

IN THE NAME OF THE RUSSIAN FEDERATION

CONSTITUTIONAL COURT  
OF THE RUSSIAN FEDERATION

Judgment  
of 19 June 2002 No. 11-II

in the case concerning the review of the constitutionality of certain provisions of the Law of the Russian Federation of 18 June 1992 “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 24 November 1995 and 12 February 2001), the Federal Laws of 12 February 2001 “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, of 19 June 2000 “On the Minimum Wage” and of 7 August 2000 “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation” upon requests of the Supreme Court of the Russian Federation and the Oktyabrsky District Court of Krasnodar and in connection with complaints of individuals and public associations of Chernobyl survivors.

Moscow, 19 June 2002

The Constitutional Court of the Russian Federation composed of Presiding Judge N. S. Bondar and Judges N. V. Vitruk, G. A. Gadzhiev, Yu. D. Rudkin, A. Ya. Sliva, B. S. Ebzeev, V. G. Yaroslavtsev,

in the attendance of M. N. Lavrentyeva, Judge of the Supreme Court of the Russian Federation, Yu. V. Kolmychek, judge of the Oktyabrsky District Court of Krasnodar, M. S. Abzayev, V. F. Borodkin, K. A. Bocharov, V. Ya. Vasilyev, A. G. Vaskin, D. K. Gabbasov, L. Y. Grabovetsky, Y. N. Dmitriyev, V. M. Yermakov, A. S. Kazakevich, V. A. Kalygin, N. A. Kovalenko, A. M. Kondratyev, Y. A. Mikryukov, Y. A. Nagovitsin, M. M. Pakin, A. M. Pankratov, V. F. Plyaskin, V. A. Pokrovsky, Y. G. Prokofyev, V. Z. Savchenko, I. A. Svirin, Y. I. Tayanko, K. D. Shkolnik, A. S. Yurchenko, Y. K. Gladkov, D. I. Gorokhov, N. A. Karibdzhanyan, I. T. Moiseyev, M. I. Oysboyt, A. I. Seyfullayev, V. S. Sigidinenko, A. A. Tychkov and their representatives, attorneys Y. L. Liptser and K. A. Moskalenko; representative of V. I. Nikolsky, attorney O. I. Kizimenko; V. F. Kuklev and his representatives, attorneys R. V. Charkovsky and A. Y. Olenin; Y. I. Yevkina, representative of V. V. Yevkin; Y. Z. Lukina, representative of A. P. Lukin; L. P. Drach and K. Y. Baskin as representatives of the International Association of Unions “Chernobyl-Atom”, the Regional Charitable Public Association of Persons Disabled in Chernobyl and Chernobyl Pensioners of

the Ministry of Fuel and Energy of the Russian Federation (Chernobyltsy MinTopEnergO); the Gagarinsky District Organization of the Union “Chernobyl” (Moscow); Permanent Representative of the State Duma to the Constitutional Court of the Russian Federation V. V. Lazarev; and representatives of the Council of the Federation, attorneys S. A. Nasonov and A. G. Manov,

pursuant to Subsection “a”, Section 2, and Section 4, Article 125 of the Constitution of Russian Federation, Subsection “a”, Section 1, Subsection 3, Section 1, Sections 3 and 4, Article 3, Subsection “a”, Section 1, Subsection 3, Section 2, Article 22, Articles 36, 74, 84, 85, 86, 96, 97, 99, 101, 102 and 104 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open hearing, examined the constitutionality of certain provisions of the Law of the Russian Federation of 18 June 1992 “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 24 November 1995 and 12 February 2001), the Federal Laws of 12 February 2001 “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, of 19 June 2000 “On the Minimum Wage” and of 7 August 2000 “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation”.

The reason for the consideration of the case is requests of the Supreme Court of the Russian Federation, a request of the Oktyabrsky District Court of Krasnodar, complaints of the International Association of Unions “Chernobyl-Atom”, the Regional Charitable Public Association of Persons Disabled in Chernobyl and Chernobyl Pensioners of the Ministry of Fuel and Energy of the Russian Federation (Chernobyltsy MinTopEnergO), the Gagarinsky District Organization of the Union Chernobyl (Moscow), and a complaint of M. S. Abzayev, N. B. Berezovsky, A. F. Bibikov, V. F. Borodkin, A. P. Borshchevsky, K. A. Bocharov, V. Y. Vasilyev, A. G. Vaskin, D. K. Gabbasov, Y. K. Gladkov, A. V. Golovin, D. I. Gorokhov, L. Y. Grabovetsky, S. V. Gribanenkov, Y. N. Dmitriyev, V. V. Yevkin, V. N. Yegorov, V. M. Yermakov, A. I. Zagorulko, A. S. Kazakevich, V. A. Kalygin, N. A. Karibdzhanyan, N. A. Kovalenko, A. M. Kondratyev, V. G. Kulemin, V. G. Krasnukhin, V. F. Kuklev, N. M. Kurinnoy, A. N. Lavrentyev, A. P. Lukin, V. F. Masenko, Ye. A. Mikryukov, I. T. Moiseyev, Yu. A. Nagovitsin, V. I. Nikolsky, M. I. Oysboyt, I. N. Ostretsov, M. M. Pakin, A. M. Pankratov, S. A. Patrin, V. F. Plyaskin, V. A. Pokrovsky, Ye. G. Prokofyev, V. Z. Savchenko, I. A. Svirin, A. I. Seyfullayev, V. V. Senko, V. S. Sigidinenko, V. L. Solopov, Yu. I. Tayanko, S. S. Televny, G. G. Titnikov, A. A. Tychkov, Ye. V. Finkov, B. I. Khikhli, V. Ye. Chichkan, K. D. Shkolnik, A. S. Yurchenko.

The ground for the consideration of the case is the discovered uncertainty of whether the provisions challenged by the applicants are in conformity with the Constitution of the Russian Federation.

Insofar as the requests of the courts and the complaints of the individuals and their associations concern essentially the same subject matter and pursuant to Article 48 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation is permitted to consider these applications together.

