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

# THIRD SECTION

# DECISION

Application no. 9533/23
Jože VINCETIČ
against Slovenia

The European Court of Human Rights (Third Section), sitting on 31 March 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. 9533/23) 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 21 February 2023 by a Slovenian national, Mr Jože Vincetič ("the applicant"), who was born in 1985, lives in Murska Sobota and was represented by Mr I. Vinčec, a lawyer practising in Lendava;

the decision to give notice of the application to the Slovenian Government ("the Government"), represented by their Agent, Ms A. Vran, Senior State Attorney;

the parties' observations;

Having deliberated, decides as follows:

## SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's inability to obtain compensation in civil proceedings for the unlawful search of his home in the context of criminal proceedings.

2. On 16 December 2009 the investigating judge issued a search warrant for the applicant's apartment on the basis of a police proposal that there was reasonable suspicion that he had committed the criminal offence of robbery under Article 206 of the Criminal Code and that evidence of the offence would likely be found during the search. During the search of the applicant's

apartment on 17 December 2009, the police found no evidence relating to the robbery but did find cannabis.

3. On 29 February 2012 the Murska Sobota District Court found the applicant guilty of the criminal offences of being complicit in robbery and illicit manufacture and trade in narcotics under Articles 206 and 186 of the Criminal Code, respectively. In its judgment, the court relied, *inter alia*, on the evidence obtained during the search of the applicant's home.

4. On 12 September 2013 – and in the corrigendum of 8 November 2013 – the Supreme Court upheld the applicant's request for the protection of legality in part. It quashed the conviction for the criminal offence of robbery and remitted the case to the first-instance court for retrial. It also quashed the aggregate sentence but upheld the applicant's conviction for the criminal offence of illicit manufacture and trade in narcotics.

5. On 19 December 2013 the applicant lodged a constitutional complaint concerning the criminal offence of illicit manufacture and trade in narcotics. He argued, *inter alia*, that the search warrant had not been sufficiently reasoned and that the evidence obtained during the search should therefore be excluded.

6. During the re-examination of the case following the Supreme Court's above-mentioned judgment, the District Court prosecutor dropped the charge of robbery and, on 14 April 2014, the Murska Sobota District Court delivered a judgment dismissing the charge against the applicant (*zavrnilna sodba*).

7. On 9 June 2016 the Constitutional Court found that the search of the applicant's home had been unlawful as the search warrant had not been sufficiently reasoned, which resulted in the violation of the applicant's right to inviolability of his home. Consequently, it quashed the judgments of the Supreme Court, the Higher Court and the District Court in the part relating to the criminal offence of illicit manufacture and trade in narcotics and referred the case back to the District Court for reconsideration.

8. On 8 September 2016 the Murska Sobota District Court excluded the documents and evidence obtained during the unlawful search of the applicant's home. As a result, the District State prosecutor dropped the charge of illicit manufacture and trade in narcotics owing to insufficient evidence and the Murska Sobota District Court delivered a judgment dismissing the charge against the applicant (*zavrnilna sodba*).

9. On 17 October 2017 the applicant brought an action against the Republic of Slovenia for the payment of compensation for wrongful imprisonment in the amount of 16,500 euros (EUR) and for the unlawful search of his home in the amount of EUR 7,500.

10. On 5 June 2018 the Murska Sobota District Court delivered a judgment awarding the applicant EUR 13,480 in compensation for emotional distress resulting from his wrongful imprisonment, while dismissing his claim concerning the unlawful search of his home. It emphasised that the police had

conducted the search on the basis of a search warrant, which was considered to be lawful at the time of the search.

11. On 13 November 2018 the Maribor Higher Court dismissed the applicant's appeal. It reasoned that for the court's conduct to amount to a breach of duty, it had to be established that the court had grossly neglected its duty – that is, its actions amounted to "the most severe forms of unlawfulness". However, it considered that this threshold of unlawfulness had not been met in the applicant's case as the investigating judge, who had issued the search warrant, had acted in compliance with the professional standards of conduct of judicial office. Accordingly, the judge had acted in accordance with domestic law and the relevant domestic case-law.

12. On 7 February 2019 the Supreme Court dismissed the applicant's request for leave to appeal on points of law and, on 18 October 2022, the Constitutional Court decided not to accept the constitutional complaint for consideration.

