

IN THE NAME OF THE RUSSIAN FEDERATION
The Constitutional Court of the Russian Federation

Judgment

of 31st May, 2016 No. 14-II/2016

on the case concerning the review of constitutionality of the provisions of Article 31¹ of the Federal Law “On Motorways and on Road Activity in the Russian Federation and on Making Amendments to Individual Legislative Acts of the Russian Federation”, Resolution of the Government of the Russian Federation “On Levying Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes” and Article 12.21³ of the Administrative Offences Code of the Russian Federation in connection with the request of a group of deputies of the State Duma

The Constitutional Court of the Russian Federation composed of the President V.D. Zorkin, Judges K.V. Aranovsky, A.I. Boitsov, N.S. Bondar, G.A. Gadzhiev, Yu.M. Danilov, L.M. Zharkova, G.A. Zhilin, S.M. Kazantsev, M.I. Kleandrov, S.D. Knyazev, A.N. Kokotov, L.O. Krasavchikova, S.P. Mavrin, N.V.Melnikov, Yu.D. Rudkin, O.S. Khokhryakova, V.G. Yaroslavtsev,

with participation of the representative of the group of deputies of the State Duma, deputy of the State Duma Yu.P.Sinelshchikov, representative of the Council of Federation, PhD in Law A.P.Kucherenko, Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M.V.Krotov, Plenipotentiary Representative of the Government of the Russian Federation to the Constitutional Court of the Russian Federation M.Yu.Barshchevsky,

guided by Article 125 (Item “a” of Section 2) of the Constitution of the Russian Federation, Sub-Item “a” of Item 1 of Section 1, Sections 3 and 4 of Article 3, Section 1 of Article 21, Articles 36, 74, 84, 85 and 86 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open session considered the case concerning the review of constitutionality of the provisions of Article 31¹ of the Federal Law “On

Motorways and on Road Activity in the Russian Federation and on Making Amendments to Individual Legislative Acts of the Russian Federation”, Resolution of the Government of the Russian Federation “On Levying Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes” and Article 12.21³ of the Administrative Offences Code of the Russian Federation.

The reason for the consideration of the case was the request of a group of deputies of the State Duma. The ground for the consideration of the case was the discovered uncertainty in the question of whether normative provisions contested in the request are in conformity with the Constitution of the Russian Federation.

Having heard the report of Judge-Rapporteur O.S.Khokhryakova, statements of representative of parties, interventions by representatives invited to the hearing: M.A.Melnikova from the Ministry of Justice of the Russian Federation, T.A.Vasilieva from the Prosecutor General of the Russian Federation, A.A.Ryabov from the Presidential Commissioner for the Protection of Rights of Entrepreneurs, having examined submitted documents and other materials, the Constitutional Court of the Russian Federation

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

1. The Federal Law of 6th April, 2011 No. 68-Φ3 “On Making Amendments to the Budgetary Code of the Russian Federation and Individual Legislative Acts of the Russian Federation” introduced Article 31¹ in the Federal Law of 8th November, 2007 No. 257-Φ3 “On Motorways and on Road Activity in the Russian Federation and on Making Amendments to Individual Legislative Acts of the Russian Federation”, according to which traffic of vehicles having maximum permissible mass over 12 tonnes on motorways of common use of federal significance is allowed on condition of deposit of a payment on account of compensation of damage caused to motorways roads by such vehicles, whose

amount and order of levy is established by the Government of the Russian Federation.

By the Resolution of the Government of the Russian Federation of 14th June, 2013 No 504 “On Levying Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes” the amount of this payment and the order of levying it were established.

The Federal Law of 6th April, 2011 No. 68-Φ3 supplemented the Administrative Offences Code of the Russian Federation with Article 12.21³, according to which (in the wording of the Federal Law of 14th December, 2015 No. 378-Φ3) movement of a vehicle having maximum permissible mass over 12 tonnes on motorways of common use of federal significance without deposit of a payment on account of compensation of damage caused to motorways of common use of federal significance by such vehicle, if deposit of such payment is mandatory, entails imposition of an administrative fine on drivers of vehicles belonging to foreign hauliers and on owners (possessors) of vehicles, with the exception of vehicles belonging to foreign hauliers, in the amount of 5,000 roubles (Section 1); repeated commission of the administrative offence referred to in Section 1 of this Article entails imposition of an administrative fine on drivers of vehicles belonging to foreign hauliers and on owners (possessors) of vehicles, with the exception of vehicles belonging to foreign hauliers, in the amount of 10,000 roubles (Section 2).

1.1 A group of deputies of the State Duma having petitioned the Constitutional Court of the Russian Federation in the procedure of Article 125 (Item “a” of Section 2) of the Constitution of the Russian requests to recognize the said normative provisions as not conforming to Articles 55 (Section 3), 57, 72 (Item “j” of Section 1), 74, 75 (Section 3) and 76 of the Constitution of the Russian Federation and adduces the following arguments to substantiate its position:

payment on account of compensation of damage caused to motorways of common use of federal significance by vehicles having maximum permissible

mass over 12 tonnes is, in essence, tax payment, but its essential elements have been established not by law, but by a normative act of the Government of the Russian Federation; besides, state powers as to its levy have been handed over – without indication of such a possibility in a federal law – to an operator (juridical person), whose powers and responsibility have not been legislatively regulated;

establishment of this payment, duplicating other operating fiscal payments of the same destination, has no economic ground and therefore does not answer the principles of justice, proportionality and single character of taxation; only one category of participants of road traffic is its payer, and the size does not take into consideration actual ability of owners (possessors) of respective vehicles for paying it, which precludes the realization of their constitutional rights (in particular, the right to be engaged in an economic activity not prohibited by law);

introduction of this payment creates administrative obstacles for free flow of goods on the territory of the Russian Federation, to which establishment of administrative responsibility for movement on motorways without its deposit may be ascribed, whereas grounds for such administrative responsibility, including careless violation of respective rules, are envisaged not in a law, but in a resolution of the Government of the Russian Federation.

