CHARACTERISTIC FEATURES OF THE LEGAL RELATIONS CONCERNING COMPENSATION FOR INJURIES CAUSED BY THE CHERNOBYL ACCIDENT

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This article is devoted to the legal relations between the State and citizens who were victims of the accident at the Chernobyl nuclear power plant. Their characteristic features consist in the fact that the government as the constitutional guarantor and owner of nuclear power plants is responsible for the harm done due to radiation. The method of compensating for radiation damage in the form of compensations and benefits for harm to property and health of the victims was not known to the acting legislature before April 26, 1986. Compensations and benefits are also given to categories of citizens who are healthy and capable of working but were subjected to irradiation for risk of possible radiation-induced injury appearing in the future.

The constitutional court of the Russian Federation has noted a characteristic feature of the legal relations between the citizens and the government that are regulated by the Law of the Russian Federation "On the social protection of citizens subjected to radiation as a result of the catastrophe at the Chernobyl nuclear power plant" [1]. It indicated that the injury caused is uncompensatable in reality. This engendered the "special character of the relations between a citizen and the State, consisting in the fact that the State assumes the responsibility of providing compensation for an injury which, because of the scales and the number of people injured, cannot by compensated in the order established by the civil, administrative, criminal, and other jurisdictional legislation" [2].

The legal relations between the State and the citizens concerning the compensation for injury to health (the concept "injury" and "harm" are identical in the civil law) as a result of the Chernobyl accident in many respects are similar to the relations that are regulated by the norms of the social security law.

The legal norms regulating the relations concerning the provision of the means of subsistence from extrabudget funds intended for social purposes or from the State budget to individuals who have reached a certain age, the disabled, those who have lost the breadwinner, the unemployed, families with children, and individuals with incomes below the living wage and concerning the provision of free medical care in accordance with the basic mandatory medical insurance programs, free social services based on federal and territorial lists, and some other relations as well as closely related procedural relations form an independent branch of law - social security law [3].

Similar indicators of legal relations between the State and the victims are that the latter are socially unprotected as a result of the Chernobyl accident and that there are no laws in current legislation that regulate the responsibility for injury caused by a nuclear accident. Their legal relations, just as the legal relations for social security, are of a special character, and the periods of validity of the legal relations are also similar.

The legal relations according to the law [1] and the legal relations according to social security are mandatory legal relations of an unspecified character. Both are clearly regulated in laws or subordinate legislation (decrees, resolutions, orders), and the responsibilities of both parties are determined by laws and cannot be changed by agreement between the parties. In cases where a formulation of the legal relations agreed upon between the parties is used, for example, in formulating an agreement for

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a participant of the liquidation of the consequences of the Chernobyl accident to obtain an interest-free loan in local establish-
ments of the Central Bank of Russia, the framework of the agreed upon relations and the permitted behavior of the participants
are clearly determined by the law [1] or a corresponding resolution of the Government of the Russian Federation.

The law [1] regulates relations such as:

- to grant, depending on the category of victims, the means of subsistence either fully or in part, including benefits, mate-
rial assistance, and so on, to be paid from special, targeted items of the State budget;
- to give free medical assistance;
- convalescence at a sanatorium-resort;
- social services for invalids, participants of the liquidation of the consequences of the accident;
- payment of pensions;
- order of assignment of benefits and compensations.

These legal relations are similar in content to the legal relations regulated by social security laws.

The legal relations between the State and the victims of the Chernobyl accident and the legal relations in social security
are similar with respect to their subjects. The subjects in the legal relations are incapacitated citizens (pensioners,
invalids, children) who were victims of the Chernobyl accident. Article 13 of the law concerns the following categories of
citizens whose legal relations for provision of benefits and compensation are similar to the legal relations according to social
security:

- citizens who acquired or endured radiation sickness and other sicknesses associated with radiation as a result of the
  accident or in connection with work performed on the liquidation of the consequences of the Chernobyl accident (paragraph 1);
- invalids as a result of the accident among citizens (including those who were temporarily directed or commanded) who
  participated in the liquidation of the consequences of the accident within dispossessed zones or zones taken for operation or
  other work at the Chernobyl nuclear power plant;
- citizens who donated bone marrow to save the lives of victims of the accident, irrespective of the time elapsed from the
time of transplantation of the marrow and the time when they became disabled as a result of doing so (paragraph 2).

The legal relations between the victims and the State according to the law [1] are similar to the alimentary character of
the social security norms, and the government is responsible for providing the appropriate benefits and compensations. A vic-
tim as a physical individual (or his family) is the plaintiff, who possesses the guaranteed right of obtaining benefits and compen-
sations, and the government agency is the responsible party, which cannot reject payment of compensations or providing
benefits as intended in the law. If the radiation injury is causative and (or) the risk of injury has increased by design of the vic-
tim, then the compensation and benefits to be provided to the victim must be rejected or their size decreased according to the
decision of the court. If a citizen who is a victim of the Chernobyl accident acts unlawfully, then the State agency does not have
the right to deprive unilaterally the victim of the benefits and compensations intended by the law. Rejection of a payment of ben-
efits and compensation is decided in court (part 2 of article 13 of the law [1]).

The payment of benefits and compensation according to the legal relations between the State and victims of the Cher-
obyl accident is done by special means provided in the federal budget as well as by the medical insurance and pension funds,
whose financial means are also taken from the budget. The special character of these means is indicated in article 5 of the law,
which provides targeted financing of expenses, associated with the implementation of the law, from the federal budget of the
Russian Federation.

Nonetheless, there are also differences between the legal relations according to the law [1] and the social security
norms.

The legal norms of social security mostly contain benefits and compensation for citizens who are incapacitated because
of age (children, pregnant women, pensioners), and so on. Most citizens who were and are in the radiation zone due to the Cher-
obyl accident are healthy and capable of working. Most people who were evacuated or resettled and who left voluntarily are
healthy, and those who are of working age continue to work at their new place of residence.

The law [1] provides benefits and compensation both for citizens who became incapacitated (became sick) or became
unprotected (lost their property) as a result of irradiation and, just as already mentioned, for those who are for most part capa-
bile of working. And they are also considered capable of working after irradiation in the past (April 26, 1986), at present, and
with the radiation risk of a possible injury arising in the future as a result of irradiation in the past.

As noted in the report of the International Consulting Committee [4], the social consequences of the Chernobyl acci-
dent were unprecedented in the history of industrial society. The early consequences required the evacuation of more than