13. The applicant complained that the unlawful search of his home had amounted to a breach of Article 8 of the Convention and that he had not been granted appropriate relief for that breach.

## THE COURT'S ASSESSMENT

14. The Court reiterates that it falls first to the national authorities to redress any alleged violation of the Convention. In this regard, the question whether an applicant can claim to be a victim of the violation alleged is relevant at all stages of the proceedings under the Convention (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 179, ECHR 2006-V, and *Rooman v. Belgium* [GC], no. 18052/11, §§ 128-33, 31 January 2019).

15. The Court further reiterates that a decision or measure favourable to the applicant is not, in principle, sufficient to deprive him or her of his or her status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (ibid.).

16. As to the redress which is appropriate and sufficient in order to remedy a breach of a Convention right at national level, the Court has generally considered this to be dependent on all the circumstances of the case, having regard, in particular, to the nature of the Convention violation at stake (see *Gäfgen v. Germany* [GC], no. 22978/05, § 116, ECHR 2010). The Court reiterates that, where a search is found to be unlawful, various forms of redress may be appropriate for breaches of Article 8. In particular, it has accepted in some cases that excluding unlawfully obtained evidence may constitute adequate compensation for the interference with private life of a person being prosecuted under criminal law (see, for example, *Ben Faiza v. France*, no. 31446/12, § 47, 8 February 2018; *Contrada v. Italy (no. 4)*,

no. 2507/19, §§ 62-64, 23 May 2024; and, for illustrative purposes, *Mateuț v. Romania* (dec.), no. 35959/15, §§ 32-39, 1 March 2022).

17. Turning to the facts of the present case, the Court notes at the outset that the search warrant was issued on the basis of a reasonable suspicion that the applicant had committed the criminal offence of robbery (see paragraph 2 above). In addition, the police had conducted the search in accordance with a court warrant, which was only subsequently found to be unlawful by the Constitutional Court (see paragraphs 2, 7 and 10 above). Moreover, the domestic courts established that the investigating judge, in issuing the search warrant, had acted in accordance with the domestic case-law applicable at the relevant time (see paragraph 11 above).

18. The Court also observes that the Constitutional Court acknowledged the unlawfulness of the search of the applicant's home and a violation of the constitutional right to inviolability of his home (see paragraph 7 above). As a result, all the evidence obtained during the unlawful search was subsequently excluded from the case file and the charges against the applicant were dismissed (see paragraph 8 above). The Court considers that, in so ruling, the domestic courts acknowledged the interference with the applicant's right to respect for his private life.

19. Next, as regards the question whether the national authorities remedied the violation of the Convention, the Court reiterates that in *Ben Faiza* (cited above, § 47), the applicant alleged a violation of his right to respect for his private life on account of the installation of a geolocation device in his vehicle, which he considered to be unlawful, and that the French courts had revoked the measure for lack of authorisation. Accordingly, the Court held that the French authorities had fully remedied the damage alleged by the applicant, in so far as they had granted the applicant's request to have the investigative measures – which he claimed had been implemented in breach of Article 8 of the Convention – revoked. The Court concluded in that case that the applicant could no longer claim to be a victim in this respect (ibid.).

20. In the light of the Court's findings in *Ben Faiza* and having regard to the parallels between the two cases, the Court similarly concludes that the domestic authorities in the present case remedied the violation of Article 8 by acknowledging the breach and excluding the impugned evidence from the case file (see also, for illustrative purposes, *Mateuț,* cited above*,* §§ 32-39). In this connection the Court notes that the applicant's main complaint concerns his ultimately unsuccessful civil claim for compensation. However, it reiterates that the effectiveness of a remedy for violations of the rights guaranteed by Article 8 does not necessarily depend on obtaining financial compensation (see *Contrada*, cited above, § 63).

21. The Court considers that in the circumstances of the present case – particularly having regard to the nature of the interference and the context in which it took place – the acknowledgment of the breach of the applicant's

rights and the exclusion of the unlawfully obtained evidence from the criminal proceedings was sufficient and appropriate and that the applicant could no longer claim to be a "victim", within the meaning of Article 34 of the Convention.

22. It follows that the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be dismissed under Article 35 § 4.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 7 May 2026.

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| Olga Chernishova<br>Deputy Registrar | Lətif Hüseynov<br>President |