

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

FIFTH SECTION

CASE OF MYRONYUK v. UKRAINE

(Application no. 22566/14)

JUDGMENT

STRASBOURG

12 September 2024

This judgment is final but it may be subject to editorial revision.



In the case of Myronyuk v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Lado Chanturia*, President*,
Stéphanie Mourou-Vikström,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 22566/14) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 14 March 2014 by a Ukrainian national, Mr Sergiy Stepanovych Myronyuk ("the applicant"), who was born in 1970 and lives in Lutsk;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented, most recently, by their Agent, Ms M. Sokorenko;

the parties' observations;

Having deliberated in private on 11 July 2024,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the allegedly unlawful and unjustified eviction of the applicant from a State-owned hostel. The applicant relied on Article 8 of the Convention.

2. In 2013 the Volyn military prosecutor's office brought eviction proceedings against the applicant, L.M. (his wife) and four children (including three minors), alleging that they no longer had legal grounds to occupy a room in a hostel for military servicemen, as the applicant had been dismissed from the military in December 2001 in connection with his criminal conviction.

3. The applicant and L.M. contested that claim in their own name and on behalf of their minor children. O.M. – the couple's son who had reached the age of majority – joined them on his own behalf. They argued, in particular, that in 2001, following the applicant's discharge, the military prosecutor's office had already examined their situation and decided that they remained eligible for a room in the hostel. In particular, the applicable law protected the applicant from eviction as an officer who had served in the military for over ten years prior to his discharge. They further noted that the initiation of eviction proceedings twelve years after the applicant's discharge had been in breach of the limitation period and in any event was no longer fair, since the applicant's criminal record had long since been expunged. By the relevant time the applicant's family of six had lawfully occupied the disputed dwelling as their home for over sixteen years and had dutifully paid all the charges.

The eviction had been neither lawful nor necessary, particularly in view of the fact that three of the family members were minor children and they had no other place of residence.

4. The Lutsk City Child Protection Board (*Служба у справах дітей*) joined the proceedings as a third party, asking the court to dismiss the eviction claim to protect the interests of the minor children.

5. On 9 July 2013 the Lutsk City District Court allowed the eviction claim, finding that the applicant had lost his legal grounds for occupying a room in the military servicemen's hostel in 2001 because he had been discharged in connection with his criminal conviction. The court also found that the legal provisions cited by the defendants concerning the limitation period and other grounds proscribing eviction did not apply in their case. It did not respond in any manner to their arguments concerning the interests of the children or other arguments relating to the fairness of the eviction.

6. The defendants appealed, arguing, in particular, that the eviction of their family, in addition to being unlawful, would traumatise the children and impose a disproportionate burden on their family, as the disputed premises had been their only home for the past sixteen years and they had no alternative place of residence.

7. On 15 August 2013 the Volyn Regional Court of Appeal upheld the eviction order, having found that the first-instance court had correctly decided that the applicant and his dependants had lost their legal grounds for occupying the disputed premises and the limitation period did not apply in their case.

8. On 26 September 2013 the Higher Specialised Court in Civil and Criminal Matters rejected the defendants' request for leave to appeal on points of law.

THE COURT'S ASSESSMENT

9. Relying on Article 8 of the Convention, the applicant complained that his eviction had been neither lawful nor necessary.

10. The Government invited the Court to dismiss the present application as manifestly ill-founded in view of the fact that in 2004 the applicant's family had allegedly acquired a private flat, which could have served as their place of residence. The Government submitted that the applicant had likely manipulated the facts during the 2013 eviction proceedings, in particular as regards the children's actual place of residence. In support of their allegations, the Government provided an extract from the real-estate register, from which it was apparent that in 2004 L.M. had registered the purchase of a private flat in Lutsk. The Government also presented a copy of a civil claim brought by the applicant against L.M. in 2020, in which he had argued that the above-mentioned flat was their conjugal property. He had noted in that claim that the couple had divorced in 2013, but continued cohabiting in that

flat until 2019, when L.M. had refused to let him in and had changed the locks after a household argument. Referring to those documents, the Government pointed out that it was questionable whether the military servicemen's hostel had been the applicant's and his minor children's actual and only home at the time of the eviction proceedings. The Government have not provided copies of the domestic judgments taken in the proceedings brought by the applicant against L.M.

