



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

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FIFTH SECTION

Application no. 12106/20
Iryna Oleksandrivna SHEVCHENKO
against Ukraine
lodged on 25 February 2020
communicated on 25 August 2026

SUBJECT MATTER OF THE CASE

The case concerns the applicant's allegedly arbitrary and disproportionate eviction, on 10 January 2020, from a State-owned residential bloc of apartments, where she had been accommodated, together with her disabled son (born in 1997), since 1 January 2006. The applicant complains under Article 8 of the Convention that her eviction interfered with her right to respect for her home. She additionally relies on Article 6 of the Convention.

While a detailed statement of facts will be drawn up following the exchange of the parties' observations, a preliminary summary of the relevant events and domestic proceedings is provided below on the basis of the information and documents submitted by the applicant at this stage and the data from the publicly available online State register of judicial decisions.

The building in question used to be a dormitory of the once State-owned "Pivdenzakhidenerhobud" trust. In 1990s that trust was privatised and became a joint-stock company. Although the dormitory remained State property, it was included in the balance sheet of JSC "Pivdenzakhidenerhobud" ("the company"), which continued to be in charge of its maintenance and management.

On 1 January 2006 the applicant signed a tenancy agreement with the company allowing her to live in room no. 348 for indefinite duration. At

around the same time she was employed as a cleaner and security attendant in the dormitory.

In December 2007 the local authorities changed the building's legal status from a dormitory to a residential bloc of apartments and authorised the company "to allocate to the residents the living space they occupied there in accordance with the procedure prescribed by law".

Whereas the building was still owned by the Kharkiv Regional State Property Fund and remained on the balance sheet of JSC "Pivdenzakhidenerhobud", a "self-organisation committee" created by some residents carried out the apartments' renumbering in 2009. As a result, room no. 348 (occupied by the applicant and her son), together with adjacent room no. 347 (occupied by a certain Mr Y.), were considered apartment no. 93. On 31 October 2016 the Kharkiv Regional Commercial Court, in allowing a prosecutor's claim in the interests of the State Property Fund, quashed that renumbering as unlawful, having found that it had been carried out by a body lacking a requisite authority. That decision became final.

In the meantime, in June 2012, a so-called "apartment building co-owners' association "Olimp-39" had been registered as a legal entity. Apart from the publicly available information that its director was the person, whom the company had once contracted for the building maintenance, and that the main activity of the association was "the comprehensive management and maintenance of buildings and other facilities", no further details are available.

In November 2016 several persons, including Mr Kh., lodged a civil claim against the "Olimp-39" association claiming property rights to certain apartments in the building in question. Mr Kh., in particular, sought judicial recognition of his ownership of apartment no. 93 referring to an occupancy permit issued to his father in 1990s. On 1 November 2017 the Kharkiv Moskovskyy District Court ("the Moskovskyy Court") allowed that claim. It noted that, although the building had been converted from a dormitory into a residential bloc of apartments, it had never been formally put into operation after that, and its ownership had not been duly registered. The court held that, as a result, the legitimate residents' right to get the relevant apartments privatised had been infringed. Lastly, it was noted that the "Olimp-39" association agreed with the claim.

On 13 July 2018 Mr Kh. sold apartment no. 93 to Mr G. The latter took unsuccessful attempts to make the applicant vacate the room occupied by her.

On 12 April 2019 the Moskovskyy Court, having considered the case under a written procedure, allowed Mr G.'s claim for the applicant's eviction. It noted that Mr G. was the legitimate owner of apartment no. 93 comprising the room, which the applicant had been occupying, ostensibly with the permission of the previous owner. The applicant appealed, arguing that she

had no other accommodation and that neither the Kharkiv Regional State Property Fund, which remained the owner of the building, nor JSC “Pivdenzakhidenerhobud”, which had it on its balance sheet, objected to her housing in the room in question. She further pointed out the absence of any evidence that room no. 348 occupied by her was part of apartment no. 93, given that the renumbering had been quashed as unlawful by a final judicial decision. Furthermore, according to her, Mr Kh. had no relation to the room in question let alone had given his permission for her to live there. The applicant also referred to considerable expenses borne by her for the room refurbishment, including the installation of sanitary facilities. On 1 August 2019 the Kharkiv Court of Appeal and on 25 September 2019 the Supreme Court, however, found against the applicant, mainly referring to Mr G.’s established property right to apartment no. 93.

On 10 January 2020 the applicant was forcefully evicted by a bailiff.

In the meantime, on 5 September 2018, she had brought civil proceedings against JSC “Pivdenzakhidenerhobud” seeking judicial recognition of her entitlement to continue using room no. 348 for her residence. Although initially, on 21 February 2019, the Moskovskyy Court allowed that claim, on 20 December 2021 the Kharkiv Court of Appeal quashed that decision and found against the applicant, in allowing Mr G.’s appeal. It held Mr G. was the legitimate owner of the premises in question, whose claim for the applicant’s eviction had been granted by a final judicial decision by then. The Supreme Court rejected the applicant’s request for leave to lodge an appeal on points of law.

On 22 November 2023 the Poltava Court of Appeal (the case had been transferred to it from the Kharkiv Court of Appeal) allowed an appeal lodged by Mr Y., the tenant of the room adjacent to the one once occupied by the applicant (see above) against the judgment of the Moskovskyy Court of 1 November 2017, by which Mr Kh.’s entitlement to flat no. 93 had been recognised. It quashed that decision in the relevant part. It was noted that the privatisation procedure had not been respected and that the defendant in the proceedings, “Olimp-39”, had had no requisite powers in that domain.

On 11 March 2024 the applicant applied to the Kharkiv Court of Appeal for reopening of the case under newly-discovered circumstances, which, in her view, stemmed from the ruling of the Poltava Court of Appeal of 22 November 2023. On 30 April 2024 the Kharkiv Court of Appeal rejected her request as unfounded, and on 16 September 2024 the Supreme Court upheld that ruling.

QUESTIONS TO THE PARTIES

Has there been a violation of the applicant's right to respect for her home, contrary to Article 8 of the Convention, in view of her eviction?

In particular:

a) did the decision-making process afford due respect to the interests safeguarded to the applicant by Article 8 of the Convention?

b) did the domestic courts determine the proportionality and reasonableness of the measure in the light of the relevant principles under that provision?