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DOI: <https://doi.org/10.5281/zenodo.20807869>VIOLATION OF THE TENANT'S DOMICILE BY THE LANDLORD: A CASE STUDY<sup>1</sup>

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## Abstract

The legal relationships between the owner of an apartment (the lessor) and the tenant thereof (the lessee) may give rise to controversies and, consequently, frequently lead to legal disputes. Particularly regrettable are situations in which, unlike the parties to the contentious legal relationship, legal professionals themselves misinterpret the essence of fundamental concepts – such as domicile, property, contractual validity, and criminal offence – thereby refusing to safeguard fundamental human rights and, more gravely, participating in their violation. The refugee crisis affecting the Republic of Moldova after 24 February 2022 brought to light a deeply troubling phenomenon: the unlawful violation of a tenant's domicile by the landlord is not treated as such by law enforcement authorities, which oppose the documentation of such acts and the restoration of the tenant's rights. The case study examined in this research illustrates one of the hundreds of situations encountered by refugees on the territory of the Republic of Moldova, the analysis of which is capable of generating relevant conclusions and practical solutions for those who are interested.

Keywords: domicile, residence, home, unlawful entry, lease, rent, property, inviolability of the domicile.

VIOLAREA DOMICILIULUI CHIRIAȘULUI DE CĂTRE PROPRIETAR:  
STUDIU DE CAZ

## Abstract

Raporturile juridice dintre proprietarul unui apartament (locator) și chiriașul acestuia (locatar) pot stârni controverse și ca rezultat, adesea, litigii de drept. Regretabilă este situația când, spre deosebire de subiecții raportului juridic litigios, profesioniștii în domeniul dreptului interpretează eronat esența conceptelor fundamentale – domiciliu, proprietate, valabilitate contractuală, infracțiune –, exprimă un refuz în apărarea drepturilor fundamentale ale omului și, mai grav, participă la violarea acestora. Criza refugiaților ucraineni care a lovit din plin Republica Moldova după 24.02.2022, a scos în evidență un flagel odios – violarea domiciliului chiriașului de către proprietar nu este acceptat astfel de către organele de drept, care se opun documentării și restabilirii în drepturi a chiriașului. În studiul de caz reflectat în cercetare a fost exemplificat unul din sutele de cazuri cu care se ciocnesc cetățenii statului nostru, dar și refugiații pe teritoriul Republicii Moldova, analiza căruia este în măsură să conducă la unele concluzii și soluții relevante pentru cei interesați.

Cuvinte-cheie: domiciliu, reședință, locuință, pătrundere, locațiune, chirie, proprietate, inviolabilitatea domiciliului.

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**Introduction.** In judicial practice, atypical instances of unlawful interference with the inviolability of the home are frequently encountered, whose legal qualification as such is usually denied by state authorities, on the ground that an alleged lack of correspondence exists between the legal status of the property owner and that of its occupant.

Tenants generally have a legitimate status, based on a written or verbal lease/rental agreement or by virtue of a right of habitation, and the issue of illegal occupation phenomena, such as squatting, trespassing, adverse possession, etc., that are widespread in countries around the world does not arise, although even in these latter cases the right to the inviolability of the home cannot be disregarded.

Tenants (including pupils and university students, socially vulnerable families, migrants, refugees, travelers, and others) are thereby placed in a markedly disadvantaged position vis-à-vis the holder of the right of ownership, with effective protection from law enforcement authorities being afforded predominantly, if not exclusively, to the latter – irrespective of whether the lease agreement was concluded in written form or orally.

In a genuine rule-of-law state, the quintessence of the protection of constitutional and fundamental human rights presupposes the prompt and effective investigation of alleged violations, prevention and repression constituting two facets of the same legal imperative.

In a recent and particularly disturbing case from national jurisprudence, the owner of an apartment located in the Chisinau City, which had been leased since 2020, unilaterally decided to evict the tenants – a family composed of a single mother and her three minor children. In furtherance of this plan, on 4 December 2025, the landlord, acting in participation with two other individuals, waited until the tenants were absent from the residence, forcibly damaged the door lock, and unlawfully entered the domicile. Upon the tenants' return, the landlord categorically refused them access to the apartment and to the entirety of the family's property, including furniture, household appliances, clothing, personal documents, financial resources, food supplies, and companion animals. As a result, the family was expelled into the street during wintertime, deprived of any means of subsistence and dispossessed of all their belongings. Subsequently, the landlord and his accomplices used the tenants' property, part of which was destroyed, part damaged, and part unlawfully appropriated.

