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

FIRST SECTION

DECISION

Application no. 11101/21
P.R.
against Slovenia

The European Court of Human Rights (First Section), sitting on 15 May 2025 as a Committee composed of:

Alena Poláčková*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 11101/21) 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 17 February 2021 by a Slovenian national, P.R. ("the applicant"), who was born in 1966, lives in Slovenia and was represented by Mr Toldi, a lawyer practising in Ljubljana;

the decision to give notice of the complaints concerning Articles 8, 13 and 14 of the Convention to the Slovenian Government ("the Government"), represented by their Agent, Mrs T. Mihelič Žitko, Senior State Attorney, and to declare the remainder of the application inadmissible;

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

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the unlawful search of the private rooms of the official residence in which the applicant, then ambassador, was living and the domestic court's judgment dismissing his claim for compensation for breach of privacy.

2. On 5 February 2007 the applicant was appointed Slovenian ambassador to Spain for a period of four years. He remained in that position until August 2010. During that time the applicant lived in the embassy's official residence

in Madrid, which was a single-family residential house. Some parts of the residence, namely the dining room, living room and garden, were also used for diplomatic receptions.

3. In the period from 9 February to 13 February 2009, official P.T., authorised by the Ministry of Foreign Affairs, carried out an internal review of the embassy's operations. During the inspection P.T., accompanied by the applicant, entered both the private and official parts of the residence.

4. On 5 January 2010 the applicant filed a claim against the Republic of Slovenia, seeking compensation for the damage that he had allegedly suffered because the defendant, acting through its official, P.T., had unlawfully entered, searched and photographed the applicant's residence. The applicant stated that, as a consequence of the search, he had suffered mental distress from the violation of his right to privacy, dignity and safety.

5. On 17 March 2014 the Ljubljana District Court dismissed the applicant's claim. The court held that the inspection by P.T. had been lawful owing to the public interest in ensuring the efficient and transparent use of public funds. Moreover, the applicant had not proved that P.T. had conducted the inspection of the residence in an unpleasant manner, for example by rummaging through cupboards in the private rooms, or by photographing the contents of the cupboards in the private rooms.

6. On 15 April 2015 the Ljubljana Higher Court upheld the applicant's appeal, quashed the challenged judgment and remitted the case back to the Ljubljana District Court.

7. During the re-examination of the case, the Ljubljana District Court engaged an expert witness, psychiatrist D.T., who concluded that the applicant suffered from schizophrenia and a psychotic disorder. The expert observed that the applicant had been affected by those conditions since 1995 and the inspection of the residence had increased his distress by approximately 10-15%. Without the subsequent media exposure concerning the applicant, that level would have decreased after a few weeks. However, because of the media attention given to his case, his distress lasted about a year and a half. At the oral hearing, D.T. testified that because of his illness the applicant had felt threatened by the search and that no distinction could be made between the impact on the applicant of the search of the private rooms on the one hand, and the search of the official premises on the other.

8. On 26 April 2016 the Ljubljana District Court ruled that the defendant should pay the applicant compensation in the amount of 5,000 euros.

9. Both parties appealed against that decision. On 22 February 2017 the Ljubljana Higher Court amended the ruling of the contested judgment by dismissing the applicant's claim in its entirety, holding that the actions of the defendant had been lawful.

10. On 15 March 2018 the applicant lodged an appeal on points of law, which was dismissed by the Supreme Court. It noted that the inspection of the official part of the residence where official duties were carried out had

been lawful. Regarding the inspection of the private part of the applicant's residence, the Supreme Court concluded that in accordance with the regulations in force in the relevant period, the inspection of that part of the residence had been unlawful, thus violating the applicant's right to respect for his privacy and home. However, the Supreme Court found, based on the expert evidence, that the applicant's illness meant that he would have felt threatened regardless of which part of the residence P.T. had entered. Thus, the court determined that the damage from the unlawful inspection of the private part of the residence had been no greater than the damage already caused by the lawful inspection of the official part.