Having heard the report of Judge-Rapporteur Yu. D. Rudkin, statements by the parties and their representatives, interventions by M. Yu. Barshchevsky, Plenipotentiary Representative of the Government of the Russian Federation to the Constitutional Court of the Russian Federation, A. P. Pochinok, Minister of Labour and Social Development of the Russian Federation, N. V. Gerasimova, representative of the Ministry of Civil Defense, Emergency Situations and Liquidation of Natural Disaster Consequences, T. A. Golikova, representative of the Ministry of Finance of the Russian Federation, Yu. V. Korostelev, representative of the Commissioner for Human Rights of the Russian Federation; and having considered written submissions and other materials, the Constitutional Court of the Russian Federation

e s t a b l i s h e d :

1. On 18 June 1992, the special (principal) Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” was adopted. As follows from Article 1 of this Law, it was aimed at protecting the rights and interests of citizens of the Russian Federation who were in the zone of negative factors impact created by the Chernobyl Nuclear Power Plant Disaster or who participated in the liquidation of its consequences.

Certain provisions of this Law (as amended on 24 November 1995) have already been the subject-matter of review by the Constitutional Court of the Russian Federation. The legal opinions expressed in the Judgment of 1 December 1997 remain in force. Pursuant to Article 125 (Section 6) of the Constitution of the Russian Federation, Articles 6, 79 and 80 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, these legal opinions are binding on all representative, executive and judicial bodies of state power of the Russian Federation, other participants in legal relations, and they may not be overridden by new legal regulation.

1.1. The applicants in the present case challenge the constitutionality of the following provisions of the Law of the Russian Federation of 18 June 1992 “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster”: Section 3, Article 5 (as

amended on 12 February 2001), Subsection 25, Section 1, Article 14 (as amended on 24 November 1995 and 12 February 2001), Section 2, Article 14 (as amended on 12 February 2001), Subsection 10, Section 1, Article 15 (as amended on 7 August 2000) and Subsection 11, Section 1, Article 15 (as amended on 12 February 2001), Subsection 2 (2), Section 1, Article 29 (as amended on 12 February 2001), and Articles 1, 2 and 3 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, Articles 1–4 of the Federal Law “On the Minimum Wage” of 19 June 2000, Article 3 and Subsection 3, Article 4, of the Federal Law “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation” of 7 August 2000.

In the applicants’ opinion, the respective provisions introduce a new criterion to calculate the amount of compensation for damage to health of the citizens, who suffered from the Chernobyl Nuclear Power Plant Disaster, the respective provisions decrease the level of social guarantees as compared to the level that existed before (Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” as amended on 24 November 1995), violate the principles of fairness and equality and do not conform to Articles 1, 2, 7, 10, 15, 17 (Sections 1 and 2), 18, 19 (Sections 1 and 2), 31, 35, 39, 42, 45 (Sections 1 and 2), 46, 53, 54 (Section 1) and 55 of the Constitution of the Russian Federation.

The challenged provisions regulate the calculation of compensation for damage caused to the health of the citizens who are disabled due to the Chernobyl Nuclear Power Plant Disaster, and, in case of their death, to the incapacitated members of their families who were dependent on those persons. The compensation is prescribed to be paid in fixed amounts contingent only upon the degree of disability, and not on the amount of lost earnings as was the case before (including the nominal income when the period of work on liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster did not exceed a full calendar month), and the degree of loss of labour capacity. These provisions allow persons of the mentioned categories, who received compensation for damage before the Federal Law of 12 February 2001 entered into force, to choose whether to receive compensation for damage in the previous amounts, but no more than 10,000 Russian rubles, or as a fixed amount. The calculation of certain other monetary compensatory payments, included in the scope of compensation for damage, shall be made on the basis on the base amount of 100 Russian rubles instead of the previously applied minimum wage. According to the new criterion, the annual indexation of the amounts of compensation for damage shall be proportionate to the increase of the minimum cost of living in the Russian Federation. Further, these provisions provide for the right of bodies, authorized by the

Government of the Russian Federation, to verify the authenticity of the data submitted for the calculation and receipt of the compensation for damage and to determine the general conditions for payment of non-received sums of compensation for damage, pursuant to Subsection 3, holding of the Judgment of the Constitutional Court of the Russian Federation of 1 December 1997, in 2001–2003.

Besides, Ye. A. Mikryukov requests to review the constitutionality of the norm of Subsection 3, Article 1086 of the Civil Code of the Russian Federation, Articles 14 and 15 of the Rules on Compensation by the Employer for Damage Caused to the Employees by Injury, Professional Disease or Other Damage to Health Related to the Performance of Their Employment Duties (as amended by the Federal Law of 24 November 1995), and Article 12 of the Federal Law “On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases” of 24 July 1998, to the extent that they regulate a procedure to determine the average monthly earnings (income) used for the calculation of compensation for damage. However as follows from the complaint, the applicant *de facto* raises the issue of choice of the norms to be applied in his case, which is within the powers of the courts of general jurisdiction and other law-enforcement authorities and is outside the competence of the Constitutional Court of the Russian Federation.

Certain individuals in their complaints also raise the issue of applicability of the procedure to determine the earnings for pension calculation, which is provided for by Article 38 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (it may be taken for any period of work in radiation-polluted territories chosen by the applicant), to determine earnings for the calculation of compensation for damage to persons who are disabled due to the Chernobyl Disaster (*invalidy-chernobytsky*). Resolution of this matter is within the powers of the legislator and is outside the competence of the Constitutional Court of the Russian Federation, as is established by Article 125 of the Constitution of the Russian Federation and Article 3 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”.

1.2. Therefore, the subject-matter for consideration by the Constitutional Court of the Russian Federation in the present case is the provisions on compensation for damage to the health of citizens exposed to radiation due to the Chernobyl Nuclear Power Plant Disaster, which, due to the new legal regulation, impose the use of the degree of loss of health (degree of disability) and not the lost earnings as the main criterion to calculate the amount of compensation for damage, and, accordingly, establish fixed amounts of money and their indexation without consideration of the minimum wage.