At the landlord's informal request, officers of the territorial police sector, acting without prosecutorial authorization, without a warrant issued by the investigating judge, and without the permission or consent of the tenants, conducted – within only a few hours of the incident – an on-site inspection of the apartment, including photographing and inventorying the tenants' belongings. In so doing, the officers of the Ministry of Internal Affairs (MIA) effectively facilitated the unlawful eviction of the tenants, categorically refusing to restore them in their rights and affording protection to the landlord, within the detriment of the tenants' rights to possession and use of the residence, of the inviolability of the domicile, as well as their right of ownership over their personal property.

Conversely, in response to the tenants' official requests (including emergency calls to the "112" service and written complaints submitted to the competent law enforcement authorities), the Rapid Response Patrol Unit refused to help; the duty unit of the police inspectorate obstructed the formal lodging of a complaint; and the investigative-operational group declined to attend the scene for the purpose of documenting the incident. Written petitions addressed to various state authorities – including the Prosecutor General's Office, the Prosecutor's Office of the municipality of Chisinau, the National Anticorruption Centre, the Internal Protection and Anticorruption Service, the General Police

Inspectorate, and the Ombudsman for Children's Rights – proved unsuccessful, as none of the aforementioned entities reacted promptly or acknowledged the violation of the tenants' right to the inviolability of their home, nor did they provide assistance to the victims in a state of acute deprivation. Ultimately, on 16 January 2026, the police inspectorate initiated criminal proceedings exclusively under Article 186(2)(b) of the Criminal Code<sup>1</sup> (theft committed by two or more persons), disregarding the aggravating circumstance of commission "by unlawful entry into a residence". The internal disciplinary investigation into the actions of MIA officers is being intentionally delayed by more than 3 months, contrary to paragraph 59 of the Disciplinary Statute of the civil servant with special status within the Ministry of Internal Affairs [29], which establishes a maximum time limit of up to 30 days.

In the case at hand, the law enforcement authorities justified their refusal to initiate criminal proceedings for the offense of unlawful entry into a residence on the following grounds: the alleged primacy of the right of ownership over the right to the inviolability of the home; the purported inapplicability of the concept of "domicile" to home rented by a tenant; the absence of a written lease agreement.

In light of this specific case, against the background of a sharp increase in the number of apartments offered for rent – including in the context of the refugee crisis triggered by the outbreak of the Russo-Ukrainian war, which struck the Republic of Moldova unexpectedly – the question arises whether a tenant benefits from the protection of the inviolability of his or her domicile. A second issue concerns whether the acts of the landlord, as well as those of the police officers, consisting in entering and inspecting the tenant's residence, fall within the scope of criminal law. Finally, it must be clarified whether non-compliance with the statutory form required for a lease agreement legitimizes the actions of the landlord and/or the police officers.

**Methods and materials applied.** Within the framework of the present study, the following research methods were employed: the case study method, as well as the methods of analysis, synthesis, logical reasoning, and comparative examination. The materials relied upon consist of the relevant normative acts, specialized scholarly publications in the field, judicial decisions rendered by national courts – including interpretative and explanatory rulings – as well as the case-law of the European Court of Human Rights (ECtHR).

**Discussions and results obtained.** In order to provide a clear and conclusive answer to the questions raised in the Introduction, we have undertaken a comprehensive, objective, and multifaceted examination of the key aspects of the case, deliberately avoiding a standard criminal-law analysis and confining ourselves to the presentation of the essential circumstances only.

**Case-law overview.** Judicial practice reveals instances of prompt intervention and proper documentation in comparable situations. Thus, on 04 December 2018, a sector police inspector, wearing his official uniform, unlawfully entered the residence of another person, where he remained for approximately 30 minutes. Upon being discovered, he refused to leave the domicile until the arrival of the investigative group. As a result of special investigative measures, it was established that the inspector had ordered the conduct of a residential search in the absence of authorization from the investigating judge, for the purpose of locating and identifying a stolen vehicle. In that case, the sector inspector

<sup>1</sup> **Note:** Considering the confidential nature of criminal investigations (Art. 212 of the Criminal Procedure Code), the information presented from the pending criminal case has been described in a generic manner. Moreover, pursuant to the principle of the presumption of innocence (Art. 8 of the Criminal Procedure Code), every person is presumed innocent as long as their guilt [...] has not been established by a final and irrevocable court decision.

was documented for the commission of the offense provided for in Article 179(3)(a) of the Criminal Code [2, p. 120].