1.2 Thus, proceeding from the provisions of Item 8 of Section 2 of Article 37 and Section 3 of Article 74 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” in their interconnection, the subject-matter of consideration of the Constitutional Court of the Russian Federation in the present case are the provisions of Article 31¹ of the Federal Law “On Motorways and on Road Activity in the Russian Federation and on Making Amendments to Individual Legislative Acts of the Russian Federation” (hereinafter referred to as the Federal Law of 8th November, 2007 No. 257-Ф3), the Resolution of the Government of the Russian Federation “On Levying Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes”

(hereinafter – the Resolution of the Government of the Russian Federation of 14th June, 2013 No 504) and Article 12.21³ of the Administrative Offences Code of the Russian Federation, being in normative unity and establishing in the system of legal regulation of mandatory public payments the institution of payment on account of compensation of damage caused to motorways of common use of federal significance by vehicles having maximum permissible mass over 12 tonnes (hereinafter – heavy goods vehicles), including determination within the framework of this institution elements of this payment, powers of the Government of the Russian Federation to regulate its amount and order of levy, functions of the operator of the system of levying payment and grounds for application of administrative responsibility for non-fulfilment of the duty of a payer to deposit it.

2. In accordance with the Constitution of the Russian Federation as a basis for the constitutional system conditions for functioning of the market economy – the integrity of economic space, free flow of goods, services and financial resources, support of competition and freedom of economic activity shall be guaranteed (Article 8, Section 1). Transportation infrastructure of common use is called upon to serve the ensuring of economic development and well-being of the country, building and modernization of which, its accessibility and keeping in a proper state create necessary pre-requisites for realization by citizens of rights and freedoms fixed by the Constitution of the Russian Federation, including the right to use freely their abilities and property for entrepreneurial and other economic activity not prohibited by law (Article 34, Section 1).

The integral part of transportation infrastructure are motorways, including motorways of common use of federal significance, which according to the Federal Law of 8th November, 2007 No. 257-ФЗ are in federal ownership and whose list is determined by the Resolution of the Government of the Russian Federation of 17th November, 2010 No. 928 (sections 5-7 of Article 5 and Section 2 of Article 6). Being the main transportation arteries of the country, motorways of common use of federal significance are destined for transportation of goods on the whole territory

of Russia and beyond its bounds, which contemplates responsibility of the state as a public subject and as an owner, who carries the burden of keeping this property, for their condition. Accordingly, road activity in respect of these motorways, which this Federal Law understands as the activity for their projecting, building, reconstruction, major repairs, repairs and maintenance (Item 6 of Article 3), is carried out first of all at the expense of the means of federal budget (Section 1 of Article 32). Existence of road funds in the budgetary system of the Russian Federation (Article 179⁴ of the Budgetary Code of the Russian Federation) also testifies to the significance of a continuous financial support of such activity.

Maintenance of motorways of common use of federal significance as property being in public ownership and destined, among other things, for use by citizens and their associations in connection with exercise of entrepreneurial and other economic activity not prohibited by law at the expense of means received by the federal budget in the form of taxes, tolls and other public-law payments does not exclude the possibility of placing the obligation of supplementary – as compared with other users – financing of the road activity on subjects, who exploit motorways the most intensively, receiving direct economic benefit from their development and at the same time substantially speeding up wear of the roadbed.

The state, possessing a fairly wide discretion in the choice of specific directions and content of fiscal policy, independently determines expediency of assessment with public payments of some or other economic objects, including in the field of the road traffic. In this case the requirements of Article 57 of the Constitution of the Russian Federation about lawfully established taxes and tolls and of its Article 55 (Section 3) admitting the possibility of introduction, if need be, restrictions of rights and freedoms, but only by a federal law and commensurately (proportionally) to constitutionally approved goals fully extend to normative acts in this field – proceeding from the fact that levy of public payments of fiscal nature always entails encumbrances of property right and freedom of

economic activity (Articles 34 and 35 of the Constitution of the Russian Federation).

The obligation to deposit payment for use of this public resource, widely applied in respect of goods vehicles traffic on motorways in the practice of foreign countries with developed transportation infrastructure, has been introduced by the federal legislator – bearing in mind increased negative impact of goods vehicles on the state of the roadbed – for ensuring of safety and restoration of motorways of common use of federal significance, their conformity to normative requirements and, in the end, security of the road traffic.

Therefore, establishment of this obligation is aimed at achievement of constitutionally-approved goals. As to the amount of the levied pay, by virtue of Articles 17 (Section 3), 19 (Sections 1 and 2), 35 (Sections 2 and 3), 55 (Section 3) and 57 of the Constitution of the Russian Federation it must conform to its legal nature as subsidiary in relation to the main source of financing of maintenance of motorways of common use of federal significance in order to guarantee commensurateness of encumbrances imposed in this connection on owners (possessors) of vehicles to the damage caused to motorways by traffic of vehicles, on the basis of constitutional principles of equality and justice.

3. Mandatory payment envisaged by Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 is levied on account of compensation of damage caused to motorways of common use of federal significance and as such belongs to non-tax budget receipts, included in the volume of budgetary appropriations of the Federal Road Fund, the means of which are used exclusively for financing of the road activity (Articles 41 and 179⁴ of the Budgetary Code of the Russian Federation). At this the amount (sum) of payments deposited by owners (possessors) of heavy goods vehicles, as follows from the Government of the Russian Federation Resolution of 14th June, 2013 No. 504, directly depends on the distance covered by a heavy goods vehicle on respective motorways.

Thus, this payment is destined to compensate expenses connected with restoration of appropriate transportation-exploitation condition of motorways of common use of federal significance, i.e. has purposeful destination and economic ground.

3.1 In accordance with legal positions elaborated by the Constitutional Court of the Russian Federation on the basis of the Constitution of the Russian Federation (Judgment of 17th July, 1998 No. 22-II; Rulings of 8th February, 2001 No. 14-O, of 14th May, 2002 No. 88-O, of 10th December, 2002 No. 283-O, of 16th December, 2008 No. 1079-O-O and others), the question of the legal nature of mandatory payments as belonging to tax or non-tax ones – in the absence of their exhaustive normative list – acquires the character of a constitutional one, since is connected with the notion of lawfully established taxes and dues and delimitation of competence between the bodies of legislative and executive power (Article 57; Article 71, Item “h”; Article 75, Section 3; Articles 114 and 115 of the Constitution of the Russian Federation).

Payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles has no sign necessary for tax obligations, such as individual gratuitousness, and the consequence of its non-deposit is absence of the right of the owner (possessor) of heavy goods vehicles to move on respective motorways (with advance character of payment) or the obligation to pay for this movement after its completion (if subsequent payment is permitted). Besides, this payment, since it is deposited not for commission of legally significant actions by representatives of public authority in respect of its payers, cannot be ascribed to tolls in the meaning of the Tax Code of the Russian Federation either.

Thus, payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles must be qualified not as a tax or a toll, but as mandatory public individually-reimbursable payment of the compensational fiscal nature. The Constitutional Court of the Russian

Federation came to analogous conclusion in the Judgment of 17th July, 1998 No. 22-Π, giving appraisal of the legal nature of payment, levied from vehicles conveying heavy weight goods, as having non-tax character.

Bearing in mind that this payment is not a tax payment, although is directed to the Federal Road Fund, the federal legislator was entitled to establish it not in the Tax Code of the Russian Federation, but in a special legislative act regulating public relations, arising in connection with use of motorways and exercise of road activity – the Federal Law of 8th November, 2007 No. 257-Φ3. Having envisaged in the Budgetary Code of the Russian Federation the provision on ascription of means received from the deposit of this payment to non-tax federal budget receipts, the federal legislator also ensured observance of the requirement about legislative establishment of the kinds of budget receipts.

At the same time, introduction of payment on account of compensation of damage caused to motorways of common use of federal significance contemplates the need to establish criteria, allowing to judge whether the owner (possessor) of a respective vehicle does or does not have obligation to deposit it. One of such indices, reflecting the degree of the vehicle's impact on the roadbed, is its maximum permissible mass. Therefore, the choice of the maximum permissible mass of a vehicle over 12 tonnes as a criterion of levying payment from owners (possessors) of such vehicles may not be regarded as arbitrary. Analogous approach was in the basis of respective legislation of the European Union and is used in a number of European countries (Directive 1999/62/EU of the European Parliament and the Council of the European Union of 17th June, 1999 “On the Charging of Heavy Goods Vehicles for the Use of Certain Infrastructures”). In so doing, the federal legislator – bearing in mind that heavy goods vehicles substantially differ depending on the maximum permissible mass (from 12 to 44 tonnes) and, consequently, the degree of damage caused by them to motorways while covering equal distance, – is not deprived of the possibility to differentiate the amount of this payment on the basis of the principle of proportionality.

3.2. By virtue of the requirements of the Constitution of the Russian Federation, including its Articles 74 (Section 1), not permitting establishment on the territory of the Russian Federation of custom borders, duties, levies or any other barriers to the free flow of goods, services and financial resources, and legal positions of the Constitutional Court of the Russian Federation based on them (Judgment of 17th July, 1998 No. 22-II, Ruling of 19th January, 2005 No. 40-O) the constituent entities of the Russian Federation are not entitled to introduce any payments connected with vehicle traffic on motorways independently, without the federal legislator's sanction. Accordingly, the institution of payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles may not be regarded as creating obstacles for free flow of goods in this respect, so far as this payment has been introduced by a federal law and is levied not in individual regions of the Russian Federation, but on its entire territory in traffic of heavy goods vehicles on such roads.

As follows from the Resolutions of the Government of the Russian Federation of 14th June, 2013 No. 504, of 18th May, 2015 No. 474 and of 27th February, 2016 No. 139, at present the amount of payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles is determined with the use of lowering coefficients, i.e. is substantially lower as compared with the initially normatively established, and has not been increased since the beginning of collection of this payment. Besides, as from 15th April, 2016 Section 8 of Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 operates in the new wording and envisages the need to supplement the existing order of levying payment by the provisions on terms and possibilities of postponement of its deposit by Russian hauliers-owners (possessors) of vehicles. In this connection the Government of the Russian Federation has envisaged the possibility to postpone levy of the payment on payer's application (Resolution of 15th April, 2016 No. 310).

The date of entering into force of amendments made by the Federal Law of 6th April, 2011 No. 68-Φ3 to the Federal Law of 8th November, 2007 No. 257-Φ3, including its supplement by Article 31¹, initially fixed at 31st January, 2013, has been twice postponed to a later date. As a result, respective legislative provisions entered into force only on 15th November, 2015 (Article 1 of the Federal Law of 23rd June, 2014 No. 168-Φ3). Thereby significant term was envisaged for adaptation of payers-owners (possessors) of heavy goods vehicles to new conditions of legal regulation, including in order that they choose the most acceptable form of entrepreneurial activity in the field of goods transportation.

The Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504 envisages indexation of the amount of payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles (Item 2) and fixing of periodical indexation (annually) and its criteria (in accordance with actual alteration of consumer prices index) – proceeding from the requirements of commensurateness of imposed encumbrances and stability of the legal regulation – serves as a guarantee against increase of the amount of this payment on other grounds.

Thus, Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 and Resolutions of the Government of the Russian Federation, adopted in order to render it concrete, in their constitutional-law meaning do not allow increase of payment set at present (apart from indexation of its amount in normatively established bounds) without indication of this possibility in a federal law and granting payers guarantees of adaptation to its increase; repeal or increase of lowering coefficient in the event if the limits of its operation in time have not been determined must be carried out with observance of the requirement about guarantees of payers' adaptation to the increase of payment.

3.3. The Constitutional Court of the Russian Federation has repeatedly pointed out that double taxation of one and the same economic object violates the principles of equal, fair and proportionate taxation, following from Articles 19, 55

(Section 3) and 57 of the Constitution of the Russian Federation (Judgment of 3rd June, 2014 No. 17-II; Rulings of 14th December, 2004 No. 451-O, of 1st October, 2009 No. 1269-O-O, of 5th March, 2014 No. 590-O and others). The adduced legal position is orientating for the appraisal of legal regulation, connected with levy not only of taxes, but also of mandatory public payments of non-tax nature, in whose establishment the problem of their validity acquires particular significance, in particular for the exclusion of double taxation of the same objects (Judgments of the Constitutional Court of the Russian Federation of 4th April, 1996 No. 9-II and of 24th February, 1998 No. 7-II; Ruling of 10th July, 2003 No. 342-O and others).