2. It follows from Articles 1, 2 and 7 of the Constitution of the Russian Federation taken in conjunction with its Articles 42 and 53 that recognition and ensuring of the right to compensation for damage to health, which is an inalienable benefit of everyone, shall be the duty of the Russian Federation as a rule of law and social state.

The very fact of damage caused to the health of persons who were in the zone of radioactive pollution and other negative factors resulting from the Chernobyl Nuclear Power Plant Disaster, predetermines the existence of a constitutional relation concerning compensation for damage between the state whose activity in nuclear power production caused the damage and the citizens (this legal opinion was expressed by the Constitutional Court of the Russian Federation in the Judgment of 1 December 1997).

Within the legal regulation of the mentioned relations, the citizens are guaranteed monetary and other pecuniary compensations and benefits for damage caused to their health due to the Chernobyl Nuclear Power Plant Disaster and for the risk of damage by radiation which may occur due to residence and work in the territory exposed to radioactive pollution exceeding the permissible levels (Section 1, Article 3 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” as originally in force).

Under Article 71 (Subsection “c”) of the Constitution of the Russian Federation, the state shall regulate and protect the rights and freedoms of man and citizen. Thus, the federal legislator shall use effective legal mechanisms of compensation for damage to health considering inflation and rising prices.

The procedures for granting and calculating the amount of compensatory payments provided for by the principal Law do not require a citizen to prove the existence and scope of the damage to health to be compensated for. At the same time, nothing precludes the basis of civil legislation norms, if a citizen decides to protect his rights in courts. The possibility of paying additional sums under a judicial decision in the light of impermissibility of decrease in the previously established compensatory payments increases the level of guarantees of protection of the rights and interests of the citizens affected by the Chernobyl Nuclear Power Plant Disaster.

Given that the damage caused by the Chernobyl Nuclear Power Plant Disaster is actually irreparable and incalculable, its full compensation is objectively impeded and in many cases impossible. In any event, the amount of compensation shall provide the persons who suffered from the Disaster such standard of living that in comparison with the citizens’ incomes across the country shall not call in question their right to compensation for damage itself and the principle of respect of human dignity.

Imposing a procedure to secure the respective right, the federal legislator may choose various means of compensation for damage – a lump-sum monetary compensation, monthly payments and other compensatory payments, but he is not entitled to decrease the level of compensation for damage recognized by the state. All persons who suffered damage to health due to the same anthropogenic Disaster, which is normally irreparable in the course of time, have the right to compensation for expenses incurred due to loss and (or) deterioration of health. The determination of the criteria to calculate monetary compensations is affected by these considerations. That is why the federal legislator shall be guided by the constitutional principles of fairness (Articles 1 and 7 of the Constitution of the Russian Federation) and equality of the rights and freedoms of man and citizen regardless of any circumstances (Article 19 of the Constitution of the Russian Federation), such as profession, official capacity and, accordingly, the level of their income.

Compensation for damage to health of persons exposed to radiation from the Chernobyl Nuclear Power Plant Disaster shall not be classified as any mandatory social payments, including mandatory social insurance payments, since the features of such compensation are predetermined by the constitutional nature of the relevant relations, including their continuous nature. This approach defines the legal status of the respective citizens. The state undertaking the responsibility for compensation for damage is obliged to follow the requirements of Articles 2, 19 and 42 of the Constitution of the Russian Federation. The basis of these requirements is the recognition of life and health as constitutional values, which have equal significance for all citizens who suffered from the Chernobyl Nuclear Power Plant Disaster.

3. Subsection 25, Section 1, Section 2, Article 14, and Subsection 2 (2), Section 1, Article 29 of the principal Law (as amended on 12 February 2001) provide that compensation for damage to the citizens who are disabled due to the Chernobyl Nuclear Power Plant Disaster, and in case of their death to incapacitated members of their families dependent on these persons, shall be paid as fixed amounts determined by the degree of disability (persons having first-degree disability, 5,000 Russian rubles, persons having second-degree disability, 2,500 Russian rubles, persons having third-degree disability, 1,000 Russian rubles), and do not depend on the earnings.

3.1. The constitutional nature of the relations occurring in case of compensation for damage to the citizens exposed to radiation from the Chernobyl Nuclear Power Plant Disaster predetermines the need for the state to use available means as far as possible to ensure sufficiency of such compensation (Judgment of the Constitutional Court of the Russian Federation of 1 December 1997). At the same time, the legislator's decisions to amend the ways of compensation and clarify the criteria of differentiation or individualization shall not be

incompatible with the constitutionally significant values, shall conform to the principles of fairness and proportionality and shall not derogate from the constitutional rights, including the right guaranteed by Article 42 of the Constitution of the Russian Federation.

The departure of the federal legislator from calculating the amount of compensation for damage on the basis of earnings and transition to a new method based on the degree of loss of health implies compliance with the requirements of effective indexation in accordance with the changes in the minimum cost of living and the principle of legal certainty and stability of legal relations. On the basis of these principles the state shall aspire to ensure a decent life for its citizens.

Accordingly, the adoption of the new method of calculating the amount of compensation for damage conforms to the Constitution of the Russian Federation since it is based on the recognition of the constitutional principle of everyone's equality before the law and the court and, consequently, equal value of life and health of all citizens who suffered from the Chernobyl Nuclear Power Plant Disaster.

3.2. Having decided to determine the amount of compensation for damage on the basis of the degree of loss of health, the legislator also vested the persons who previously received a compensation for damage to health due to the Chernobyl Nuclear Power Plant Disaster with the right to choose whether to receive a monthly monetary compensation for damage in fixed amounts or a compensation which they received before and which was calculated on the basis of their earnings, income, allowance. However, in the latter case the amount of compensation for damage is limited to 10,000 Russian rubles (Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001).