11. The applicant submitted that the hostel had been his family's actual and only home at the time of their eviction. He did not comment on the Government's allegations concerning the flat purchase registered in L.M.'s name in 2004.

12. The Court notes that in the course of the eviction proceedings, the applicant and L.M. argued that the hostel had been their family's only home and the prosecutor's office, which acted as the claimant, had not brought up the fact that L.M. had a private flat registered in her name. The Child Protection Board had also acted on the premise that the applicant's minor children lived in the hostel and the national courts had not examined the question of whether or not any alternative residence might have been available to the family. In this context, the Court, bound by its subsidiary role, is unable to examine the relevant question "at first instance" or take up the Government's arguments and the material submitted by them as grounds for dismissing the present complaint as manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nor does it find the complaint inadmissible on any other grounds. It therefore dismisses the Government's objection and declares the present complaint admissible (compare, *mutatis mutandis*, *Dakus v. Ukraine* [Committee], no. 19957/07, §§ 38-39, 14 December 2017).

13. Viewing the facts of the case in the light of its established case-law (see, among other authorities, *McCann v. the United Kingdom*, no. 19009/04, § 50, ECHR 2008; *Ćosić v. Croatia*, no. 28261/06, §§ 18-23, 15 January 2009; and *Kryvitska and Kryvitskyy v. Ukraine*, no. 30856/03, §§ 42-44, 2 December 2010), the Court finds that the applicant's eviction from a State-owned hostel amounted to an interference with his right to respect for his home.

14. The Court is prepared to accept the Government's arguments that the disputed interference had some basis in domestic law as interpreted by the domestic courts and pursued the legitimate aim of protecting the interests of other military servicemen in need of housing.

15. At the same time, the domestic courts ordered the applicant's and his family's eviction without having analysed the proportionality of that measure. Once they found that their occupancy did not comply with the applicable legal provisions, they gave that aspect paramount importance. In their reasoning, the courts did not address the applicant's arguments concerning the necessity of his and his minor children's eviction and did not indicate, in any manner,

that they had sought to weigh up the desire of the claimant – a public entity – to have the disputed premises vacated for the benefit of unspecified third parties against the applicant's submissions that retaining occupancy of the premises, in which he and his family had arguably lived for over sixteen years in total (including some twelve years after his discharge from military service), was an issue of vital importance for him and his minor children. In so far as the Government alleged, as noted above, that the applicant had manipulated the facts concerning his and the children's actual place of residence and the precarious nature of their situation, those arguments were neither raised by the claimant in a convincing manner, nor reflect in the reasoning of the domestic courts. In those circumstances, the Court cannot find that the domestic authorities provided "sufficient reasons" to demonstrate a "pressing social need" for the disputed eviction or that they justified its "proportionality" within the meaning of Article 8 of the Convention (compare *Dakus*, cited above, § 51).

16. The Court has previously found violations of Article 8 of the Convention in other cases, including in cases against Ukraine, in the context of eviction proceedings concerning public housing, where the applicants had not had the benefit of an examination of the necessity of the interference (see, for example, *Kryvitska and Kryvitskyy*, cited above, §§ 51-52; *Dakus,* cited above, §§ 52-53; and *Sadovyak v. Ukraine* [Committee], no. 17365/14, §§ 34-35, 17 May 2018).

17. In the present case the Court likewise finds that there has been a violation of Article 8 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

19. The Government submitted that that claim was exorbitant and unsubstantiated.

20. Ruling on an equitable basis, the Court awards the applicant EUR 1,200 in respect of non-pecuniary damage.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*

   (a) that the respondent State is to pay the applicant, within three months, EUR 1,200 (one thousand two hundred euros), plus any tax that may be chargeable, to be converted into the currency of the respondent

State at the rate applicable at the date of settlement, in respect of non-pecuniary damage;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 12 September 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Lado Chanturia President