

DECISION
in the name of the Russian Federation

January 5, 2003

the City of Nalchik

*The Nalchik City Court composed of:
Chairperson T.K. Bichekuyev, a presiding judge
Assisting: N.A. Rakhayeva, a secretary*

considered at an open court session a civil case concerning a complaint filed by Ms Mariyam Liyanova against actions of the 1-st OVD of the Nalchik Passport-and-Visa Service and

ESTABLISHED THE FOLLOWING:

Ms M. Liyanova lodged a complaint in court concerning the rejection of the 1-st OVD of the Nalchik Passport-and-Visa Service to register the applicant at her place of residence.

According to the applicant, in 1994, she left Chechnya with no intention to return due to combat operations in the republic. In 1995, she was registered with the Kabardino-Balkaria MS.

In view of the requirement to register at the place of her daughter's residence, Ms M.B. Maskurova, a resident of Kabardino-Balkariya, the applicant approached the 1-st OVD of the Nalchik Passport-and-Visa Service with an appropriate application on 15.10.2002, but she received no written reply. Her daughter, who owns the residential premises in question, does not mind to have her mother registered with her.

The applicant finds these actions unlawful and believes it violates her civil rights. She requested the Court should obligate the 1-st OVD of the Nalchik Passport-and-Visa Service to register her at her current place of residence at 49, Sovetskaya str., Apt.8, of which her daughter Ms M.B. Maskuriva is a legitimate owner.

At the court session, the applicant's representative by proxy Ms T.Petrova sustained the complaint.

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 Court, but forwarded a letter with a request to consider the case in the absence of its representative. Therefore, the Court maintains that consideration of the case in the absence of the defendant's representative is lawful in accordance with Article 157 of the RSFSR Civil 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.

Under Article 27-1 of the RF Constitution, everyone staying lawfully on the Russian territory shall have the right to freedom of movement and free choice of the place to stay or reside.

Registration of persons at their place of residence is envisaged in RF Law No.5242-1 of 25.06.1993 "On the right of RF citizens to freedom of movement and free choice of the place to stay or reside within the Russian Federation" in order to enable Russian citizens to exercise their rights and freedoms and perform their duties with regard to other citizens, the government and society (see Article 3), rather than restrict Russian citizens' constitutional rights.

In Article 6 of the said RF Law, registration at a place of residence is established as a notifying procedure, viz. a Russian citizen should inform the authorities of his new place of residence, while the authorities in charge of registration are to register the citizen in question at the place of his residence within three days following the submission of documents for registration.

Article 8 of the said RF Law provides an exhaustive lists of grounds restricting Russian citizens' right to choose a place for residence or sojourn. Establishment of grounds, other than listed in the Federal Law, for introducing a registration procedure in a way of permission violates the Russian Constitution and the Federal Law.

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 1-st OVD of the Nalchik Passport-and-Visa Service shall be obligated to register the applicant, Ms M. Liyanova at the place of residence of her daughter, Ms M.B. Maskurova, at Apt.8, 49, Sovetskaya str., Nalchik.

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

Judge
N.K. Bichekuyev

THE DECISION WAS ENFORCED ON JANUARY 16, 2003.