In another similarly classified case, on 02 October 2013, a sector police inspector, with the aim of detecting an alleged theft of apples and by abusing his official position, unlawfully entered a person's residence, where, by applying physical force, he pushed the owner and refused to leave the domicile, subsequently carrying out an illegal search of a vehicle, garage, and household annexes [14].

A determination supporting the concurrence of offenses between unlawful entry into a dwelling and theft is illustrated in the following case: On 09 June 2006, G.V., acting pursuant to a prior agreement and together with the minor P.A., entered the household premises of M.V. Grossly violating public order and manifesting an evident lack of respect for society, G.V. and P.A. disturbed public peace and inflicted blows upon M.V., thereby causing him physical pain. Furthermore, P.A. shattered a window of the victim's house and broke an electric light bulb, engaging in conduct distinguished by particular audacity in its content. On the same occasion, while present inside M.V.'s dwelling, G.V. appropriated goods belonging to the victim in the amount of 280 lei [15].

The unlawful violation of the lessee's domicile was not upheld by the Supreme Court of Justice in a case concerning entry onto the premises of a tractor brigade. The Court reasoned that a tractor brigade is not ordinarily intended for residential use by natural persons, and no evidence to the contrary was adduced in the case file [23, § 33].

Conversely, the courts have upheld the offense of unlawful entry into the domicile of a family member vested with a right of habitation, even in the absence of a request by the owner to vacate the premises and in the absence of a prior complaint lodged by the owner. The court held that "for the legal classification of the act, the status of the victim and whether or not the victim has registered residence at the relevant domicile are immaterial. Criminal law concerns the unlawfulness of the perpetrator's conduct, not the legitimacy of the victim's position; accordingly, it is irrelevant who notified the law enforcement authorities [...]. The victim's administrative liability under Article 78 of the Contraventional Code (bodily injury), imposed upon the complaint of the convicted person, does not preclude the application of Article 179(2) of the Criminal Code to the convicted person" [24, §§ 8, 26].

The absence of a lease agreement concluded between the victim and the owner did not constitute an impediment to conviction under Article 179(2) of the Criminal Code in the following case: "On 08 May 2021, C.B., acting on fabricated grounds, repeatedly kicked the gate of the household until it opened. Thereafter, without the consent of the occupant O.M., who resided in the household of his former wife with her consent, C.B. entered the yard of O.M.'s domicile. Upon being requested to leave the premises, he failed to comply, remained in the yard, and committed acts of physical violence against O.M., consisting of a punch delivered to the nasal region" [25, §§ 6, 7, 29].

Likewise, in national jurisprudence, in a civil case concerning the eviction of occupants from an property owned by the claimant [13], it was emphasized that it is crucial for the court to fully investigate and clarify all aspects relating to the ownership and possession of the real estate – even in the absence of a written lease agreement – taking into account the rights and protection of the children involved, having regard to the best interests of the minors, and ensuring that they are not evicted from their sole domicile without a solid legal basis.

In another civil case, the Supreme Court of Justice underlined that, beyond any reasonable doubt, the defendants had resided since 2006 in the apartment located in the

municipality of Chisinau, possessed no other principal and permanent living space, and had thus established an indispensable connection with the residence in question, demonstrating an attachment akin to that of an owner and perceiving it as their home. Accordingly, it was held that the disputed apartment genuinely constituted the defendants' permanent dwelling and that they had developed durable ties with the immovable property; therefore, the apartment represented their "home" within the meaning of Article 8 of the European Convention on Human Rights [12].

**The Concept.** By "residence" is meant a room or a group of rooms intended for the permanent or temporary habitation of individuals, in which part or the entirety of their property is kept [21, § 29, p. 5].

