initially agreed with the appointment of his brother but had later changed his mind, claiming that his father, F.H., should be his guardian as he trusted him more and lived with him. However, the court nonetheless considered that, given the previous financial problems, such an arrangement would not be in the best interests of the applicant. Moreover, the court noted that the applicant's father, as well as his other siblings, had supported the recommendation of the welfare centre. Having regard to all of those factors, the court appointed the applicant's brother as his guardian.

6. The applicant appealed to the Ljubljana Higher Court, submitting, *inter alia*, that his wishes had been ignored and that his father should be appointed as his guardian. The Higher Court upheld the decision of the Ljubljana Local Court, noting that it had adequately explained why P.H. was better suited than his father to be the applicant's guardian.

7. Following an unsuccessful application for leave to appeal on points of law, the applicant lodged a constitutional complaint. On 9 December 2024 the Constitutional Court decided not to accept the constitutional complaint for consideration.

8. The applicant complained under Articles 6, 8 and 13 of the Convention. He argued that the domestic courts had acted arbitrarily as they had failed to

take into account his wishes as to who should be appointed as his guardian. He also complained that he had not been questioned before the Ljubljana Local Court in the fresh proceedings.

THE COURT'S ASSESSMENT

9. The Court notes at the outset that, in his application, the applicant contested solely the domestic courts' decision as to who should be appointed as his guardian, without raising any complaints regarding the imposition of guardianship as such.

10. The Court further observes that the applicant raised in substance essentially the same complaint under all the Convention provisions that he relied upon. It notes that these complaints are, in essence, linked to the procedural and substantive safeguards afforded by Article 8 of the Convention in cases concerning the deprivation of legal capacity. Consequently, the Court considers it appropriate to examine the applicant's complaints solely under Article 8 of the Convention.

11. The general principles relating to the compliance with Article 8 of proceedings for deprivation of legal capacity have been summarised in *Ivinović v. Croatia* (no. 13006/13, §§ 35-37, 18 September 2014). In particular, depriving a person of his or her legal capacity, even in part, interferes with the right to respect for the private life of the person concerned and is a very serious measure which should be reserved for exceptional circumstances. For such a measure to be considered necessary in a democratic society, the Court requires domestic courts to carefully examine all relevant factors and ensure full compliance with the requirements of Article 8 of the Convention, in particular those concerning the fairness of the decision-making process (ibid., §§ 35-36 and 38; see also *A.A.K. v. Türkiye*, no. 56578/11, §§ 64-66, 3 October 2023).

12. Having regard to the applicant's main argument that he was not heard during the proceedings and that his wishes were not respected, the Court must, in particular, assess whether he was involved in the decision-making process, considered as a whole, to a degree sufficient to ensure the requisite protection of his interests.

13. In this regard, the Court notes that the applicant was represented by a lawyer and was also appointed a temporary guardian for the proceedings so as to ensure that his interests were protected (see paragraph 2 above).

14. As to the applicant's argument that he was not questioned in the fresh proceedings, the Court notes that this is not supported by the documents in the case file. Notably, it is apparent from the decision of the Ljubljana Local Court that the applicant was questioned during the first set of proceedings on 14 February 2022 and then again on 30 March 2023 during the fresh proceedings (see paragraph 3 above). Consequently, the Court observes that

the applicant was involved in all stages of the proceedings, was heard in person and was able to present his arguments.

15. The Court further notes that the domestic courts duly took into consideration the applicant's wish that his father should be appointed as his guardian. However, having regard to the opinion of the welfare centre, the testimony of the relevant witnesses, and all relevant circumstances of the case – including the applicant's history of financial difficulties – the domestic courts nonetheless determined that the applicant's brother was better suited to assume the role of his guardian (see paragraphs 4 and 5 above). The domestic courts explained their decisions in that regard, and the measure they took was consistent with the legitimate objective of protecting the applicant's property interests (see *A.A.K. v. Türkiye*, cited above, § 86).

16. The Court takes note of the applicant's allegations concerning his relationship with his brother and the latter's alleged unsuitability to act as his guardian. However, the applicant failed to substantiate those allegations with any supporting evidence. In these circumstances, the Court considers that the applicant has not advanced any arguments capable of calling into question the findings reached by the domestic authorities.

17. In that connection, the Court reiterates that it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities regarding deprivation of legal capacity, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see *Ivinović*, cited above, § 36, and, *mutatis mutandis*, *Sahin v. Germany* [GC], no. 30943/96, § 64, ECHR 2003-VIII).

18. In view of the foregoing, the Court considers that, in appointing the applicant's brother as his guardian for the purposes of financial representation, the disposal of property, and legal proceedings, the domestic courts followed a procedure which was in conformity with the guarantees under Article 8 of the Convention.

19. It follows that the present application is inadmissible under Article 35 § 3 (a) of the Convention for being manifestly ill-founded and must therefore be rejected pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 May 2026.

Olga Chernishova Deputy Registrar	Lətif Hüseynov President