It is not permissible to decrease the previously established amount of compensation for damage in the process of enhancing the order and conditions of compensation for damage to the health of citizens who are disabled due to the Chernobyl Nuclear Power Plant Disaster. Consequently, in transition to the new method of calculating the amounts of compensation for damage the legislator should not have decreased its level for persons disabled due to the Chernobyl Disaster, and in case of their death to the incapacitated members of their families dependent on them, if it was previously granted to them and given that these sums are set to compensate the harm actually inflicted on health.

Therefore, the limit on the maximum amount (10,000 Russian rubles) of compensation for damage to citizens who became disabled due to the Chernobyl Nuclear Power Plant Disaster, and in case of their death to incapacitated members of their families dependent on them, which is established by Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001, violates the stability of the continuous constitutional relations and decreases the previously established level

of compensation for damage. Consequently, the right to compensation for damage is derogated and restricted, and thus these provisions do not conform to the Constitution of the Russian Federation and its Articles 42 and 55 (Section 2 and 3).

Relying on the constitutional principles of fairness, everyone's equality before the law, and equal value of life and health of all citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, and taking into account that the maximum level of compensation for damage shall not be lower than in other legal relations in other areas of legislation (Judgment of the Constitutional Court of the Russian Federation of 1 December 1997), in the present case the decisive factor shall be the level of compensation for damage provided for by the Federal Law "On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases" of 24 July 1998 and the Federal Law "On the Budget of the Social Insurance Fund of the Russian Federation in 2002" of 11 February 2002 (Section 1, Article 16). Until Section 1, Article 2 of the Federal Law of 12 February is amended, persons who have been granted a compensation for damage calculated on the basis of their earnings shall be provided with payment of the previously granted amounts, but not above the limits established by the mentioned Federal Laws. The coherence of the amounts determined as compensation for damage and actually inflicted damage on the health of persons disabled by the Chernobyl Disaster may be reviewed in judicial proceedings.

3.3. It follows from Subsection 25, Section 1, 2, Article 14, Subsection 2 (2), Section 1, Article 29 of the principal Law (as amended on 12 February 2001) in their normative unity with Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001 that the right to choose whether to receive compensation for damage as a fixed amount or an amount calculated on the basis of the earnings is not guaranteed to the persons who became disabled due to the Chernobyl Disaster, and in case of their death to work-incapacitated members of their families dependent on them, if these persons applied for compensation for damage for the first time after the Federal Law of 12 February 2001 entered into force.

The mentioned provision conforms to the Constitution of the Russian Federation since it is based on the recognition of the legislator's right to introduce a new manner of determining the amount of compensation for damage to health according to the principles of fairness, everyone's equality before the law and the court and, consequently, equal value of life and health of all citizens who suffered from the Chernobyl Nuclear Power Plant Disaster (Subsection 3.1, statement of reasons of the present Judgment).

3.4. The Supreme Court of the Russian Federation challenges the constitutionality of the second sentence of Subsection 25, Section 1, Article 14 of the principal Law (as amended on 24 November 1995). Pursuant to this sentence, the amount of compensation for damage to health

for persons disabled due to the Chernobyl Disaster, who participated in the liquidation of its consequences for less than a full calendar month, shall be calculated on the basis of nominal monthly earnings without limitation.

According to the Supreme Court of the Russian Federation, this provision establishes an unequal level of social guarantees for persons disabled due to the Chernobyl Disaster in respect of compensation for damage. In particular, the persons who participated in the liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster for a short period of time (sometimes less than a week), unlike the persons who worked in the same conditions over a long period of time, receive higher compensation for damage since the nominal earnings are higher than the earnings which they previously received. In the applicant's view, the ambiguity of this norm indicates that there is an uncertainty of whether it conforms to the principle of everyone's equality before the law and the court (Article 19, Section 1), the right to compensation for damage to health (Article 42) and prohibition on derogation from the rights and freedoms of man and citizen (Article 55, Section 2 of the Constitution of the Russian Federation).

Subsection 25, Section 1, Article 14 of the principal Law (as amended on 12 February 2001) does not have a provision on calculating the amount of compensation for damage to health on the basis of earnings. However, such calculation is possible pursuant to Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001. Since the legislator does not specify on the basis of which earnings the compensation for damage was calculated until the new legal regulation was adopted, it is possible to imply that calculation of the amounts of compensation for damage may be exercised on the basis of nominal monthly earnings without their limitation for the persons disabled due to the Chernobyl Disaster who participated in the liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster for less than a full calendar month. This approach precludes the decrease of the amounts of previously established compensation for damage to health and maintains the citizens' confidence in the law and the state's actions.

Therefore, the provision on calculating the amount of compensation for damage to health on the basis of nominal earnings, previously established by Subsection 25, Section 1, Article 14 of the principal Law (as amended on 24 November 1995) and which did not provide for a possibility of differentiated approach to calculating such earnings depending on the zone of radioactive pollution, within its historical interpretation and in normative unity with Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001, which provide for an opportunity to calculate the amount of compensation for damage on the basis of earnings, in the light of the continuous nature and stability of the legal relations concerning compensation for damage to health between the state and the persons disabled due to the Chernobyl Disaster, for whom this

damage was calculated before new legal regulation entered into force, conforms to the Constitution of the Russian Federation.

4. V. N. Yegorov and V. Ye. Chichkan challenge the constitutionality of the provision of Subsection 11, Section 1, Article 15 of the principal Law (as amended on 12 February 2001) pursuant to which people who participated in the liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster within the exclusion zone shall receive compensation for damage to health, which entailed loss of the labour capacity, in the form of monthly monetary payments of 250 Russian rubles regardless of the degree of loss of their labour capacity (without recognition of disability).

As is noted by the applicants, the amount of compensation for damage to health, which was calculated on the basis of lost earnings (or its part) and taking into account the degree of loss of the labour capacity, was significantly decreased due to the application of the new legal regulation. That is why the challenged provision, in their opinion, does not conform to Articles 42, 53 and 55 (Section 2) of the Constitution of the Russian Federation.