The Constitutional Court has held that the notion of "domicile" possesses an autonomous meaning under criminal law and does not depend on definitions provided in other branches of law. The autonomous criminal-law definition of "domicile" does not disclose any elements of unconstitutionality [16, § 24].

The concept of domicile does not refer to the immovable property as a material object, but rather to the place in which a person conducts his or her private life [26, p. 145]. The notion of domicile is not contingent upon ownership rights over a house (living space) [19, p. 8].

Criminal law does not associate the notion of domicile with the idea of continuity (permanence). Accordingly, a room occupied for a short period or on a transient basis by a person (such as a room rented at a holiday resort during vacation, a hotel room, even where the stay is limited to one day or one night, etc.) is likewise regarded as a domicile [20, p. 292].

The European Court reiterates that the concept of "home" is of central importance to an individual's identity, self-determination, physical and mental integrity, the maintenance of relationships with others, and the existence of a stable and secure place within the community (case *Vinniychuk v. Ukraine*, ECtHR judgment of 20 October 2016, § 47). The concept of "home" within the meaning of Article 8 is not limited to spaces that are lawfully occupied or lawfully established. "Home" is an autonomous concept which does not depend on classification under domestic law. Whether a particular space constitutes a "home" attracting the protection of Article 8 § 1 depends on the factual circumstances, namely the existence of sufficient and continuous links with a specific place (case *Jansons v. Latvia*, ECtHR judgment of 8 September 2022, § 52).

The European Court has on several occasions held that the qualification of an immovable property as a "domicile" is a question of fact and does not depend on the occupant's compliance with domestic legal requirements (case *Buckley v. the United Kingdom*, ECtHR judgment of September 25, 1996, § 54).

In a particular case, previously rented social housing remained the applicant's "domicile" within the meaning of Article 8 § 1 of the Convention even after he had signed a notice to quit and no longer had, under domestic law, the right to reside there (case *McCann v. the United Kingdom*, ECtHR judgment of 13 August 2008, § 46). The loss of a residence constitutes one of the most extreme forms of interference with the right to respect for one's domicile. Any person at risk of such interference must, in principle, be able to obtain a review of the proportionality of the measure by an independent tribunal, in the light of the relevant principles deriving from Article 8 of the Convention (*Ibidem*, § 50).

**Legislation.** In accordance with Article 12 of the Universal Declaration of Human Rights, no one shall be subjected to arbitrary interference with his or her private life, family, domicile, or correspondence, nor to attacks upon his or her honor and reputation.

Everyone has the right to the protection of the law against such interference or attacks [18].

Article 8 of the European Convention on Human Rights provides: "Everyone has the right to respect for his private and family life, his residence, and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law [...]" [10].

Pursuant to Article 29, paragraphs (1) and (3) of the Constitution, the domicile and residence are inviolable. No one may enter or remain in the domicile or residence of a person without his or her consent. Searches and on-site inspections may only be ordered and conducted in accordance with the law [9].

Under Article 6(11) of the Code of Criminal Procedure, the domicile is defined as a residence or building intended for the permanent or temporary habitation of one or more persons [...]. According to Article 12 of the same code, the inviolability of the domicile is guaranteed by law. Searches, inspections of the domicile, and other criminal procedural actions at the domicile may only be ordered and carried out pursuant to a judicial warrant, except in cases and in the manner provided for in this Code. In the event that procedural actions are carried out without a judicial warrant, the competent authority must submit the relevant materials to the court for review of legality immediately, but no later than 24 hours after completion of the action [7].

According to Article 38, paragraphs (1), (2), and (5) of the Civil Code, the domicile of a person is the place where he or she has habitual residence. A person is considered to retain his or her domicile as long as another has not been established. Habitual residence demonstrates a close and stable connection of the individual with the place in question. In determining habitual residence, all relevant factual elements are considered, particularly the duration and regularity of the person's presence at the location, as well as the conditions and reasons for such presence. A person whose domicile cannot be determined with certainty is deemed to reside at the place of temporary residence [6].

Furthermore, Article 179, paragraph (1) of the Criminal Code provide the act of entering or remaining unlawfully in the domicile or residence of a person without consent, or refusing to leave upon request, as well as illegal searches and inspections [...] [8]. Letter (a), paragraph (3) of the same article establishes liability for committing these same acts through the use of one's official position [8].

