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

THIRD SECTION

DECISION

Applications nos. 25439/23 and 4669/24
Tomaž LOVŠE
against Slovenia

The European Court of Human Rights (Third Section), sitting on 30 September 2025 as a Committee composed of:

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

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the two applications (nos. 25439/23 and 4669/24) 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 16 June 2023 and 7 February 2024 by a Slovenian national, Tomaž Lovše ("the applicant"), who was born in 1968 and was represented by Ms K. Kus, a lawyer practising in Ljubljana;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The cases concern the domestic courts' alleged failure to protect the applicant's right to respect for his private life from media attacks by journalists.

2. At the material time, the applicant was the owner and director of Diners Club Slovenia and an adviser to the Croatian company Agrokor, which had purchased Mercator, one of Slovenia's largest companies, previously owned by State-controlled companies and banks. He was also a member of the Strategic Council for Macroeconomic Issues within the Ministry of Finance and the president of the Ski Association of Slovenia.

3. The applicant was the subject of a series of twelve articles published in October 2013 in the daily newspaper *Dnevnik* and on its website Dnevnik Online. The articles reported on the background to the sale of Mercator, in

which the applicant had played an important role in his capacity as an adviser to Agrokor. The articles reported on how prominent figures, such as the applicant, had influenced important public matters through informal connections, while being guided by their private interests. The articles included transcripts from the applicant's conversations with lawyers and other persons, which had been intercepted and used as part of the evidence gathered in ongoing pre-trial criminal proceedings against him for alleged crimes in relation to other business transactions. The journalists had obtained the transcripts from an anonymous source.

4. The applicant initiated civil proceedings against *Dnevnik* and its editor-in-chief. He submitted that the publication of the articles in question had breached his personality rights and claimed 50,000 euros (EUR) in respect of non-pecuniary damage.

5. The applicant argued that the recordings at issue had been illegally obtained, with the intention of damaging his reputation. The summaries of the conversations were misleading and defamatory, depicting him as unethical and deceitful. The articles were sensationalist, included unfounded value judgments and jeopardised both his personal and business relationships. The applicant also claimed that the publication of the confidential transcripts had undermined his defence rights in the concurrent criminal proceedings.

6. On 21 October 2013 the Ljubljana Local Court partly granted the applicant's request for an interim injunction, ordering journalists to cease using, summarising or publishing the confidential transcripts. That part of the injunction was upheld by the Higher Court on 11 March 2014.

7. With regard to the merits, the proceedings were divided into two parts. The Ljubljana District Court rejected the applicant's claim for damages on 15 October 2016, and the Ljubljana Local Court rejected his claim relating to the infringement of his personality rights on 14 November 2018. The courts considered that the interference with the applicant's rights to correspondence and reputation had been justified. The applicant was a well-known public figure, on account of the prominent roles he held in Slovenia (see paragraph 2 above). In his capacity as an adviser to Agrokor, he had been involved in a major public issue regarding the sale of Mercator, which affected the country's political and economic spheres. As a result, he had to tolerate higher scrutiny. The published transcripts related only to the sale of Mercator, and not to his private life or the criminal proceedings against him. Moreover, the verbatim inclusion of those transcripts contributed to the articles' persuasiveness. The courts examined each of the articles at issue separately. They found that the articles were not written in a sensationalist manner, and that the value judgments contained therein had been well-supported by facts. The journalists had acted in good faith, basing their reporting on authentic recordings and investigating the sale of Mercator through other sources also.

8. The applicant lodged appeals against both judgments, challenging the balancing exercise between the competing rights that had been undertaken in

his case. Furthermore, in the appeal against the decision of the Ljubljana District Court, he argued that the articles at issue had interfered with his defence rights and his right to the presumption of innocence in the concurrent criminal proceedings.

9. The applicant's appeal against the judgment of the Ljubljana District Court was dismissed on 27 June 2018 and the appeal against the judgment of the Ljubljana Local Court was dismissed on 29 May 2019. The Higher Court held that the journalists' freedom of expression had outweighed the applicant's personality rights, because of the significant public interest in the sale of Mercator. Regarding his defence rights and his right to the presumption of innocence, the Higher Court noted that the disputed articles did not refer to the then ongoing criminal proceedings; nor were there any other criminal cases against the applicant.

