

Gay Activist Wins Court Appeal, Dealing 'Severe Blow' to Anti-Gay Law

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A Ryazan region court has overturned an administrative charge against an activist who was fined under a regional statute banning gay propaganda among minors, in a ruling that a gay rights leader called a "severe blow" to a similar national law passed in June.

The charge stemmed from a 2009 demonstration in which activists Irina Fedotova and Nikolai Bayev stood holding posters reading "Homosexuality is normal" and "I am proud of my homosexuality" near schools and libraries in the city of Ryazan, about 325 kilometers southeast of Moscow.

They were subsequently detained and each given a 1,500-ruble fine (about \$50) in accordance with a regional law banning "the promotion of homosexuality among minors" passed by the Ryazan legislature in 2006. The case marked one of the first times that the regional anti-gay "propaganda" law was applied.

Fedotova subsequently submitted a complaint regarding the charges to the United Nations Human Rights Committee, which ruled in her favor, saying the Russian court's decision went against the International Covenant on Civil and Political Rights by violating her right to freedom of expression and protection from discrimination. Russia is among 74 signatories to the covenant worldwide.

The UN committee said in a statement regarding the original ruling that the Russian court "was unable to prove that the restriction of the right to freedom of expression in regards to 'gay propaganda,' as opposed to propaganda of heterosexuality or sexuality in general, among minors was based on rational or objective criteria."

"Furthermore, no evidence was presented that would indicate the existence of factors justifying such a distinction," the statement said.

Fedotova took that ruling to the Ryazan Regional Court on Aug. 16 to appeal the charge. Bayev took his case to the European Court of Human Rights, where his complaint is still pending.

On Sept. 26, the Ryazan Regional Court overturned the charge against Fedotova, according to the court's website.

Although the Ryazan court's ruling apparently only applies to the regional law, the ruling is being lauded by activists as a sign that the federal law will eventually be overturned.

Nikolai Alexeyev, widely considered to be Russia's top gay-rights activist, called the ruling a "severe blow" to the national anti-gay propaganda law and said it set a precedent for future cases, Komsomolskaya Pravda reported.

But Monday's ruling raises thorny questions about how the controversial national law will be applied, including what constitutes "promotion" of a homosexual lifestyle among minors and whether enforcement will differ on regional and federal levels.

The UN Human Rights Committee noted, for instance, that Fedotova's demonstration was held near a school but not inside one, or directly among schoolchildren.

In addition, the ruling in Fedotova's favor may stem in part from the fact that she was charged under a regional law, not a federal one. The UN committee's statement noted that according to the Russian Constitution, freedom of expression can be restricted only by federal law.

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