Special Legal Object. The special legal object of the crime of violation of domicile is the social relations regarding the realization, in accordance with Article 29 of the Constitution, of the right to the inviolability of the domicile.

The inviolability of the domicile constitutes the freedom to enjoy a personal space delineated by the boundaries of a residence. It is, therefore, nothing other than the liberty to benefit from an immovable space, characterized by territoriality, which simultaneously functions as a primary space. Such a space ensures intimacy. It can be personalized, and any intrusion is perceived by the holder of that space as a violation [30, p. 54].

Accordingly, the protection of the inviolability of the domicile is not conditioned upon the existence of a right of ownership (or any other real right) over the residence designated as a domicile. The same individual does not necessarily combine the capacities of holder of the right to the inviolability of the domicile and of holder of ownership rights over the immovable property corresponding to that domicile [3, p. 503]. In this regard, the person who acquires the right of use over the immovable property benefits from a preferential right to protection against the commission of the respective offense. This is logical, as unlawful entry into a domicile is not a crime against property [28, p. 38].

Violation of the legal prohibition against infringing the right to the inviolability of the domicile requires the restoration of that right through recourse to competent state institutions, including, where appropriate, the intervention of criminal law [30, p. 49].

An individual's freedom to enclose oneself within one's residence is not a privilege of ownership, but an aspect of personal liberty – a corollary of personality and the freedom to live somewhere. Consequently, a tenant may assert his or her right over the residence even against the property owner [1, p. 192].

According to the interpretation provided by the European Court of Human Rights, the right to respect for the private and family life of any person is not subject to any restriction, not even by the owner of the respective residence. In the Court's view, the interpretation given by the Government of Romania to the relevant legal provisions was erroneous and made in bad faith, as it would effectively permit the property owner, at any time, to violate the domicile of a potential tenant, thereby preventing the tenant from enjoying private and family life (case *Surugiu v. Romania*, ECtHR judgment of 10 November 2004, § 54). The Court further observed the striking fact that the police, alerted by the applicant following the incident, went to the site and, without intervening, merely limited themselves to drafting a report (*Ibidem*, § 62).

In that case, the deplorable inaction of the authorities in ceasing the interference by third parties with the right to respect for the domicile, and the resulting inability of the applicant to enjoy his domicile, led to a finding of a violation of Article 8 of the Convention.

The Court recalls that, while Article 8 primarily aims to protect the individual against arbitrary interference by public authorities, it also entails the adoption by these authorities of measures designed to ensure respect for the rights guaranteed under this article, extending even to relationships between private individuals (case *Stubbings and Others v. the United Kingdom*, ECtHR judgment of 22 October 1996, § 62; case *Ignaccolo-Zenide v. Romania*, No.31,679/1996, ECtHR judgment of 25 January 2000, § 94; case *X and Y v. the Netherlands*, ECtHR judgment of 26 March 1985, § 23).

**The Immaterial Object** of the offense of unlawful entry into a domicile, requires the following qualifications:

1. The mere existence of an immovable property is insufficient to establish a domicile associated with that property. It is also necessary that the space within that property be effectively used, such that intimate, family, or private life can be carried out there, even in a nascent form. Once a person establishes sufficient and continuous ties with the space associated with an immovable property, that space acquires the status of a domiciliary space;

2. The purpose of the domicile is to enable intimate, family, and private life;

3. The domicile constitutes a space that commands respect from third parties, who bear the negative obligation not to undertake any actions that could cause harm;

4. The legal protection of the domicile is not conditioned upon the permanent presence of the holder in the respective space [31, p. 49].

Criminal law protects the *de facto* occupant of the domiciliary space, regardless of how precarious their title may be, against any unlawful acts by another person. In a state governed by the rule of law, legality entails the use of lawful means to assert one's rights, opposing any attempt by individuals to take justice into their own hands [32, p. 59].

In this regard, the Constitutional Court of Romania has noted that [...] the provision criminalizes, irrespective of the holder and the form of legal ownership or possession, unlawful entry in any manner into a residence, room, annex, or enclosed space pertaining thereto, without the consent of the person using it, or refusal to leave upon request,

without violating the principle of equal protection of private property [17].

The right to the inviolability of the domicile may even be held by persons who have no legal rights over the residence itself [34, p. 9].

