**Summary to the Decision of the First Senate of the Constitutional Court of Ukraine No. 4-r(І)/ 2024 dated April 3, 2024 in the case upon the constitutional complaints of** **Serhii Vodolahin and Volodymyr Nekrylov regarding the compliance of paragraph 2 of Section I of the Law of Ukraine «On Amendments to the Law of Ukraine “On the Status and Social Protection of Citizens Affected by the Chornobyl Disaster” regarding the increase of the level of pensions for certain categories of persons» No. 1584–IX dated June 29, 2021, Article 54.3 of the Law of Ukraine “On the Status and Social Protection of Citizens Affected by the Chornobyl Disaster” No. 796**–**XII dated February 28, 1991**

The subjects of the right to constitutional complaint – S.Vodolahin and V. Nekrylov – appealed to the Constitutional Court of Ukraine to verify the compliance of paragraph 2 of Section I of the Law of Ukraine «On Amendments to the Law of Ukraine “On the Status and Social Protection of Citizens Affected by the Chornobyl Disaster” regarding the increase of the level of pensions for certain categories of persons» No. 1584–IX dated June 29, 2021 (hereinafter, “Law No. 1584”), Article 54.3 of the Law of Ukraine “On the Status and Social Protection of Citizens Affected by the Chornobyl Disaster” No. 796–XII dated February 28, 1991, as amended, (hereinafter, “Law No. 796”) with the Constitution of Ukraine (constitutionality).

In accordance with paragraph 2 of Section I of Law No. 1584, Article 54.3 of Law No. 796 is set out in the following wording: “in all cases, the amounts of disability pension resulting from injury or illness caused by the Chornobyl disaster may not be lower than: for disability group I – 6,000 UAH; for disability group II – 4,800 UAH; for disability group III – 3,700 UAH; for children with disabilities – 3,700 UAH.”

The Constitutional Court of Ukraine has repeatedly noted that the provisions of a law amending another law, once they enter into force, become an integral part of the amended law. Thus, the subject of constitutional review in this case is Article 54.3 of Law No. 796.

For Ukrainian citizens who suffered from the Chornobyl disaster, special guarantees of social protection and compensation for damages to their lives and health are established at the constitutional level. The constitutional and legal status of respective category of citizens is due to the specific nature of the consequences of the Chornobyl disaster, the overcoming of which requires the state to strictly fulfil its obligation to compensate for physical, moral and material losses to persons who have been granted a pension due to disability resulting from injury or illness caused by the Chornobyl disaster.

In order to establish benefits and compensations for persons affected by the Chornobyl disaster, the legislator divided them into four separate categories.

Article 54 of Law No. 796 regulates the types and procedure for granting state pensions to persons classified as category 1 and in connection with the loss of a breadwinner because of the Chornobyl disaster.

The Verkhovna Rada of Ukraine, when altering the legal mechanism for regulating the minimum amounts of the state disability pension resulting from an injury or illness caused by the Chornobyl disaster, acted in accordance with Articles 22.1 and 22.2 of the Constitution of Ukraine.

The disability pension resulting from injury or illness caused by the Chornobyl disaster is granted to persons based on the peremptory requirements of the Constitution of Ukraine as a special form of compensation for damages caused to them and cannot be cancelled or reduced, made dependent on available financial resources or any other circumstances. Cancellation, restriction or reduction of pensions for persons with disabilities resulting from injury or illness caused by the Chornobyl disaster will violate the essence of the constitutional foundations that recognise human life and health as the highest social values.

The Constitutional Court of Ukraine concluded that Article 54.3 of Law No. 796 once again violates the adequate level of social protection and the fundamental obligation of the state to compensate for the damages caused to persons affected by the Chornobyl disaster, which is inconsistent with Articles 3.1, 8.2, 22.3, 46.1, 50.1 of the Constitution of Ukraine.

The Constitutional Court of Ukraine declared Article 54.3 of the Law of Ukraine “On the Status and Social Protection of Citizens Affected by the Chornobyl Disaster” No. 796–XIII dated February 28, 1991, as amended, as inconsistent with the Constitution of Ukraine (is unconstitutional) and it shall cease to be effective three months after the date of termination or cancellation of martial law, introduced by the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine” No. 64/2022 dated February 24, 2022, as amended.

**Cross-references:**

Constitutional Court of Ukraine:

- No. 8-rp/2005 dated October 11, 2005,

- No. 5-r/2018 dated May 22, 2018,

- No. 6-r/2018 dated July 17, 2018,

- No. 9-r/2018 dated November 7, 2018,

- No. 2-r/2019 dated June 4, 2019,

- No. 1-r(II)/2021 dated April 7, 2021,

- No. 3-r/2022 dated December 23, 2022,

- No. 3-r(ІІ)/2023 dated March 22, 2023.