As follows from the legal opinions expressed before, in transition to the new method of calculating the amounts of the compensation for damage to health, the legislator is not entitled to decrease the level of compensation for damage recognized by the state. At the same time, this provision, as an exception to the common principle of calculating the amounts of compensation for damage to health as fixed sums depending on the degree of disability, established by the new legal regulation, does not take into consideration the degree of actual loss of health. As a result, for citizens for whom it was calculated on the basis of earnings and taking into account the degree of loss of labor capacity, the amount of compensation for damage has significantly decreased (for the applicants V. N. Yegorov and V. Ye. Chichkan, more than three times).

Consequently, the provision of Subsection 11, Section 1, Article 15 of the principal Law (as amended on 12 February 2001) conforms to the Constitution of the Russian Federation to the extent that it does not decrease the level of monthly monetary compensation. At the same time, the said provision does not conform to Articles 42 and 55 (Section 2) of the Constitution of the Russian Federation to the extent that it decreases the amount of previously established monthly monetary compensation and thus derogates from the right to compensation for damage to the citizens who participated in the liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster within the exclusion zone.

5. The applicants in the present case challenge the constitutionality of Article 3 and Subsection 3, Article 4 of the Federal Law “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation”, and Subsection 10, Section 1, Article 15 of the principal Law as amended on 7 August 2000 (the constitutionality of this norm

is challenged by K. A. Bocharov), Section 3, Article 5 of the principal Law (as amended on 12 February 2001), Section 3, Article 2 of the Federal Law of 12 February 2001, Articles 3 and 4 of the Federal Law “On the Minimum Wage”. Pursuant to the mentioned provisions, the amounts of other monetary compensations included in the scope of compensation for damage caused to the health of the citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, and compensation for risk of damage by radiation which may occur due to residence and work in the territory exposed to radioactive pollution exceeding permissible levels shall be determined relying on the base amount of 100 Russian rubles (instead of the previously applied minimum wage). These amounts are indexed annually and in proportion to the increase of the minimum cost of living in the Russian Federation (previously the compensation for damage to the mentioned citizens was fully protected against inflation as established by the legislation on indexation of cash income in the Russian Federation).

In the applicant’s opinion, the respective provisions, contrary to the requirements of Article 55 (Section 2) of the Constitution of the Russian Federation, derogate from their right to compensation for damage, since pursuant to these provisions the sums of compensation for damage to health are not determined on the basis of the minimum wage and are not increased proportionately to the increase of this rate.

As regards Articles 1 and 2 of the Federal Law “On the Minimum Wage”, also challenged by the applicant, their provisions do not infringe upon the rights and freedoms. That is why under Articles 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” the complaints are inadmissible to this extent and the proceedings are to be discontinued pursuant to Article 68 of the said Law.

5.1. It is a prerogative of the legislator to choose a method of calculating the amounts of other compensatory payments included in the scope of compensation for damage to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster and to choose a criterion for indexation, which is a measure reducing the influence of inflation on compensatory payments. The legislator is entitled to change these methods depending on the inflation, rise in prices, dynamics of the cost of living, and the cost of living rates in subjects of the Russian Federation and in the Russian Federation as a whole. However, it shall observe the constitutional principles of fairness, equality, proportionality as well as stability and guarantees of the citizens’ rights. In the present case, the growth in the cost of living in the Russian Federation as a whole was chosen to be the criterion for indexation (instead of the previously applied minimum wage).

Pursuant to Articles 7 (Section 2) and 37 (Section 3) of the Constitution of the Russian Federation, the constitutional nature of the institution of minimum wage implies determining the minimum amount of money to be guaranteed to an employee as payment for the performance of

his employment duties. Attribution of wider functions to the minimum wage (including using it as a normative standard to calculate payments in non-labour relations) does not conform to the constitutional nature of this institution. By departing from the use of the minimum wage as a criterion to calculate and index the size of compensation for damage to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, the legislator relieved it from the performance of an atypical function.

Accordingly, the change in determining the amounts of other types of monetary compensations included in the scope of compensation for damage to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, and the criterion for indexation of the size of compensation for damage may not be recognized as non-conforming to the Constitution of the Russian Federation since it complies with the mentioned constitutional principles.

5.2. The monthly recurrence of monetary payments to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, as established by the legislation in force, does not imply that these payments are among the mandatory social payments within the framework of social security (Article 7 and 39 of the Constitution of the Russian Federation).

Monetary payments to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster differ from social payments based on mandatory social insurance, because their payment is a constitutional obligation of the state to compensate for the damage caused to the health of these citizens. The exercise of this obligation does not depend on contributions to certain funds or the application of the principle of solidarity of generations (as is typical for mandatory social insurance). The mentioned constitutional obligation of the state has public law nature and it is not identical to the employer's obligation to compensate his employee for damage caused in the performance of his employment duties.

Consequently, Article 3 and 4 of the Federal Law "On the Minimum Wage", Article 3 and Subsection 3, Article 4 of the Federal Law "On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation" are reviewed by the Constitutional Court of the Russian Federation only to the extent that they determine the scope of compensation for damage to the health of citizens who suffered from the Chernobyl Nuclear Power Plant Disaster.

5.3. Section 3, Article 5 of the principal Law (as in force before the Federal Law of 12 February 2001 was adopted) provided that state pensions, allowances, compensations and other payments to citizens established by this Law were fully protected from inflation as prescribed by the legislation of the Russian Federation on indexation of citizens' cash income and savings, *inter alia* on the basis of the minimum wage. While the federal legislator departed from the use of the minimum wage as a criterion for indexation within new legal regulation, it

did not establish any other indexation criterion and merely indicated that the mentioned payments shall be increased pursuant to the legislation of the Russian Federation (Section 3, Article 5 of the principal Law, as amended on 12 February 2001). Consequently, this norm has lost its certainty in comparison with the previous regulation.

In determining the amounts of other monetary compensations included in the scope of compensation for damage caused by the Chernobyl Disaster, the legislator was entitled to choose any base amount for calculation purposes (e.g. 100 Russian rubles), however, it could not be less than the previously established base amount (83 Russian rubles 49 kopecks), and the former growth index (repetition factor) should have been preserved. This approach was used to amend the principal Law in the light of adopting the Federal Law “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation”, the Federal Law of 12 February 2001 and the Federal Law “On the Minimum Wage” (Articles 3 and 4).