The Victim of the offense may be any person, regardless of status: owner, tenant, family member with a right of habitation, etc. It is irrelevant whether the victim holds a residence permit. Criminal law is concerned not with the legitimacy of the victim's position, but with the illegality of the perpetrator's conduct. If the holder of the right to the inviolability of the domicile has committed certain administrative offenses or infringements of property rights, these are separate matters to be resolved through the means provided by law and do not affect the existence of the offense of unlawful entry into a domicile [3, p. 504].

The victim of unlawful entry into a domicile may even be a person residing in the space without any legal basis [33, p. 12]. It is not necessary for the passive subject to be the owner of the residence or for the residence to be based on a formal title [5, p. 197].

What is essential is that the victim (the passive subject) is the holder of the constitutional right to the inviolability of the domicile [57, p. 59].

**Objective Element.** The actus reus of the offense of unlawful entry into a domicile requires, as a matter of imperative law, that the entry, remaining, refusal to leave, inspection, or search of the domicile be carried out without the consent of the victim and, correspondingly, in violation of the law.

From the meaning of Article 179 of the Criminal Code, it follows that the entry must occur without right – that is, abusively, without any legal justification, and without the consent of the person using the residence [11, p. 12].

“Entry” constitutes illegal access, whether covert or open, into a room, another storage space, or a residence (for the purpose of appropriation). It may be committed either by overcoming obstacles and resistance or without doing so [21, § 29, p. 5]. If, in the course of appropriation through entry into a room, another storage space, or a residence, the perpetrator intentionally destroys or damages the property of another person not forming the material object of the appropriation (for example, furniture, household appliances, etc.), such acts, when supported by sufficient grounds, must be additionally qualified under Article 197 of the Criminal Code [21, § 29, p. 5].

**The Lease Arrangement.** Under a lease agreement, the owner of an immovable property temporarily cedes to the tenant the right of use and possession (Article 1251 of the Civil Code). Even if the owner retains title, their rights over the residence are limited to the extent of the rights granted to the tenant under the lease agreement.

From another perspective, although Article 1252 of the Civil Code provides that a lease contract must be in writing [6], noncompliance with the written form deprives the parties of the right, in the event of a dispute, to rely on witness testimony to prove the legal act. Noncompliance with the written form renders the legal act void only if this effect is expressly provided by law or by agreement of the parties (Article 322 of the Civil Code).

When the lessor and lessee have not concluded the lease contract in writing – often as a strategy by the owner to evade income taxes<sup>2</sup> – the validity of the contract is not affected, provided the co-contracting parties do not deny its existence and execution, or it can be demonstrated by other evidence of the civil relationship (e.g. receipts for utility payments, records of major repairs, public service certificates regarding the property, etc.).

<sup>2</sup> **Note:** The violation of legal provisions regarding the deadlines for concluding lease agreements between the tenant and the property owner is sanctioned under Art. 180, para. (3) of the Contravention Code, while non-compliance with the procedures for preparing and submitting tax reports is sanctioned under Art. 260, para. (1) of the Tax Code.

The lessor's right to inspect the leased property (Article 1268 of the Civil Code) may not infringe upon the inviolability of the domicile and the personal life of the tenant. Termination of the lease (Article 1281 of the Civil Code) does not confer upon the lessor/owner the right to violate the tenant's domicile.

Conversely, if the tenant refuses to vacate the residence, the lessor must request a forced eviction through a court decision, in accordance with the Civil Procedure Code. Arbitrary exercise of a legitimate or purported right by circumventing the established legal procedure may give rise to criminal liability (Article 352 of the Criminal Code) or administrative liability (Article 335 of the Contravention Code).

Any person at risk of losing their residence should be able to obtain from an independent tribunal a review of the proportionality of the measure (case *Vrzić v. Croatia*, ECtHR judgment of 12 July 2016, § 62).

Under Article 8(2) of the European Convention on Human Rights, interference by an authority in the exercise of the right to respect for private life – including the inviolability of the domicile – is permissible only if it: is prescribed by law; is necessary in a democratic society; pursues a legitimate aim; is proportionate [27].

The European Court of Human Rights has found that the national court failed to evaluate competing interests, disregarding the fact that the applicants had no alternative residence and would be left homeless after more than a decade of lawful occupation, during which they not only paid rent and utility bills but also carried out substantial repairs neglected by the building administration for years (case *Nafornița v. Moldova*, ECtHR judgment of 16 April 2024, § 41).