10. On 6 February 2020 the Supreme Court declared inadmissible an appeal on points of law lodged by the applicant against the judgment of 29 May 2019. His appeal on points of law against the Higher Court's judgment of 27 June 2018 was dismissed on the merits on 23 January 2018, with the Supreme Court upholding the findings of the lower courts.

11. The applicant lodged a constitutional complaint against both decisions of the Supreme Court. He reiterated his previous arguments, maintaining that the disclosure of the transcripts had violated his defence rights, the principle of equality of arms and his right to the presumption of innocence in the concurrent criminal proceedings.

12. The Constitutional Court dismissed the applicant's constitutional complaint regarding the violation of personality rights on 19 January 2023 and, regarding the claim for damages, on 28 September 2023. It found that the lower courts had applied the relevant criteria resulting from domestic case-law and the Court's case-law appropriately. Additionally, the court held that the applicant's concerns regarding the criminal proceedings were merely hypothetical, in so far as no such proceedings relating to the sale of Mercator had been ongoing. The applicant's complaints regarding the violation of his defence rights, the principle of equality of arms and his right to the presumption of innocence were rejected either for non-exhaustion of domestic remedies or for being unsubstantiated.

13. According to publicly available information, the criminal proceedings against the applicant ended in 2016 with a guilty plea agreement.

14. The applicant complained, under Article 8 of the Convention, that the domestic court's decision had infringed his rights to correspondence and reputation. He also complained under Article 6 of the Convention about the length of the proceedings and of a violation of his rights in the criminal proceedings.

THE COURT'S ASSESSMENT

15. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

A. Alleged violation of Article 8 of the Convention

16. The general principles concerning the protection afforded by Article 8 of the Convention and those applicable to cases in which the right to freedom of expression has to be balanced against the right to respect for private life have been summarised in *Bédat v. Switzerland* ([GC], no. 56925/08, §§ 48-54, 29 March 2016) and *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, §§ 95-99, ECHR 2012).

17. The Court notes that the articles at issue included confidential transcripts of the applicant's conversations and portrayed him negatively (see paragraphs 3 and 5 above). Consequently, the publication of an entire series of such articles attained the requisite level of seriousness to bring Article 8 into play (see *Mesić v. Croatia (no. 2)*, no. 45066/17, §§ 62 and 71, 30 May 2023, with further references).

18. The Court further notes that in examining the case, the domestic courts had regard to the relevant criteria laid down in the Court's case-law for balancing freedom of expression with the applicant's rights under Article 8 of the Convention.

19. In particular, they took into account the fact that the applicant was a public figure, on account of the several high-profile positions held by him, and especially his role in the sale of Mercator (see paragraph 2 above) and could thus be subject to wider limits of acceptable criticism than private individuals (see paragraph 7 above; see also *Radio Broadcasting Company B92 AD v. Serbia*, no. 67369/16, § 78, 5 September 2023**,** with further references).

20. The domestic courts were also unanimous in their findings that the articles at issue had reported on a matter of public interest, namely the background to the sale of one of Slovenia's largest companies (see paragraphs 3, 7, 9-10, 12 above). The Court agrees that questions concerning the management of State-owned enterprises undoubtedly represent a matter of general interest (see *Radio Twist a.s. v. Slovakia*, no. 62202/00, § 58, ECHR 2006-XV).

21. The Court further concurs with the domestic courts' findings that the articles at issue focused on the applicant's professional activities relating to a matter of public interest and not his private life (see paragraph 7 above). Additionally, while reiterating the importance of the secrecy of a judicial investigation in view of what is at stake in criminal proceedings (see *Radio Broadcasting Company B92 AD,* cited above, § 93 and *Bédat*, cited above, § 68), the Court nonetheless points out that the impugned articles did not

cover the then ongoing criminal proceedings against the applicant, but rather the sale of Mercator (see paragraphs 3 and 7 above), something that the applicant did not contest. Additionally, while noting that the applicant was depicted as unethical and deceitful, the Court nonetheless points out that those statements were not made in relation to the then ongoing criminal proceedings against the applicant (compare *Bédat*, cited above, §§ 60 and 69).

