

By the Judgment of 2nd June, 2015 No. 12-II/2015 the Constitutional Court gave appraisal of constitutionality of Section 2 of Article 99, Section 2 of Article 100 of the Forest Code of the Russian Federation and provisions of the Resolution of the Government of the Russian Federation “On Calculation of the Amount of Damage Caused to Forests as a Result of Breach of Forest Legislation”

The contested provisions were the subject-matter of consideration to the extent to which on their basis the amount of compensation of damage caused to forests as a result of breach of forest legislation is established, in particular the question is solved of the possibility to take account of actual expenses, incurred by the causer of damage in the course of elimination of the pollution of forests as a result of spilling oil and oil products.

The Constitutional Court recognized Section 2 of Article 100 of the Forest Code of the Russian Federation as not contradicting the Constitution of the Russian Federation.

The provisions of Section 2 of Article 99 of the Forest Code of the Russian Federation and the said Resolution of the Government of the Russian Federation have been recognized as not conforming to the Constitution of the Russian Federation to the extent to which, when establishing the amount of compensation of damage caused to forests as a result of breach of forest legislation, in particular when the question is solved of the possibility to take account of actual expenses, incurred by the causer of damage in the course of elimination of the pollution of forests as a result of spilling oil and oil products, these provisions ensure no proper balance between lawful interests of a person, conscientiously carrying out respective measures, and public interest consisting in maximum compensation of damage caused to forests.

Until the new regulation is introduced, the provisions recognized as unconstitutional are subject to application as regards estimate of the volume (structure) and amount of compensation of damage caused to forests as a result of pollution by oil and oil products. Courts are entitled to consider in the amount of damage, calculated according to fixed-rates and methods established by the

Government of the Russian Federation, necessary and reasonable expenses incurred by the causer of damage in the course of elimination of consequences of pollution of the environment as a result of spilling oil and oil products caused by his activity, if in this case admissible level of residual content of oil and oil products (or products of their transformation) in grounds and soils as well as bottom deposits of water objects is achieved, which, in particular, excludes the possibility of penetration of oil and oil products (or products of their transformation) into neighbouring surroundings and into neighbouring territories; use of plots according to their basic purposeful destination (with possible restrictions) is admitted or the regime of conservation is introduced, ensuring achievement of sanitary norms of content of oil and oil products (or products of their transformation) in the ground or other norms in the course of self-restoration of the ground (without holding additional special resource-consuming measures), established in accordance with legislation of the Russian Federation.