**The Active Subject** of the offense of unlawful entry into a domicile may be any person, including the owner of the property constituting the violated space or the holder of another right related to that property, if they have transferred the right of use to another person. For example, the owner of a residential space, after having leased it to another person, unlawfully enters the leased premises without the right and without the consent of the entitled persons [22, p. 1041-1042], respectively, guilt is characterized by the form of direct intention.

**The Subjective Element.** For the existence of the offense of unlawful entry into a domicile, the perpetrator must be aware that they are entering a space reserved for the intimate life of another person [4, p. 221].

When addressing the presence of the aggravating circumstance “through entry into a residence”, it is necessary to determine the purpose for which the person entered the residence and when the intention to commit appropriation arose. If the perpetrator initially entered a room, another storage space, or a residence without the intention to commit appropriation, and subsequently appropriated the property of another person, the examined aggravating circumstance will be absent. In the case of appropriation committed through entry into a residence, no additional qualification under Article 179 of the Criminal Code is required, as the appropriation, in this aggravated form, subsumes the unlawful entry into the domicile [21, § 29, p. 5].

**Conclusions and recommendations.** Based on the applicable national and international legislation, the jurisprudence of national and supranational courts, and doctrinal opinions, the following conclusions can be drawn, which are relevant both to the case study analyzed and to a wide range of similar cases currently linked to latent criminality:

1. When leasing an immovable property, the owner cedes their prerogatives of possession and use to the tenant;
2. The tenant acquires protection of the right to the inviolability of their residence

regardless of whether the lease agreement is written or verbal, and such protection persists irrespective of the expiration of the lease term or the issuance of a notice to vacate;

3. The lessor may regain full ownership rights (including possession and use) only by approaching the courts for contract termination and forced eviction of the tenant;

4. In assessing the necessity of forced eviction, courts are obliged to apply the “triple test” regarding interference with human rights;

5. Entry, remaining, refusal to leave, searches, or inspections of a residence without the tenant’s consent and/ or judicial authorization inevitably triggers criminal liability under Article 179 of the Criminal Code;

6. In the absence of a pre-existing intent to appropriate property, unlawful entry into a residence (Art. 179 Criminal Code) runs concurrently with acts of appropriation (Art. 186, 187, 188, 217/4 Criminal Code);

7. When there is a pre-existing intent to appropriate property, unlawful entry is subsumed under the aggravating circumstance “through entry into a room, another storage space, or residence”, and separate qualification under Article 179 Criminal Code is excluded;

8. Passivity of national authorities in documenting unlawful entry committed by the owner and police officers against the tenant may, in the future, expose the state to liability before the European Court of Human Rights (ECtHR).

In the specific case study, it is strongly recommended that law enforcement authorities examine the facts under the elements of the offense provided in Article 179(1) of the Criminal Code.

Additionally, a rigorous examination is warranted from the perspective of related offenses or administrative contraventions:

- Arbitrariness (Art. 352 Criminal Code or Art. 335 Contravention Code) – for prolonged deprivation of the victims’ entire property;
- Destruction or damage to property (Art. 197 Criminal Code or Art. 104 Contravention Code) – for destruction of the lock and damage to dishes, clothing, and personal belongings;
- Violation of the inviolability of personal life (Art. 177 Criminal Code) – for unauthorized access to victims’ notes, notebooks, computers, laptops, tablets, mobile phones, and the dissemination of their information publicly;
- Regarding police officers – under the aggravating circumstance “using official position” (Art. 179(3)(a) Criminal Code), since the internal investigation does not exclude criminal liability.

The victims explicitly requested such measures in multiple complaints addressed to the competent authorities, and the neglect of factual and legal circumstances raised in these complaints is both inexplicable and inadmissible.

In general, we recommend strengthening the theoretical and practical training of Ministry of Internal Affairs personnel, as well as prosecutors and judges, to prevent analogous cases, the number of which is showing an alarmingly increasing trend.

Therefore, a country’s economic and tourist attractiveness is directly proportional to the high level of protection provided by law enforcement authorities, but also by the speed of the state’s reaction to illegalities.

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