However, concurrently the legislator should have established a mechanism to index the amounts of compensation for damage which would guarantee its stability and recurring revision secured by appropriate funding in response to rising prices and cost of living. However, indexation according to the annual increase of the minimum cost of living in the Russian Federation, established by interrelated provisions of Section 3, Article 5 of the principal Law (as amended on 12 February 2001) and Section 3, Article 2 of the Federal Law of 12 February 2001, does not conform to the respective requirements. Moreover, the cost of living has not been officially established yet, which rules out the possibility to index the respective amounts of compensation for damage to the health of citizens who suffered from the Chernobyl Nuclear Power Plant Disaster.

Accordingly, the mechanism to index the amounts of compensation for damage, established by the new legal regulation, lacks certainty. In particular, it does not permit to increase the amounts of monetary compensations due to inflation reflected in the increase of the cost of living. Nor does it permit to ascertain whether the protection against inflation of the amounts of compensation for damage to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster is realized. Further, it applies not to all of these citizens but only to those who received compensation for damage before the Federal Law of 12 February 2001 entered into force. This legal mechanism affords unlimited discretion in the law-enforcement practice and leads to arbitrariness and, consequently, violates the constitutional principle of everyone’s equality before the law and the court.

Therefore, the interrelated provisions of Section 3, Article 5 of the principal Law (as amended on 12 February 2001) and Section 3, Article 2 of the Federal Law of 12 February 2001 on annual indexation of the previously established amounts of compensation for damage due to

increase in the cost of living in the Russian Federation do not conform to the principles of fairness, equality, proportionality and prohibition of derogation from the right to compensation for damage to the health of citizens who suffered from the Chernobyl Nuclear Power Plant Disaster. These provisions contradict Articles 19 (Section 1), 42 and 55 (Section 2) of the Constitution of the Russian Federation.

5.4. The right to compensation for damage caused to life and health guaranteed by the Constitution of the Russian Federation is further ensured by the possibility of its judicial protection, which implies the existence of certain guarantees permitting to fully exercise this right and secure effective restoration of rights through administration of justice, which meets the requirements of fairness.

Pursuant to Article 6 and Sections 2 and 4, Article 79 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, until the legislation in force is amended courts of general jurisdiction relying on direct application of the Constitution of the Russian Federation and the legal opinions expressed by the Constitutional Court of the Russian Federation in the present Judgment shall, in considering specific cases, have the power to order payment to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster the amounts of compensation for damage taking into consideration their indexation on the basis of the increase in the cost of living wage in a particular subject of the Russian Federation. Moreover, they shall be guided by the cost of the consumption basket for the respective categories of citizens (children, old-age pensioners, disabled persons), which is calculated under the legislation of the subject of the Russian Federation on the cost of living basis. In the absence of such legislation, courts shall consider the data submitted upon their request of federal executive bodies of state power. In its turn, the state shall secure appropriate funding under such judicial decisions since the compensation for damage to the mentioned category of citizens shall be made at the expense of the federal budget. Any other approach would result in denial of the universally recognized principle of judicial decisions enforcement being an integral part of access to court.

6. The Supreme Court of the Russian Federation challenges the constitutionality of Section 2, Article 14 of the principal Law (as amended on 12 February 2001), which stipulates that in case of death of a person disabled due to the Chernobyl Nuclear Power Plant Disaster the compensatory payments shall be paid to the incapacitated members of the family dependent on him. This provision also establishes a procedure of calculating this compensation.

As the applicant asserts, the wording “incapacitated members of the family dependent on these persons” limits the scope of persons entitled to compensation for damage due to the loss of the provider since this wording excludes children born after the deceased disabled person’s death from the dependents; it also excludes other dependents who become incapacitated within five

years after his death. Further, the said norm does not define the period within which the members of the family are considered work-incapacitated (the period of disability, age of 18 for children, and for full-time students until the end of studies but no later than the age of 23, etc.). Consequently, these persons may obtain compensation for damage after the provider's death without any time limits and regardless of their further labour capacity.

Moreover, in the applicant's opinion, the procedure of calculating the amounts of monthly monetary compensation to families which lost their provider (a person disabled due to the Chernobyl Disaster) increases the level of protection of their rights compared with the families who lost provider due to labour injury. Thus, the constitutional principle of everyone's equality before the law and the court is violated.

6.1. The principal Law (either as amended on 24 November 1995 or as force at the moment) contains no definition of "dependence" and "incapacitated member of the family". These notions are defined by other federal laws, which are commonly applied to clarify the meaning of these notions. In the present case, the relevant provisions of Article 7 of the Federal Law "On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases" shall be applied.

Accordingly, incapacitated members of the family dependent on the persons disabled due to the Chernobyl Disaster have equal status as work-incapacitated members of the family of the citizens of other categories. To this extent, the challenged provision does not have discriminatory effect and conforms to the Constitution of the Russian Federation. However, if the law-enforcement practice permits to interpret the notion of "dependence" in a manner which deprives certain categories of citizens mentioned in the request of the Supreme Court of the Russian Federation of the right to compensation for damage or permits to exercise this right disregarding the rules of Article 7 of the Federal Law "On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases", such interpretation shall not have legal effect.

6.2. Section 2, Article 14 of the principal Law (as amended on 12 February 2001) establishes that the amount of compensation to all of the dependents shall be determined as a difference between the full amount of monthly monetary compensation and the part awarded to the provider himself. However, pursuant to Subsection 8, Article 12 of the Federal Law "On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases", the amount of monthly insurance payment to persons entitled to receive it in case of death of the insured person shall be calculated on the basis of his average monthly earnings, pension received while alive, life annuity and other similar payments, excluding parts awarded to him personally and labour-capable persons who are dependent on him but have no right to receive insurance payments.