22. The Court emphasises that, although the manner of obtaining confidential information may influence the balancing of conflicting interests, even if the information had been obtained illegally by a third person, that fact cannot be decisive when assessing whether the journalists acted in accordance with their duties and responsibilities (see *Bédat,* cited above, §§ 50 and 56). The Court notes that, in the present case, the journalists did not engage in unlawful conduct themselves but obtained the transcripts at issue from an anonymous source (see paragraph 3 above; see also *Dupuis and Others v. France*, no. 1914/02, §§ 43-46, 7 June 2007, and *Radio Twist a.s.*, cited above, §§ 59-62). Moreover, they also used other sources of information in investigating the background to the Mercator sale (see paragraph 7 above).

23. The domestic courts also found that the journalists had acted in good faith and had a sufficient factual basis for their value judgments, conclusions which the Court does not find unreasonable (see paragraph 7 above; compare *Bédat,* cited above, § 50). The Court does not see any indication that the journalists acted in bad faith or that they pursued any purpose other than reporting on matters of public interest (see paragraph 3 above). Moreover, the Court sees no reason to depart from the domestic courts' conclusion that the articles had not been sensationalist and that the inclusion of verbatim transcripts had enhanced the credibility of the reported information (see paragraph 7 above; compare *Dupuis and Others*, cited above, § 46), especially as it is not for the Court, or for the national courts, to substitute their own views for those of the press as to what reporting techniques should be adopted (see *Pricope v. Romania*, no. 60183/17, § 39, 30 May 2023).

24. In conclusion, the Court has no reasons to substitute its views for those of the domestic courts, which struck the requisite fair balance between the applicant's right to respect for his private life and the newspaper's right to freedom of expression (see *Von Hannover*, cited above, § 107; *Mesić*, cited above, § 81; and *Thomaidis v. Greece*, no. 28345/16, § 38, 7 May 2024).

25. The Court therefore finds this complaint to be manifestly ill-founded and rejects it in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Alleged violation of Article 6 of the Convention

26. As regards the applicant's complaint about the length of the proceedings, the Court notes that he failed to use the remedies available to him under the Act on the Protection of the Right to a Trial without Undue

Delay, which are effective remedies for excessive length of proceedings in Slovenia (see, for similar approach, *Bijelić v. Slovenia* (dec.) [Committee], no. 51515/18, §§ 35-36, 16 February 2021, with further references).

27. This complaint is therefore inadmissible for non-exhaustion of domestic remedies and must be rejected under Article 35 §§ 1 and 4 of the Convention.

28. As regards the applicant's remaining complaints under Article 6 of the Convention, namely that his defence rights and his right to the presumption of innocence in the criminal proceedings had been violated, the Court notes that the Constitutional Court did not address those complaints, finding that they had not been adequately raised at all levels of jurisdiction in Slovenia (see paragraph 12 above). Furthermore, the Court emphasises that those complaints relate to the criminal proceedings, which ended with a guilty plea agreement (see paragraph 13 above) and the outcome of which was thus not challenged by the applicant. Moreover, the articles at issue were published by a private company and there is nothing to suggest that the State should be held responsible under Article 6 § 2 of the Convention in that regard. In such circumstances, the applicant's complaints rather raise an issue under Article 8 of the Convention (see *Mityanin and Leonov v. Russia*, nos. 11436/06 and 22912/06, §§ 102 and 105, 7 May 2019), a matter which has already been examined above (see paragraphs 14-23 above).

29. Accordingly, the Court finds this complaint to be manifestly ill-founded and rejects it in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 23 October 2025.

Olga Chernishova Deputy Registrar	Lətif Hüseynov President

APPENDIX

No.	Application no.	Case name
1.	25439/23	Lovše v. Slovenia
2.	4669/24	Lovše v. Slovenia