The peculiarity of fiscal load on owners (possessors) of heavy goods vehicles consists in the fact that, apart from the payment on account of compensation of damage caused to motorways of common use of federal significance they are obliged to pay transport tax (Chapter 28 of the Tax Code of the Russian Federation) as well as – in fact, as purchasers of goods – such indirect tax as excise on petrol and diesel fuel (Articles 181 and 187 of the Tax Code of the Russian Federation).

Unlike transport tax, whose object of assessment is a vehicle irrespective of the distance covered by it in the tax period, and the basic criterion (base) for the purposes of assessment with this tax is capacity of the engine of the vehicle in horse-powers (Articles 357 and 358; Sub-Item 1 of Item 1 of Article 359 of the Tax Code of the Russian Federation), as well as unlike excise on petrol and diesel fuel, whose object of assessment is realization (assignment) of the produced excisable goods (Item 1 of Article 182 of the Tax Code of the Russian Federation), the object of payment on account of compensation of damage caused to motorways of common use of federal significance is traffic of heavy goods vehicles on such motorways. Bearing in mind that objects of assessment by these public payments do not coincide, there are no grounds to assume that in this case double taxation is applied to owners (possessors) of heavy goods vehicles.

3.4. As follows from Articles 8 (Section 1), 34 (Section 1), 35 (Sections 2 and 3), 55 (Section 3) and 57 of the Constitution of the Russian Federation, legal regulation of levy of public payments must be carried out on the basis of principles of equality and justice, without unfounded restrictions and with observance of the balance of fiscal interests of the state when forming the budget, on the one hand, and rights and freedoms of natural and juridical persons in the field of entrepreneurial and other economic activity not prohibited by law, on the other. Accordingly, the state, guiding itself by the criteria of commensurateness and differentiation, must manifest reasonable restraint and increased caution in carrying out fiscal policy, especially when introducing new mandatory payments and increase of their rates, including taking into consideration property ability of payers for paying them when establishing the system of mandatory payments.

Proceeding from this, aggregate amount of mandatory payments, which are imposed on owners (possessors) of heavy goods vehicles in the order of their fulfilment of the duties of a payer before the budget, connected with the need to ensure such public function as road activity, must not be far too burdensome. This means that the federal legislator and the Government of the Russian Federation must not allow in respect of persons carrying out entrepreneurial activity in the field of transportation by goods vehicles such degree of their burdening with mandatory payments (even if of different nature), which would testify to disproportion of the total volume of encumbrance and thereby lead to violation of rights and freedoms guaranteed by Articles 34 (Section 1) and 35 (Sections 2 and 3) of the Constitution of the Russian Federation. Other would contradict the legal nature and destination of the obligation to pay legally established taxes and dues, fixed by Article 57 of the Constitution of the Russian Federation, and in the end would undermine the financial and material base of realization of basic human rights and freedoms, constituting, within the meaning of its Article 2, the supreme value for the state.

Thus, the provisions of Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 and the Government of the Russian Federation Resolution of 14th June, 2013 No. 504, being in normative unity, within the system of operating legal regulation contemplate obligation of the Federal Assembly and the Government of the Russian Federation to ensure and maintain the condition of legal regulation of mandatory payments to road funds under which surplus of aggregate economic burden placed on owners (possessors) of heavy goods vehicles by the system of mandatory payments to road funds is not allowed, on the basis of analysis of expediency and economic validity of both every specific payment (its amount) and the system as a whole, as well as bearing in mind balance of interests of levels of budgetary system of the Russian Federation.

Payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles, bearing in mind the conditions of its levying as compared with the conditions of levying transport tax, is at present the main financial burden for owners (possessors) of the said vehicles, who regularly carry out transportation on these motorways and, accordingly, participate in financing public activity for their maintenance in a proper state. In this connection, the Government of the Russian Federation has elaborated and brought in to the State Duma the draft Federal Law “On Making Amendments to the Tax Code of the Russian Federation”, contemplating for owners (possessors) of heavy goods vehicles the possibility to reckon the sum of this payment when calculating the amount of transport tax in a respective tax period (which is also directed at compensation of public expenses connected with negative impact of a vehicle and is calculated proceeding from parameters, reflecting to a certain extent the degree of such negative impact), as well as envisaging for them establishment of tax preference on transport tax up to 1st January, 2019. Thereby the Government of the Russian Federation has, in essence, recognized the need to optimize the said payments and to lower financial burden for owners (possessors) of heavy goods

vehicles. Such correction of the legal regulation answers the principles of proportionality and fairness and is constitutionally justified.

Using in realization of fiscal policy various means for financial ensuring of public activity for maintenance of motorways of common use of federal significance in a proper state, the federal legislator is not only entitled, but is obliged to take measures aimed at prevention of surplus financial burdening of owners (possessors) of heavy goods vehicles, imposed on them in order to compensate negative impact of such vehicles on motorways. With this neither arbitrary renouncement of such measures nor automatic discontinuance of their operation is admissible, if primordially temporary character was attributed to them (as it is contemplated, in particular, in the draft law brought in by the Government of the Russian Federation), without the appraisal of whether there are appropriate conditions for it with regard to changes in the amount of financial burden, state of motorways as well as the general economic situation.

4. On the basis and to execute the Constitution of the Russian Federation, federal laws, normative decrees of the President of the Russian Federation the Government of the Russian Federation issues resolutions and regulations, ensures their implementation (Article 115, Section 1, of the Constitution of the Russian Federation).

As follows from this constitutional provision and legal positions based on it and expressed by the Constitutional Court of the Russian Federation in the Judgments of 6th April, 2004 No. 7-II, of 14th July, 2005 No. 8-II, of 28th February, 2006 No. 2-II and of 31st January, 2008 No. 2-II, the federal legislator, investing the Government of the Russian Federation with some or other powers in the field of law-making, must precisely determine its constitutionally admissible bounds as well as the range of questions on which the Government of the Russian Federation is entitled to take normative-binding decisions.