As has been stated by the Constitutional Court of the Russian Federation, the constitutional principle of equality does not prevent establishing differences in the legal status of persons belonging to different categories depending on the conditions and type of occupation. This approach is equally applicable to the possibility for the legislator to adopt special rules of calculating the amounts of compensation for damage to members of the family who lost their provider (person disabled due to the Chernobyl Disaster).

Accordingly, to this extent the provision of Section 2, Article 14 of the principal Law (as amended on 12 February 2001) may not be considered contradicting the Constitution of the Russian Federation.

7. The public associations of the Chernobyl survivors and the individuals V. F. Borodkin, Ye. A. Mikryukov and I. N. Ostretsov, who applied to the Constitutional Court of the Russian Federation, challenge the constitutionality of Section 4, Article 2 of the Federal Law of 12 February 2001 which provides for the right of bodies authorized by the Government of the Russian Federation to verify the authenticity of the data submitted for purposes of calculating and receiving compensation for damage, while the amount of monthly monetary compensation shall be calculated as fixed amounts depending on the degree of disability rather than on the basis of the earnings.

In the applicants' opinion, this norm does not conform to the Constitution of the Russian Federation since it does not specify certain bodies entitled to establish authenticity of the submitted data. Moreover, as time passes it becomes more complicated to obtain necessary documents, which gives arbitrary discretion to control bodies and does not guarantee the right to judicial protection for citizens.

Pursuant to Articles 96 and 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", citizens and their associations, who lodge a complaint to the Constitutional Court of the Russian Federation against violation of their constitutional rights and freedoms by the law applied or to be applied in their case, the consideration of which is completed or commenced by a court or another authority which applies the law, must submit a copy of an official document confirming application or possible application of the challenged law in their case.

Meanwhile, it does not follow from the documents submitted by the applicants and other materials in the case that the challenged provision has been applied. As regards the applicant's allegation of restriction of their right to judicial protection, it may not be recognized as founded since, pursuant to Article 48 of the principal Law, any decision or action of officials of any level necessary for the application of its norms may be appealed in court.

Accordingly, to this extent the complaints are inadmissible and the proceedings are to be discontinued pursuant to Article 68 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”.

8. The applicants V. F. Borodkin, A. I. Zagorulko and Ye. V. Finkov challenge the constitutionality of Article 3 of the Federal Law of 12 February 2001, pursuant to which payment of non-received monetary compensations to citizens shall be performed in 2001–2003. The said monetary compensation is calculated as of 2 June 1998 under Subsection 3 of the holding of the Constitutional Court of the Russian Federation Judgment of 1 December 1997. The order and conditions of return of non-received monetary compensations to citizens shall be established by the Government of the Russian Federation.

As is stated in the complaints, the law-enforcement authorities, including courts of general jurisdiction, do not actually comply with these norms, claiming that the Constitutional Court of the Russian Federation has not reviewed their constitutionality. Further, since payment of non-received monetary compensations is prolonged in time it does not conform to the Constitution of the Russian Federation.

8.1. Pursuant to their legal nature, these provisions are aimed at restoring the violated citizens’ right to compensation for damage to health due to the Chernobyl Nuclear Power Plant Disaster, i.e. precisely to enforce the Judgment of the Constitutional Court of the Russian Federation of 1 December 1997. Essentially, they imply recognition by the State of its duty and afford only a postponement of performance of the obligations. It does not preclude a possibility of payoff payment of non-received monetary compensations within the shortest periods.

Accordingly, Article 3 of the Federal Law of 12 February 2001 does not derogate from the right of V. F. Borodkin, A. I. Zagorulko and Ye. V. Finkov to compensation for damage. That is why, pursuant to Articles 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the complaints are inadmissible to this extent and the proceedings on them are to be discontinued pursuant to Article 68 of the said Law.

8.2. At the same time, Article 3 of the Federal Law of 12 February 2001 does not preclude courts of general jurisdiction from considering civil actions for recovery of non-received amounts of compensation for damage. If the judicial decision has been delivered in such cases, they shall be enforced within the time limits prescribed by the court, since otherwise access to court would be significantly restricted. At the same time, as has been stated in the judgment of the European Court of Human Rights in the case of *Burdov v. Russia* of 7 May 2002, it is not possible to the state to refer to the quote lack of funds as an excuse for not honoring a judgment debt.

Prolonged failure (more than four years) of the legislator to enforce the Judgment of the Constitution of the Russian Federation delivered on 1 December 1997 is equally impermissible under Articles 6, 79 and 80 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”. Moreover, the violated right may not be considered actually restored if there is no proper indexation of the sums returned to the Chernobyl survivors.

Concluding from the above and pursuant to Section 6, Article 125 of the Constitution of the Russian Federation, Article 6, Sections 1 and 2, Article 71, Articles 72, 75, 79, 80, 87, 100 and 104 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation

h e l d :

1. To recognize as conforming to the Constitution of the Russian Federation:

– the provisions of Subsection 25, Section 1, Article 14 and Subsection 2 (2), Section 1, Article 29 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001) to the extent that it introduces fixed sums of compensation for damage, the amount of which depends on the degree of disability of the persons exposed to radiation due to the Chernobyl Nuclear Power Plant Disaster or due to participation in the liquidation of its consequences;

– the provisions of Subsection 25, Section 1, Article 14 and Subsection 2 (2), Section 1, Article 29 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001) taken in system conjunction with Sections 1 and 2, Article 2 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’” of 12 February 2001 to the extent that they do not preclude a possibility to calculate the compensation for damage on the basis of earnings, income, allowance for persons disabled due to the Chernobyl Disaster if they apply for compensation for damage for the first time after the Federal Law of 12 February 2001 entered into force;

– the provisions of Sections 1 and 2, Article 2 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’” which provide for a possibility to apply the norm of Subsection 25, Section 1, Article 14 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as in force before the Federal Law of 12 February 2001 was adopted) to calculate the amounts of compensation for damage in order to preclude a decrease in the amounts of compensation for

damage to health previously established on the basis of nominal monthly earnings regardless of the zones of radioactive pollution, for persons disabled due to the Chernobyl Disaster who participated in the liquidation of the consequences of the Chernobyl Nuclear Power Plant Disaster for less than a full calendar month;

– the provisions of Section 2, Article 14 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001) which establish that, in case of death of citizens who became disabled due to the Chernobyl Nuclear Power Plant Disaster, the compensatory payments shall be paid to the incapacitated members of the family dependent upon them.

