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

FIFTH SECTION

DECISION

Application no. 77302/16
Mykhaylo Mykhaylovych VASYLKIV
against Ukraine

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

Andreas Zünd*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 77302/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 December 2016 by a Ukrainian national, Mr Mykhaylo Mykhaylovych Vasylkiv ("the applicant"), who was born in 1941, lives in Peremyshlyany and was represented by Mr Ilnytskyy, a lawyer practising in Lviv;

the decision to give notice of the complaint concerning the principle of equality of arms to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns an alleged breach of the principle of equality of arms by an appellate court in civil proceedings. The applicant relied on Article 6 § 1 of the Convention.

2. In September 2013 the applicant initiated court proceedings against Sh., his daughter, seeking a declaration that she had lost her right to live as a co-tenant in a flat owned by a local municipal company because she had been absent from the property without a valid reason for more than six months. On

14 March 2014 the Peremyshlyanskyi District Court of Lviv Region examined the applicant's claim in Sh.'s absence and allowed it. On an unspecified date Sh. filed an appeal against that decision, requesting that the appellate court restore the time-limit for an appeal.

3. The Government provided copies of three letters which the appellate court had sent to the applicant's home address by registered mail on 23 February, 6 April and 19 May 2015. Those letters had been returned undelivered, either because the applicant had not been present at his home address or because the time-limit for storing them had elapsed. Following the appellate court's unsuccessful attempts to inform the applicant of the hearing by registered mail, it ordered that a notice of the hearing (which was to take place on 30 June 2015) should be published in a local newspaper.

4. On 30 June 2015 the Lviv Regional Court of Appeal held a hearing in the absence of the applicant, but in Sh.'s presence. The appellate court found that the reasons why Sh. had been absent from the flat for more than six months were compelling, quashed the decision of the first-instance court and dismissed the applicant's claim. The applicant appealed on points of law. He complained that he had not been informed of the appeal proceedings or the hearing of 30 June 2015.

5. On 25 May 2016 the Higher Specialised Court of Ukraine for Civil and Criminal Matters upheld the decision of the appellate court.

THE COURT'S ASSESSMENT

6. Relying on Article 6 § 1 of the Convention, the applicant complained that in breach of the principle of equality of arms, he had not been informed of the appellate proceedings or the hearing of 30 June 2015.

7. The relevant principles concerning the principle of equality of arms can be found in *Avotiņš v. Latvia* ([GC], no. 17502/07, § 119, 23 May 2016), *Lazarenko and Others v. Ukraine* (nos. 70329/12 and 5 others, §§ 36-37, 27 June 2017), and *Viktor Nazarenko v. Ukraine* (no. 18656/13, § 36, 3 October 2017).

8. In the present case, the Court notes that the Court of Appeal sent the summonses by registered mail to the applicant's home address three times, all of which were returned undelivered (see paragraph 3 above). The applicant did not contest the fact that the summonses had been sent by registered mail, nor did he allege that the address used by the appellate court had been incorrect. He argued that he had not received a copy of Sh.'s appeal, in breach of the applicable law, and that he had not had an opportunity to object to her arguments.

9. The Court reiterates that Article 6 of the Convention does not go so far as to oblige the domestic authorities to provide a perfectly functioning postal system. The authorities may be held responsible for a failure to send the relevant documents to an applicant (see *Voytsekhovskyy v Ukraine* (dec.)

[Committee], no. 41881/18, 26 January 2023). In view of the fact that the Court of Appeal sent summonses to the applicant's home address, his allegation that he might not have received them is not sufficient to put forward an arguable claim of a breach of his procedural rights. It follows that the applicant's complaint of a breach of the principle of equality of arms, raised under Article 6 § 1 of the Convention, is manifestly ill-founded.

10. Accordingly, the Court finds that the present application must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 22 May 2025.

Martina Keller Deputy Registrar	Andreas Zünd President