4.1. According to Section 8 of Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3, the amount and order of levying payment on

account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles is established by the Government of the Russian Federation. Realizing this legislative prescription in the Resolution of 14th June, 2013 No. 504, the Government of the Russian Federation was acting within the framework of the Constitution of the Russian Federation, which entrusts it with providing for the federal budget implementation and the administration of federal property (Article 114, Items “a”, “d” of Section 1), as well as the Federal Constitutional Law of 17th December, 1997 No. 2-ФКЗ “On the Government of the Russian Federation” (Articles 2 and 3).

Within the meaning of Article 57 of the Constitution of the Russian Federation, fiscal payment of the non-tax character may be considered legally established on the condition that its essential elements, as a general rule, are fixed directly in the law, nevertheless the federal legislator is not deprived of the possibility to pass determination of individual elements of such payment obligation to the Government of the Russian Federation – bearing in mind peculiarities of the object of legal regulation and specificity of a respective payment. With this, since determination of the composition of budget receipts and expenditures by virtue of the principle of separation of powers pertains to the sphere of legislative regulation, ascription of a mandatory public payment to non-tax ones (which is the payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles), as follows from legal positions of the Constitutional Court of the Russian Federation (Judgments of 4th April, 1996 No. 9-П, of 11th November, 1997 No.16-П, of 17th July, 1998 No. 22-П, of 28th February, 2006 No. 2-П and others), does not exempt the federal legislator from the need to indicate in the law its elements, such as the subject (payer), base and maximum amount of the rate (or, in any event, criteria of its determination).

Article 31¹ of the Federal Law of 8th November, 2007 No. 257-ФЗ establishes a number of basic elements of payment envisaged by it: object, which is traffic of

heavy goods vehicles on motorways of common use of federal significance, with the exception of paid motorways and paid sections of motorways (Sections 1 and 5), and subjects, who are owners (possessors) of such vehicles, and in respect of vehicles belonging to foreign carriers – drivers, if such payment has not been deposited by owners of respective vehicles (Sections 6 and 6¹). This Article also discloses the meaning of the notion “maximum permissible mass of a vehicle” (Section 3 and 4) and enumerates the kinds of vehicles, whose owners (possessors) are exempted from the deposit of the payment, – destined for transportation of people, special vehicles, used by fire emergency services, police, ambulance, crash-rescue services, military traffic police and others (Section 7).

As to the base of the respective payments, direct indication at their calculation depending on the length of the route of movement of a heavy goods vehicle is directly contained in the Government of the Russian Federation Resolution of 14th June, 2013 No. 504. Yet, as follows from Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3, linking the need to deposit payment with the traffic of heavy goods vehicles, the base for levying it is exactly the distance covered by them on motorways of common use of federal significance. Indicating no maximum amount of the payment, this Article at the same time proceeds from its “depreciative” nature, i.e., in essence, designates the criterion of determination of its upper limit.

Thus, within the meaning of the provisions of Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 and the Resolution of the Government of the Russian Federation 14th June, 2013 No. 504 in the context of the requirements of Articles 34 (Section 1), 35 (Sections 2 and 3) and 55 (Section 3) of the Constitution of the Russian Federation, the amount of payment on account of compensation of damage caused to motorways of common use of federal significance by the traffic of a heavy goods vehicle may not exceed the amount of damage (in monetary form), additionally caused by such vehicle (bearing in mind

average calculation) as compared with a vehicle having smaller maximum permissible mass.

Since mandatory public payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles pertains to non-tax payments, the federal legislator in this case is entitled to invest the Government of the Russian Federation with the power to determine the specific amount of this payment by way of adoption of a resolution, which accords with constitutional criteria of determination of the amount of mandatory non-tax payments, allowing to speedily react to changing market conditions and to correct them with the observance of the requirements of adapting citizens to new norms on the base of balance of rights and lawful interests of payers, on the one hand, and financial provision of the road activity, on the other.

4.2. According to the Rules of levying payment on account of compensation of damage caused to motorways of common use of federal significance by vehicles having maximum permissible mass over 12 tonnes, approved by the Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504, the powers to ensure the functioning of the system of levying payments are entrusted to an operator (individual entrepreneur or a juridical person), who to this end carries out, in particular, registration of vehicles in the system of levying payment, transfers monetary means, deposited by an owner (possessor) of a vehicle as the payment, to the federal budget receipts, affords on gratuitous basis a board device, conducts personified record of the owner (possessor) of a vehicle, gives him the necessary information (Items 2, 5 and 6).

In accordance with the Regulation of the Government of the Russian Federation of 29th August, 2014 No. 1662-p operator (concessionaire) takes upon himself a number of obligations, including with regard to projecting, building and production of objects of the system of levying payment, ensuring of its functioning at the expense of his own and (or) attracted resources. At this the created objects become property of the Russian Federation.

In this case the Government of the Russian Federation, in accordance with the provisions of the Constitution of the Russian Federation, its Articles 8, 34, 35 (Sections 2 and 3), 71 (Items “e”, “i”), 75 (Section 3), 114 (Item “d” of Section 1) and 115 (Section 1), on the basis and in order to implement a federal law is entitled, with the use of elements of the legal institution of concession, to grant an individual entrepreneur or juridical person on certain conditions powers to organize and secure levy of payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles (creation of necessary objects, receiving of payment and its transfer to the federal budget, etc.). Attraction of the said subjects, including in order to receive private investments, for the fulfilment on the basis of state-private partnership of certain publicly-significant tasks, including the creation of transportation infrastructure of common use and its operation, with handing over to such subjects of a number of powers, connected with ensuring of the levy of this payment, is in itself constitutionally admissible. Such regulation allows to timely fulfil publicly-significant tasks in the field of road activity, connected with attraction of significant technical resources. In this case the choice of a specific person as an operator of the system of levying payment, connected with the use of concessionary agreement, as well as the procedure of conclusion and the content of the concessionary agreement itself, including the amount of remuneration received by the operator for the discharging of his functions, must conform to the requirements of the Federal Law of 21st July, 2005 No. 115-ФЗ “On Concessionary Agreements”.