2. To recognize, as conforming to the Constitution of the Russian Federation, provisions of Article 3 and Subsection 3, Article 4 of the Federal Law “On a Procedure to Determine the Amounts of Scholarships and Social Payments in the Russian Federation”, Subsection 10, Section 1, Article 15 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 7 August 2000), Section 3, Article 5 of the Law of the Russian Federation of 12 February 2001 “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001), Section 3, Article 2 of the Federal Law “On Amendments and Addition to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, Articles 3 and 4 of the Federal Law “On the Minimum Wage” united by their normative content to the extent that they provide for a new method of calculating the amounts of other monetary compensations included in the scope of compensation for damage caused to the health of the citizens who suffered from the Chernobyl Nuclear Power Plant Disaster (with the amounts of compensation for damage to be indexed in proportion to the increase in the minimum cost of living in the Russian Federation).

To recognize, as non-conforming to the Constitution of the Russian Federation and its Articles 19 (Section 2) and 55 (Section 2), interrelated provisions of Section 3, Article 5 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001) and Section 3, Article 2 of the Federal Law of 12 February 2001 “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, to the extent that they establish annual indexation of the amounts of compensation for damage depending on the increase in the minimum cost of living in the Russian Federation while not providing for a mechanism of timely and definite indexation. Consequently, these provisions lack legal certainty.

Until the legislation in force is amended, courts of general jurisdiction considering particular cases are entitled to order payment of compensation for damage to citizens who suffered from the Chernobyl Nuclear Power Plant Disaster, taking into consideration their annual indexation coherent with the increase in the cost of living in the subject of the Russian Federation.

3. To recognize, as conforming to the Constitution of the Russian Federation, the provisions of Sections 1 and 2, Article 2 of the Federal Law of 12 February 2001 “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’”, which provide for a possibility to receive monthly monetary compensation in the amount calculated on the basis of earnings for the citizens who, before that Federal Law entered into force, received compensation for damage caused to health due to the Chernobyl Nuclear Power Plant Disaster or due to participation in the liquidation of its consequences, and for their families who, before that Federal Law entered into force, received the payments due to the loss of the provider (citizens deceased due to the Chernobyl Nuclear Power Plant Disaster, radiation sickness and other diseases caused by this disaster).

To recognize the provisions of Sections 1 and 2, Article 2 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’” of 12 February 2001 as non-conforming to the Constitution of the Russian Federation and its Articles 42 and 55 (Section 2) to the extent that they limit the maximum amount (10,000 Russian rubles) of compensation for damage to the health of persons disabled due to the Chernobyl Disaster, and in case of their death to incapacitated members of their family dependent on them, which was previously calculated on the basis of the earnings and granted to them.

Until the legislation in force is amended, the persons who have been granted a compensation for damage calculated on the basis of their earnings shall be provided with payment of the previously granted amounts but not above the limits established by the Federal Laws “On Mandatory Social Insurance of Labour-Related Disasters and Professional Diseases” and “On the Budget of the Social Insurance Fund of the Russian Federation in 2002” (Section 1 of Article 16).

4. To recognize, as non-conforming to the Constitution of the Russian Federation and its Articles 42 and 55 (Section 2), the provision of Subsection 11, Section 1, Article 15 of the Law of the Russian Federation “On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster” (as amended on 12 February 2001), which provides for compensation for damage to the health of citizens who suffered from the Chernobyl Nuclear

Power Plant Disaster (without recognition of disability) in the equal-for-all fixed amount (250 Russian rubles), to the extent that this provision allows to decrease the amount of the previously established monthly monetary compensation.

After the legislation is amended pursuant to the present Judgment, V. N. Yegorov and V. Ye. Chichkan shall be paid the non-received amounts of compensation for damage.

5. Pursuant to Article 68 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the proceedings in the case are to be discontinued:

- to the extent that they concern constitutional review of Articles 1 and 2 of the Federal Law “On the Minimum Wage” since these provisions do not infringe on the rights and freedoms of man and citizen;

- to the extent that they concern constitutional review of Section 4, Article 2 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’” of 12 February 2001, which establishes a procedure to verify the authenticity of the data necessary to calculate compensation for damage caused to the health of persons due to the Chernobyl Nuclear Power Plant Disaster, since this provision was not applied in the applicants’ cases;

- to the extent that they concern the constitutional review of Article 3 of the Federal Law “On Amendments to the Law of the Russian Federation ‘On Social Security of Citizens Affected by Radiation in the Chernobyl Nuclear Power Plant Disaster’” of 12 February 2001 establishing a procedure and conditions of repayment to citizens of non-received monetary compensations calculated pursuant to Subsection 3 of the holding of the Judgment of the Constitutional Court of the Russian Federation of 1 December 1997, since by virtue of their legal nature these provisions are aimed at rectifying the state’s violation of obligation to compensate for damage caused to the individuals’ health due to the Chernobyl Nuclear Power Plant Disaster within a certain time and may not be considered as restricting the applicants’ right to compensation for damage.

6. Pursuant to Article 80 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, in order to execute the present Judgment, the Government of the Russian Federation shall, within no more than three months, submit a respective draft federal law to the State Duma of the Russian Federation, and the State Duma of the Russian Federation shall consider it as a priority issue.

7. Pursuant to Section 2, Article 100 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the applicants’ lawsuits in the present case are to be reconsidered in the established order.

8. Pursuant to Sections 1 and 2, Article 79 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, this Judgment shall be final, it shall come into force immediately upon pronouncement, shall be directly applicable, and shall not require confirmation by other authorities and state officials.

9. Pursuant to Article 78 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, this Judgment shall be published in the Collection of Laws of the Russian Federation and *Rossiyskaya Gazeta*. The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

Constitutional Court  
of the Russian Federation

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