11. On 24 September 2020 the Constitutional Court decided not to accept the constitutional complaint for consideration, which had been lodged by the applicant.

12. The applicant complained that the inspection of the private premises in his official residence had breached his rights under Article 8 of the Convention and that he had not been afforded an effective remedy under Article 13 of the Convention. He also relied on Article 14 of the Convention, stating that the Supreme Court, by refusing to award him compensation, had treated him less favourably because of his mental illness.

THE COURT'S ASSESSMENT

13. The Government argued that the applicant had an effective remedy at his disposal, that there had not been any discrimination in the present case and that the Supreme Court had already established that the applicant's rights under Article 8 of the Convention had been breached.

14. The Court observes that it is undisputed that the search of the private part of the applicant's residence was conducted unlawfully (see paragraph 10 above) and that the domestic authorities acknowledged this in substance (see paragraph 10 above). The Court must thus determine whether the applicant was provided with proper redress at the national level and in particular whether the refusal of his compensation claim amounted to discrimination within the meaning of Article 14 of the Convention.

15. The Court would emphasise that it is primarily for the national authorities, in particular the courts, to interpret and apply domestic law. The Court's role is confined to ascertaining whether the effects of such an interpretation are compatible with the Convention. In so doing, the Court has to satisfy itself that the national authorities based their decisions on an acceptable assessment of the relevant facts (see *Beizaras and Levickas v. Lithuania*, no. 41288/15, § 116, 14 January 2020).

16. The Court notes that neither the Convention nor national law give a person the right to automatic compensation if their rights under Article 8 of the Convention are breached. It also notes that in the event of an illegal search, the finding of a violation of Article 8 could constitute in itself

sufficient just satisfaction for any non-pecuniary damage sustained by the applicant as a result of that violation (see for example *Tortladze v. Georgia*, no. 42371/08, § 82, 18 March 2021).

17. The Court attaches weight to the fact that the applicant was not prevented *a priori* from obtaining compensation for pecuniary and non-pecuniary damage suffered on the grounds of his mental condition. Indeed, the domestic courts examined the applicant's claim on the merits in adversarial proceedings at three level of jurisdiction. In refusing his compensation claim they did not refer to the applicant's mental condition as such (contrast *Carvalho Pinto de Sousa Morais v. Portugal*, no. 17484/15, §§ 44-45, 49 and 55-56, 25 July 2017, and *Paraskeva Todorova v. Bulgaria*, no. 37193/07, 25 March 2010, see also, for illustrative purposes, *Deaconu v. Romania* [Committee], no. 66299/12, 29 January 2019), but relied on the expert's assessment concerning one of the objective statutory conditions for claiming compensation, namely the existence of damage (*obstoj škode*), which is applied in all tort cases. In the present case, the expert, who was best placed to make an assessment on that point, found that the applicant had not suffered any damage specifically as a result of the unlawful search of the private part of the premises. There is no indication that the expert report was underpinned by any bias or discriminatory attitude.

18. Taking into account the reasoning of the Supreme Court and the fact that the applicant himself did not contest the expert report, the Court finds no grounds to suggest that the Supreme Court's interpretation of domestic law and its application to the facts of the case was incompatible with Article 14 in conjunction with Article 8 of the Convention. The Court therefore concludes that even assuming that the applicant was treated differently based on his health condition, such treatment was based on objective and reasonable grounds (see *Jurčić v. Croatia*, no. 54711/15, § 62, 4 February 2021). Since the alleged discrimination in access to compensation was the core of his complaint under Article 8 taken alone, the Court likewise finds no indication that the guarantees of this provision were not respected.

19. Accordingly, this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected pursuant to Article 35 § 4 of the Convention.

20. In the absence of an arguable claim under Articles 8 and 14 of the Convention, the applicant's complaint under Article 13 is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 5 June 2025.

Liv Tigerstedt Deputy Registrar	Alena Poláčková President