

Differences in social protection for the participants of the Chernobyl nuclear clean-up do not comply with the Satversme

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The Constitutional Court has adjudicated the case No. 2009-46-01 "On Compliance of the First Sentence of Para 1 of the Transitional Provisions of the Law on the Social Protection of the Participants of the Chernobyl Nuclear Clean-up and Persons Suffered as a Result of the Chernobyl Nuclear Power Station Accident with Article 91 of the Satversme (Constitution) of the Republic of Latvia".

The Law on the Social Protection of the Participants of the Chernobyl Nuclear Clean-up and Persons Suffered as a Result of the Chernobyl Nuclear Power Station Accident came into force on 1 January 2000, and it establishes social guarantees for participants of the Chernobyl nuclear clean-up, persons under their guardianship, and persons suffered as a result of the Chernobyl nuclear power station accident. The contested norm provides, however, that the disablement pension and the survivor's pension granted to the above mentioned persons before the date of coming into force of this Law shall not be recalculated, except for the cases when the level of disablement or physical incapacity of a person is changed.

The applicants – twenty members of the 9th Saeima indicated that the contested norm causes a situation when a compensation for certain persons is calculated based only on the average gross wage, whilst that of the others is calculated based on the indices of the respective year.

The Constitutional Court concluded that the contested norm initially was meant to protect legal security of those persons who have been granted the disablement pension before the Law came into force because if the procedure for calculation established in the Law were applied, the amount of pension would be reduced. However, at present the situation is that the average gross monthly wage at the moment of recalculation is applied to persons whose pensions were recalculated due to changes in the level of disablement or physical incapacity. Since the date when the Law came into force the average gross wage has changed considerably, the amount of the pension also differs. In fact, the amount of person's pension depends on the date when the pension was granted or recalculated the previous time, rather than the state of health.

The Constitutional Court concluded that the contested norm has initially reached its legitimate objective, which is to protect legal interests of those persons who have been granted the disablement pension before the Law came into force, and not to permit reduction of the pensions granted. However, at present the norm is no more appropriate for reaching the legitimate objective and therefore **does not comply with the principle of equality**. The Court established that the contested norm shall be void as from 1 July 2010.

The Judgment of the Constitutional Court is final and not subject to appeal. The Judgment shall come into force when published in the newspaper in the newspaper "Latvijas Vēstnesis".