

Lawmakers Say Russian Courts Trump European Court in Parental Leave Case

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Rulings from ECHR, located in Strasbourg, do not take precedence over Russian law, say to representatives from government agencies. **Fred Schaerli**

Representatives from government agencies are in unanimous agreement that the rulings of Russian courts should take precedence over those of the European Court of Human Rights.

"The ECHR is not a superior judicial authority in relation to national courts. A specific court ruling rendered by courts on the territory of any government participating in the Convention cannot be annulled by a decision of the ECHR," State Duma envoy to the Constitutional Court Dmitry Vyatkin said at an open session of the Court on Wednesday.

Presidential Representative Mikhail Krotov agreed, adding that the the ECHR cannot order a government to change its legislation without infringing on the nation's sovereignty, Rapsi reported.

The session was called to resolve a query received in February from the Leningrad District Military Court concerning the widely discussed case of Konstantin Markin, whose application for parental leave from the military was denied in 2005.

The ECHR ruled in 2012 that Russian courts had violated Markin's basic human rights by refusing to grant his application on account of his gender. Specifically, the court referenced articles 8 and 14 of the European Convention on Human Rights, which legislate the right to respect for private and family life and prohibit discrimination.

Markin, a father with sole custody of three children, requested leave after he and his wife divorced in 2005 but was denied on the grounds that the law only provides parental leave for female soldiers.

He continued to protest the decision all the way up to the Constitutional Court, which denied his appeal in 2009, and finally to the ECHR in Strasbourg.

With the favorable ECHR ruling in hand, Markin asked the military to reconsider his case in 2012. The St. Petersburg Garrison Military Court denied his motion, but the Leningrad District Military Court, unsure of precedent in the case of opposing rulings from the ECHR and the highest court in Russia, turned to the Constitutional Court for clarification, Gazeta.ru reported.

While the Constitutional Court has yet to rule on the issue, Chairman Valery Zorkin stated his own opinion in an article published in Rossiiskaya Gazeta in 2010.

"The Strasbourg court is entitled to point out mistakes made in countries' laws, but when a decision of the ECHR directly contradicts the Russian Constitution, a country must honor its national interests," Zorkin wrote.

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