According to the prescriptions of Items 6 and 11 of the Rules, approved by the Government of the Russian Federation Resolution of 14th June, 2013 No. 504, investment of the operator with the right to levy payment does not contemplate his possession of any possibilities to dispose of monetary means deposited by payers, except for their transfer in full to federal budget as well as – in cases set by normative legal acts – return to the payer and, accordingly, use by operator of these

monetary means for other purposes is not permitted, which accords with the constitutional-law definition of this payment as a mandatory non-tax payment to the budget.

4.3. Granting a managing subject – individual entrepreneur or juridical person as participants of civil turnover powers to levy payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles, since in this case in the interrelations with other persons (payers) realization of these powers is connected with certain actions of a public-law nature, as a general rule, belonging to issues of activity of representatives of bodies of public authority, by virtue of the requirements of the Constitution of the Russian Federation, its Articles 71 (Items “c”, “d”, “e”, “n”) and 76 (Section 1), may be carried out solely on the basis of the direct command of the federal legislator.

The fact that administration of the said payment is entrusted to the Federal Road Agency (Addendum No. 5 to the Federal Law of 14th December, 2015 No. 359-Φ3 “On Federal Budget for 2016”) in the absence of the specific content of this function in the interrelations with payers does not eliminate the need to ensure appropriate regulation of the status of the operator of the levy of payment system. All necessary functions of control connected with specificity of the operator, as it is defined by the Rules approved by the Government of the Russian Federation Resolution of 14th June, 2013 No. 504 and the Government of the Russian Federation Regulation of 29th August, 2014 No. 1662-p, are not exhausted by control over purposeful and effective use of the resources of federal budget within the framework of a respective concessionary agreement as well as timely implementation of its revenue articles, including control over coming of this payment through to federal budget receipts, carried out by the Accounts Chamber of the Russian Federation as a permanently operating body of external state audit (control), accountable to the Federal Assembly (Articles 2, 5 and 19 of the Federal Law of 5th April, 2013 No. 41-Φ3 “On the Accounts Chamber of the Russian

Federation”), which creates certain guarantees of protection of state and public interests.

At the same time, the Constitutional Court of the Russian Federation takes into consideration that the Federal Law of 14th December, 2015 No. 378-Φ3 “On Making Amendments to the Administrative Offences Code of the Russian Federation and Individual Legislative Acts of the Russian Federation” supplemented Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 with Section 9 (enters into force as from 15th November, 2016), in which the operator of the levy of payment system is designated as a subject of respective legal relations, and the content of powers to regulate relations with his participation, entrusted to the Government of the Russian Federation by this norm, allows to come to the conclusion about the will of the federal legislator in favour of the approach to the determination of the operator’s status chosen by the Government of the Russian Federation.

Nevertheless, the requirements to ensure balance of interests of the state, payers and the operator in the legal relations with regard to levy of this payment, stability of legal relations, following from the Constitution of the Russian Federation, contemplate the obligation of the federal legislator to establish in reasonable time the order of determination of the operator of the system of levying payment and criteria which he must conform to, as well as guarantees of the interests of the Russian Federation and payers in the interrelations with him. In any event, if the operator’s right to restrict access of a payer (potential payer) to use of the levy of payment system, including to refuse him to commit actions necessary for it is contemplated, such right of the operator must be normatively set. Commission directly by the operator of actions, comparable by form and consequences with measures of administrative coercion applied exclusively by bodies of public authority, is in any case inadmissible.

4.4. The Rules, approved by the Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504, ascribe to the competence of the operator of

the levy of payment system publication in the mass-media of acts, regulating the order of deposit of payment to the operator by the owner of a vehicle and the order of transfer by the operator of monetary means of the owner of a vehicle as the payment to the federal budget receipts; the order of return to the owner of a vehicle of monetary means having not been transferred or excessively transferred by the operator to the federal budget receipts; the order of use by the owner of a vehicle, including the one registered in a foreign state, of the board device given to him, the order and conditions of its return and replacement as well as the responsibility of a vehicle owner for violation of the order of use of the board device; the order of depositing payment by a vehicle owner in the event of defects or loss of the board device or detached board device; the order of receipt by the owner of a vehicle of the information about his personified data in the levy of payment system; the order of informing of the operator by the vehicle owner about the planned itinerary, time (date) of movement of the vehicle on motorways of common use of federal significance in the absence of the board device or detached board device, their defect or loss, as well as at the deposit by the owner of a vehicle of payment in case of drawing up a route map; other questions of the interaction of the owner of a vehicle and the operator, concerning settlement and levying of payment (Item 4).

These provisions do not exclude (to which practice of their realization testifies) adoption by the operator himself of acts on issues ascribed to his competence, which as applied to acts on issues of the organizational and technical character, connected among other things with operational characteristics of the equipment introduced by the operator within the framework of the levy of payment system, as well as with informing owners (possessors) about its functioning, is constitutionally admissible. However, operator (individual entrepreneur or juridical person – participants of the civil turnover) in any event are not entitled to adopt normative legal acts on issues whose regulation in accordance with the Constitution of the Russian Federation belongs to the prerogatives of public authority (Judgments of the Constitutional Court of the Russian Federation of 6th

April, 2004 No. 7-II and of 14th July, 2005 No. 8-II), in particular on issues, which directly affect both property rights of payers and the right to access to the kind of entrepreneurial activity chosen by them. Legal regulation of the respective relations, connected with fulfilment of public financial duty to deposit this payment by payers and granting them guarantees in this respect, by virtue of Articles 10, 71 (Items “c”, “e”, “h”, “i”) and 76 (Section 1) of the Constitution of the Russian Federation, may be established only by the federal legislator or in a certain order.

Granting operator of the system of levying payment the right to independently set rules of interaction with the budgetary system of the Russian Federation, including the order of transfer of monetary means of the vehicle owner (possessor) as payment by the operator to the federal budget receipts, i.e. management of monetary resources, which after their deposit by the payer must become federal property and come through to federal ownership, as well as rules with regard to “other questions of interaction of the owner of a vehicle and the operator, concerning settlement and levying of payment” (whose list is open), non-observance of which can actually be the ground for making owners (possessors) of vehicles administratively answerable, whereas uncertainty of legal characteristics (qualities) of the respective acts may hinder their judicial appeal, contradicts constitutional principles of exercise of public authority and prohibition of unfair competition (Article 8, Section 2; Article 34, Section 2, of the Constitution of the Russian Federation).

