

DECISION
in the name of the Russian Federation

January 23, 2003, the City of Nalchik

*The Nalchik City Court composed of:
Chairperson B.N. Bezrokov, a presiding judge
Assisting: A.I. Zemskova, a secretary*

considered a civil case concerning a complaint filed by Ms Khalimat Astamirova against actions of the 1st OVD of the Nalchik Passport-and-Visa Service denying her the issuance of a new passport instead of the old one and

ESTABLISHED THE FOLLOWING:

Ms K. Astamirova lodged a complaint in court indicating that in 1996, she left Chechnya due to combat operations in the republic, and since August 1996, she had been registered as a forced migrant at the place of her sojourn in Kabardino-Balkariya at 20, Nartukh str., the village of Khasaniya.

In view of the requirement for replacement of old passports with new ones, the applicant submitted an appropriate application to the 1-st OVD of the Nalchik Passport-and-Visa Service, but no response followed. Therefore, she requested the Court should obligate the 1-st OVD of the Nalchik Passport-and-Visa Service to issue her a new passport instead of her old one.

At the court session, the applicant fully sustained her claims.

The 1-st OVD of the Nalchik Passport-and-Visa Service, that had been duly notified of the time and place of the court hearing, failed to send its representative to the Court. Therefore, the Court maintains that consideration of the case in the absence of the defendant's representative is lawful pursuant to Article 157 of the RSFSR State Procedural Code.

Having listened to the accounts of persons involved in the case and after examining the materials on the case, the Court has found the complaint sound and valid and subject to just satisfaction on the following grounds.

In accordance with Certificate No.366 of 04.06.2002 issued by the 1-st OVD of the Nalchik Passport-and-Visa Service, Ms Astamirova is registered at 20, Nartukh str., the village of Khasaniya. Her registration expires on 25.02.2003.

According to the postal notification, Ms Astamirova's application for a new passport with the required documents attached to it was delivered to the 1-st PVS OVD on December 5, 2002. Having received no reply a month later, the applicant

filed a complaint in court on January 15, 2003, which does not run counter to Article 239-5, para 2 of the RSFSR Civil Procedural Code that sets forth deadlines for lodging complaints in court against actions of government agencies, public organisations and officials violating civil rights and freedoms.

Pursuant to para 10 of the Regulations on Passports issued to Russian Citizens (reviewed as per RF Government Resolutions of 25.09.1999, No.1091, 05.01.2001 No.7, 22.01.2002, No.32) approved in RF Government Resolution No.828 of 08.07.1997, the OVD authorities should be responsible for the issuance and replacement of passports at Russian citizens' places of residence in keeping with the procedure duly established by the RF Ministry of the Interior.

Those Russian citizens who have no permanent place of residence should be issued passports at places of their sojourn.

Therefore, the 1-st OVD of the Nalchik Passport-and-Visa Service will have to issue a new passport to Ms. Astamirova instead of her old one.

For these reasons and being guided by Articles 191, 197, 239-7 of the RSFSR Civil Procedural Code, the Court

HAS RULED AS FOLLOWS:

The complaint filed by Ms K. Astamirova shall be found sound and valid and subject to just satisfaction.

The 1-st OVD of the Nalchik Passport-and-Visa Service shall be obligated to issue a new passport to Ms. Astamirova instead of the old one.

An appeal against the decision can be filed with the KBR Supreme Court within the next 10 days.

Judge
B.T. Bezrokov

THE DECISION WAS ENFORCED ON FEBRUARY 03, 2003.