



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

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FIFTH SECTION

Application no. 6624/20
Vladyslav Oleksiyovych BAZYLEV
against Ukraine
lodged on 24 January 2020
communicated on 10 July 2026

SUBJECT MATTER OF THE CASE

The case concerns the applicant's conviction for attempted murder and his complaint, under Article 6 of the Convention, that the conviction was based on mere assumptions, based on shifting the burden of proving his innocence to him in breach of the principle of presumption of innocence, including the principle that all doubt must benefit the accused. The applicant also complains that the courts failed to give adequate reasons for their decisions to convict him on the charges of attempted murder and for the sentence given. In addition, relying on Article 13 of the Convention, he complains that the Supreme Court rejected his arguments exposed in his appeal on points of law.

The applicant was a military officer who had served in the Donetsk Region. On 8 July 2017 he met a woman, A. in a sauna. A. subsequently invited him to the flat of her friend, Ms O.S. The three spent the evening drinking alcohol in the flat's kitchen until late at night. Besides them, in the flat's living room, there was O.S.'s 10-year-old daughter, K. ("the victim" or "the child"). Later that night, A. left the flat, leaving the applicant there. The applicant slept in one of the bedrooms, O.S. in another and the child slept in the living room. In the early hours of the morning, the applicant woke up, went to the kitchen, consumed more alcohol, and then returned to his room, where he started to get dressed.

According to the courts' findings, the applicant also left the bedroom a second time and entered the living room, where he strangled the victim while

she slept. At that moment, A. returned to the flat and knocked on the locked front door, looking for the applicant. According to the courts, the applicant did not manage to strangle the victim to death only because A.'s unexpected arrival interrupted him and caused him to stop. Without checking on her daughter, O.S. opened the door for A. and let the applicant leave the flat with her. After returning inside, O.S. went to see her daughter and found her unconscious, with blue marks on her neck. She immediately ran to the neighbors for help, took her daughter to the hospital and called the police.

The victim was diagnosed with asphyxiation and its after-effects, multiple clinical signs consistent with this diagnosis were recorded, including blood-shot eyes and facial discoloration. Those injuries were classified as "minor" under domestic forensic classification rules. The victim initially stated that she remembered nothing apart from dreaming of having difficulty breathing and then waking up in the neighbor's flat. In some subsequent statements, she said that, upon waking, she had briefly seen either the applicant or a figure resembling him. The child's father, who apparently lived separately from the child and her mother and who was not present in the flat at the time, testified before the trial court that the child had told him that the applicant had strangled her. In her testimony at trial, the victim said that she had not woken up during the (alleged) attack and had not seen the applicant or anyone else, but only a vague figure, as if in a dream. She said, at the same time, that she believed that she had breathing difficulties caused by the heat in the room and that she was afraid of the applicant because he had strangled her.

On 20 July 2018 the Dzerzhynskyi Local Court of Donetsk Region convicted the applicant of attempted murder, sentencing him to 10 years' imprisonment, the maximum possible sentence for that offence. The trial court relied, in particular, on: (i) the victim's pre-trial statement in which she affirmed having seen the applicant when he had strangled her, (ii) a psychiatric expert report concluding that the victim's statements could be regarded as reliable. The court found no identified motive for the applicant's acts. It ruled out the possibility that the victim's mother, the only other person present in the flat, could strangle her – the witnesses had testified that the mother had displayed genuine shock at the events. The trial court noted the applicant's own account of the event – he acknowledged that there had been only three people in the flat and that he did not think that the child's own mother would have strangled her. That statement, according to the court, "deserved attention".

In determining the sentence, the trial court had regard to the fact that the applicant was married and had a child born in 2016, had no previous criminal record, no history of addiction or mental illness and was member of Armed Forces who had participated in military operations in the east of Ukraine from 2014 to 2016.

The applicant appealed, arguing that there was no evidence of his guilt. He submitted that guilt had to be proven beyond reasonable doubt but was not in his case. He could not be required to prove his innocence, rather, it was for the prosecution to exclude the possibility that the victim's injuries were self-inflicted or caused by a third party. In his view, the prosecution had failed to do so. It could not be ruled out that the attack was committed by a third party who had entered the flat through a window, notwithstanding the fact that the flat was on the 4th floor. The victim's mother might herself have injured the daughter, as she had testified that she had slapped her daughter in an attempt to revive her. To the extent the victim said, with uncertainty, that she seemed to remember the applicant having attacked her, this assertion emerged only after repeated prompting by family members to identify the assailant. The applicant also emphasised that the victim's mother had testified that she had been awake in the early morning, when the attack supposedly happened, yet had heard no unusual or suspicious noises. Moreover, the court did not establish any motive for the applicant's supposed actions while nevertheless concluding without evidentiary support, that the applicant had had the requisite intent to kill.

The Donetsk Court of Appeal upheld the verdict. It stated that the applicant "did not contest" (*не спростовував*) that, when he had left the flat with A. that morning, there had been no one else in the flat other than the victim and her mother. In the court's view, this undermined the defense's argument that a third party could have entered the flat and attacked the victim. The Court of Appeal further held that the defence contention that the victim's injuries might have been inflicted by the mother was contradicted by evidence of witnesses who had observed the mother's conduct immediately after the incident. It was established by expert evidence that the injuries were not self-inflicted.

The applicant appealed in cassation. He argued in particular that the Court of Appeal had stated that he had "failed to disprove" (*не спростував*) that no one else had been present in the flat. According to the applicant, this demonstrated that the burden of proof had been unlawfully shifted onto the defence, in breach of presumption of innocence. He maintained that the courts had accepted the prosecution's version of events without sufficient evidentiary support, despite the requirement that any unresolved doubts be interpreted in the favour of the accused. The applicant further argued that the legal classification of the offence as "attempted murder" was unfounded and that the facts, at most, supported the lesser offence of inflicting minor injuries. Lastly, he argued that the sentence imposed was disproportionate.

On 24 October 2019 the Supreme Court upheld the conviction and sentence. It found no indication of any error of law, defect in the assessment of the evidence, or deficiency in the reasoning in the lower courts' decisions.

On 27 February 2022 the President of Ukraine pardoned the applicant and he was released from imprisonment.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention?
2. Was the presumption of innocence, guaranteed by Article 6 § 2 of the Convention, respected in the present case?