Thus, the provisions of Item 4 of the Rules, approved by the Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504, to the extent to which they do not exclude the possibility that operator of the system of levying payment will adopt acts of norm-making (commanding-managing) character does not conform to the Constitution of the Russian Federation, its Articles 10, 71 (Items “c”, “e”, “h”, “i”) and 76 (Section 1) from the point of view of infringement upon the prerogatives of the federal legislator, which in the end leads to violation

of its Articles 34 (Section 1), 35 (Sections 2 and 3) and 55 (Section 3), so far as by their content these provisions create the possibility of adoption by inappropriate subjects of normative legal acts affecting rights and freedoms, which are under the protection of the said Articles of the Constitution of the Russian Federation.

This conclusion is not refuted by the fact that as from 15th November, 2016 Section 9 of Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 enters into force, according to which establishment of the order of transfer of respective payment to federal budget receipts, the order of return to vehicle owner (possessor) of monetary means, not transferred or excessively transferred to federal budget receipts with the aim to implement the provisions of this Article, the order of interaction of a vehicle owner (possessor), including the one registered on the territory of a foreign state, and the operator of the levy of payment system, as well as the rules of use of technically and technologically connected objects, ensuring the levy of payment, is entrusted to the Government of the Russian Federation. Nor do the said legislative provisions, as follows from their content in the interconnection with Item 4 of the Rules, exclude the possibility of adoption by the levy of payment system operator of normative legal acts binding for its payers.

5. The Federal Law of 6th April, 2011 No. 68-Φ3 supplemented the Administrative Offences Code of the Russian Federation with Article 12.21³ “Non-Observance of Requirements of the Legislation of the Russian Federation on Deposit of Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes”. At present this Article operates in the wording of the Federal Law of 14th December, 2015 No. 378-Φ3, in accordance with which the amount of the administrative fine for the administrative offence envisaged by it has been substantially lowered and equals to 5,000 roubles (Section 1), and at repeated making administratively answerable – to 10,000 roubles (Section 2).

Establishment of administrative responsibility as the means to ensure observance of the obligation to deposit payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles accords with the power of the federal legislator, following from the Constitution of the Russian Federation, its Articles 71 (Items “c”, “h”, “n”), 72 (Item “j” of Section 1) and 76 (Sections 1 and 2), to introduce measures of administrative responsibility, envisaged by federal laws and other normative legal acts of the Russian Federation, aimed at prevention of the commission of such offences (Section 1 of Article 1.1 and Item 3 of Section 1 of Article 1.3 of the Administrative Offences Code of the Russian Federation). Proceeding from this, there are no grounds to assume that administrative responsibility, provided for by Article 12.21³ of the Administrative Offences Code of the Russian Federation, does not conform to the character of an offence, its danger for values protected by law or allows excessive state coercion.

Contrary to the arguments of petitioners in this case, Item 12 of the Rules, approved by the Government of the Russian Federation Resolution of 14th June, 2013 No. 504, which concretizes individual elements of the legal mechanism of the fulfilment of the duty to deposit payment by owners (possessors) of heavy goods vehicles, in itself does not create new regulation in this issue, so far as normative definition of such an unlawful action as movement of a heavy goods vehicle on motorways of common use of federal significance without deposit of payment is contained in the very Article 31¹ of the Federal Law of 8th November, 2007 No. 257-Φ3 setting this payment. And the Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504 only clarifies its signs in an admissible way, whereas the model of normative regulation of administrative responsibility in itself, with which the Administrative Offences Code of the Russian Federation provides for responsibility for the for violation of rules (order) established by subordinate acts, referring to them, is fairly widespread and as such

– in the context of the provisions of Article 1.1 and Item 3 of Section 1 of Article 1.3 of this Code – causes no doubts from the point of view of its constitutionality.

It does not follow from the Constitution of the Russian Federation (Article 15, Section 2; Article 49; Article 54, Section 2) that administrative responsibility may be established solely for intended non-observance of requirements of the legislation on deposit of the payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles. Having not envisaged in this case the possibility to make answerable solely for an intended offence, the federal legislator did not go beyond the bounds of his constitutional powers.

At the same time, within the meaning of Article 49 of the Constitution of the Russian Federation and Article 1.5 of the Administrative Offences Code of the Russian Federation rendering its provisions concrete, the obligatory sign of an administrative offence and, as a consequence, ground for administrative responsibility is the presence of guilt of the person made answerable. Other interpretation of the conditions of coming of administrative responsibility, admitting imposition of an administrative penalty for actions (inaction) in the presence only of signs of the objective side of an administrative offence, would contradict the principle of guilty responsibility for delicts of such kind, following from Article 49 of the Constitution of the Russian Federation, would lead to objective imputation and in the end – in violation of the principles of legal equality and justice – to disproportionate restriction of rights and freedoms (Preamble; Article 1, Section 1; Article 19, Sections 1 and 2; Article 55, Section 3, of the Constitution of the Russian Federation).

In this connection it must be borne in mind that the character of activity of goods transportation does not exclude situations, objectively hindering the movement of a vehicle on a planned route in a planned time. In such cases the absence of the real opportunity of a heavy goods vehicle owner to carry out the necessary correction of the date, time and itinerary of movement, if he has

undertaken reasonable efforts for such correction, may testify to absence of his guilt of the commission of a respective administrative offence.

As applied to Article 12.21³ of the Administrative Offences Code of the Russian Federation, this means that in the proceedings on the case of an administrative offence envisaged by this Article the person made answerable is not deprived of the opportunity to adduce evidence in order to substantiate that the presence of formal signs of the objective side of the composition of this administrative offence in his actions (inaction) has been caused by circumstances not depending on him, but determined by road situation, state of the transportation infrastructure and other similar causes.

Proceeding from the expounded above and guided by Articles 6, 71, 72, 74, 75, 78, 79, 86 and 87 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation

h o l d s:

1. To recognize the provisions of Article 31¹ of the Federal Law “On Motorways and on Road Activity in the Russian Federation and on Making Amendments to Individual Legislative Acts of the Russian Federation”, the Resolution of the Government of the Russian Federation “On Levying Payment on Account of Compensation of Damage Caused to Motorways of Common Use of Federal Significance by Vehicles Having Maximum Permissible Mass over 12 Tonnes” and Article 12.21³ of the Administrative Offences Code of the Russian Federation, being in normative unity and establishing the institution of payment on account of compensation of damage caused to motorways of common use of federal significance by vehicles having maximum permissible mass over 12 tonnes as a mandatory public payment of non-tax nature and providing for the power of the Government of the Russian Federation to establish the amount and order of levying this payment in accordance with the law, investment the operator of the

levy of payments system with functions of the organizational and technical ensuring of functioning of the levy of payment system, including of receipt of the payment and its direct transfer to the federal budget, as well as introduction of administrative responsibility for traffic of vehicles having maximum permissible mass over 12 tonnes without the deposit of this payment, as not contradicting the Constitution of the Russian Federation, so far as within the constitutional-law meaning of the said provisions in the system of legal regulation:

it is contemplated that the Federal Assembly and the Government of the Russian Federation are obliged to ensure and maintain the condition of legal regulation of mandatory payments to road funds, under which surplus of aggregate economic burden placed on owners (possessors) of heavy goods vehicles by the system of mandatory payments to road funds is not allowed, on the basis of analysis of expediency and economic validity of both every specific payment (its amount) and the system as a whole, as well as bearing in mind balance of interests of budgetary system levels of the Russian Federation;

the amount of payment on account of compensation of damage caused to motorways of common use of federal significance by heavy goods vehicles may not exceed the size of damage (in monetary form) additionally caused by such vehicles (bearing in mind average calculations) as compared with vehicles having smaller maximum permissible mass. Since this payment belongs to non-tax payments, the federal legislator was entitled to invest the Government of the Russian Federation with the power to determine the concrete amount of this mandatory public payment;

increase of the payment set at present by the Government of the Russian Federation, apart from indexation of its amount in normatively fixed bounds, is not allowed without indication of such possibility in a federal law and granting payers guarantees of adaptation to its increase. Repeal or increase of lowering coefficient if the limits of its operation in time have not been determined must be carried out

with observance of the requirement about guarantees of payers' adaptation to the increase of the payment;

placing on owners (possessors) of heavy goods vehicles of the obligation to deposit this payment in addition to transport tax and excise on petrol and diesel fuel envisaged by the Tax Code of the Russian Federation, bearing in mind that objects of assessment by these public payments do not coincide, does not lead to double assessment of these persons;

operator is not entitled to restrict access of a payer (potential payer) to use of the system of levying payment, including to refuse him to commit actions necessary for access to this system, if such possibility and its grounds are not envisaged normatively. Commission directly by the operator of actions comparable by form and consequences with measures of administrative coercion applied exclusively by bodies of public authority is in any case inadmissible;

operator's disposal of monetary means deposited on account of payment shall be excluded, except its transfer to federal budget as well as – in cases established by normative legal acts – return to payer and, accordingly, use by operator of these monetary means for other purposes is not admitted;

imposition of administrative penalty in the form of administrative fine for non-observance of requirements envisaged by these normative provisions in the absence of guilt of a person made administratively answerable shall not be admitted. In proceedings on the case of an administrative offence such person shall in any event not be deprived of the possibility to adduce evidence in order to substantiate that presence of formal signs of objective side of the composition of this administrative offence in his actions (inaction) has been caused by circumstances not depending on him, but determined by road situation, the state of transportation infrastructure or other similar causes.

The constitutional-law meaning of these normative provisions, revealed in the present Judgment, shall be generally binding and preclude any other interpretation of them, including in the judicial practice.

Recognition of these normative provisions as not contradicting the Constitution of the Russian Federation does not withdraw the legislator's obligation to set in reasonable time the order of determining the operator of the system of levying payment on account of compensation of damage, caused to motorways of common use of federal significance by heavy goods vehicles, and criteria which he must conform to, as well as guarantees of interests of the Russian Federation and payers in the interrelations with him. The power of the federal legislator to fix the base for levying respective payments and criteria of setting its maximum amount directly in a federal law is not excluded either.

2. To recognize the provisions of Item 4 of the Rules of levying payment on account of compensation of damage caused to motorways of common use of federal significance by vehicles having maximum permissible mass over 12 tonnes, approved by the Resolution of the Government of the Russian Federation of 14th June, 2013 No. 504, as not conforming to the Constitution of the Russian Federation, its Articles 10, 71 (items "c", "e", "h", "i") and 76 (Section 1) to the extent to which they do not exclude the possibility that operator of the system of levying payment – individual entrepreneur or juridical person as participants of civil turnover will adopt normative legal acts (acts of norm-making (commanding-managing) nature), including with regard to establishing the order of deposit of the payment and its transfer to federal budget receipts as well as return of extra sums to payer.

Bearing in mind that loss of force by Item 4 of the Rules in the part recognized as not conforming to the Constitution of the Russian Federation as from the pronouncement of the present Judgment may entail impossibility of functioning of the levy of payment system (which in future will require new adaptation to it and may cause increase of the payment amount, determined by the need to compensate monetary resources, not received by the budget due to it, and in the end lower the level of protection of lawful economic interests of its payers), as well as taking into consideration that prior to 15th November, 2016 the Government of

the Russian Federation must carry out legal regulation aimed at reduction of the amount of acts adopted by the operator, the Constitutional Court of the Russian Federation deems it possible to establish the time up to 15th November, 2016 for making normative regulation in this part conforming to the requirements of the Constitution of the Russian Federation and legal positions of the Constitutional Court of the Russian Federation, based on them and expressed in the present Judgment. This does not annul the obligation to deposit payment on the basis of operating regulation, including application of acts adopted by the operator prior to this date.

3. The present Judgment shall be final and shall not be subject to any appeal, it shall come into force immediately upon pronouncement, shall be directly applicable and shall not require confirmation by other authorities and officials.

4. The present Judgment is subject to immediate publication in Rossiyskaya Gazeta, the Collection of Laws of the Russian Federation and on the official Internet-portal of legal information (www.pravo.gov.ru.) The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

The Constitutional Court
of the Russian Federation