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Questionnaire

Reply by the Constitutional Court of the Russian Federation

A. Court Description

Exists in CODICES

B. Social Integration

1. Challenges of social integration in a globalized world

1.1. What challenges has your Court encountered in the past, for example in the field of asylum law, taxation law or social security law?

1.2. How were issues of social integration or conflict transformed into legal issues?

Within the framework of its activity, the Constitutional Court of the Russian Federation has repeatedly encountered problems, in one way or another connected with social integration. In particular, within the framework of the legislation in the field of labour and social security these questions were connected with different volume of guarantees, granted to persons belonging to one category, in the exercise of the constitutional right to labour, as well as restriction of rights in the field of pension maintenance depending on sex and age.
In the legal sphere questions connected with social integration were caused by unequal amount of guarantees granted to persons depending on:
-sex (Ruling of 27th July, 2005 on the complaint of G. against violation of his constitutional rights by the provision of Sub-Item 1 of Item 1 of Article 28 of the Federal Law "On Labour Pensions in the Russian Federation", Judgment of 15th December, 2011 on the case concerning the review of constitutionality of Section 4 of Article 261 of the Labour Code of the Russian Federation in connection with the complaint of O.);
-field of professional activity – between persons having concluded labour contract with juridical person or individual entrepreneurs (Judgment of 22nd October, 2009 on the case concerning review of constitutionality of the provisions of Item1 of Article 30, Item 2 of Article 32, Item 1 of Article 33 and Item 1 of Article 34 of the Law of the Russian Federation "On Employment of the Population in the Russian Federation" in connection with complaints of B., K. and M.); between women having occupied offices of State civil servants and women having worked under labour contract (Judgment of 22nd November, 2011 on the case concerning the review of constitutionality of the provisions of Section 4 of Article 31, Item 6 of Section 1 of Article 33 and Article 37 of the Federal Law "On State Civil Service in the Russian Federation" in connection with the complaint of B., Judgment of 6th December, 2012 on the case concerning review of constitutionality of Item 4 of Section 1 of Article 33 and Sub-Item "a" of Item 3 of Section 1 of Article 37 of the Federal Law "On State Civil Service in the Russian Federation" in connection with the complaint of P.).

The question of equal protection of maternity irrespective of professional field of activity of pregnant women and single mothers was subject-matter of consideration by the Constitutional Court several times.

In particular, in the Judgment of 22nd November, 2011 the subject-matter of consideration by the Constitutional Court were the provisions of Section 4 of Article 31, Item 6 of Section 1 of Article 33 and Article 37 of the Federal Law "On State Civil Service in the Russian Federation", allowing discontinuance of service contract with single mother, bringing up a child under 14, in connection with reduction of posts of civil service.

Passing decision on this case and recognizing the contested legislative provisions as not conforming to the Constitution of the Russian Federation, the Court proceeded from the postulate that equal guarantees, aimed at prevention of loss of job (dismissal from State service) and loss of earnings (money allowance), by virtue of the provisions of Articles 7, 19 and 38 of the Constitution of the Russian Federation must be ensured for all single mothers irrespective of whether they worked under labour contract or were State civil servants.

By virtue of this, deprivation of single mothers doing State civil service and bringing up children under 14 of State protection, which in the case of retirement on the initiative of the employer's representative is guaranteed by the operating legislation to women – State servants doing military or law-enforcement service, as well as to those women who exercise labour activity under labour contract, is inadmissible, so far as, in violation of constitutional principles of equality, fairness and commensurateness it has no reasonable and objective justification and is not based on the peculiarities of the State civil service.
In the Judgment of 6th December, 2012 the Constitutional Court considered the provisions of Item 4 of Section 1 of Article 33 and Sub-Item "a" of Item 3 of Section 1 of Article 37 of the Federal Law "On Dtate Civil Service of the Russian Federation" in the interconnection with Section 3 of Article 37 of the said Federal Law, which admitted dismissal from the State civil service (dissolution of service contract) on the initiative of the employer's representative of pregnant women doing State civil service, who are not on maternity leave, in cases not connected with liquidation of the respective State body, including at commission of disciplinary misdemeanor.

The Constitutional Court has pointed out that these normative provisions, restricting granting guarantees connected with dismissal to pregnant women doing State civil service, thereby admit differentiation of legal status of pregnant women, equally in need of increased protection on the part of the State, not ensuring the balance of constitutionally significant values and based on such a formal criterion as the field of professional activity carried out (doing State civil service), which cannot be regarded as legal regulation conforming to the principles of fairness and legal equality, proclaimed by the Constitution of the Russian Federation, as well as with the tasks of protection of family, maternity and childhood.

Questions of discrimination in the field of labour and social security on the sign of sex were also subject-matter of consideration by the Constitutional Court of the Russian Federation.
For instance, in the Ruling of 27th June, 2005 the Constitutional Court resolved the question of constitutionality of the provision of Sub-Item 1 of Item 1 of Article 28 of the Federal Law "On Labour Pensions in the Russian Federation", providing for the right of women bringing up children with disabilities to early prescription of old age labour pension. The Court has established that the contested norm represents the guarantee of particular social protection (privilege) of one of the parents – mother, having carried out socially-significant function of bringing up a child disabled from childhood, attended by increased psychological and emotional loading, physical and material expenses and does not envisage the right to early pension for fathers of children-invalids from childhood, even in cases of bringing up a child without a mother. Legal regulation, excluding the possibility of early prescription of old age labour pension for fathers of children-invalids from childhood, having brought them up

without mothers, was recognized as breaking the requirements of Articles 19, 38 (Sections 1 and 2) and 39 (Section 1) of the Constitution of the Russian Federation and leading to disproportionate restriction of the constitutional right of such fathers to pension maintenance from the point of view of fair and equal social protection of both parents (prescription of pension on privileged conditions).

In the Judgment of 15th December, 2011 the subject-matter of consideration by the Constitutional Court was the provision of Section 4 of Article 261 of the Labour Code of the Russian Federation, in accordance with which the guarantee in the form of ban to dissolve labour contract on the employer's initiative (with the exception of discharge in connection with liquidation of an organization, discontinuance of activity by an individual entrepreneur or commission of guilty actions by a workman) is granted only to women having children in the age under 3 and to other persons bringing up children of the same age without a mother. And in a case when a woman carries out looking after children under 3 and does not work, the indicated guarantee does not extend to father, who is the only bread-winner in the family.

The Constitutional Court came to the conclusion that granting of this guarantee must not be put in dependence exclusively upon the fact who – mother or father – works (is in labour relations) and who carries out looking after children, since differentiation based only on the indicated criterion and not considering all circumstances significant for fulfillment of the duty of appropriate maintenance and upbringing of children by parents lowers effectiveness of the system of State support of the institution of family and may lead, in violation of constitutional principles of equality and fairness, to distinctions in the status of families bringing up young children, having no objective and reasonable justification.

The indicated provision was recognized as not conforming to the Constitution of the Russian Federation to the extent to which in the system of operating legislation this provision, prohibiting discharge on the employer's initiative of women having children in the age under 3 and other persons, bringing up children of the indicated age without a mother, excludes the possibility to enjoy this guarantee for the father, who is the only bread-winner in a family having many children, bringing up young children, including a child under 3, where mother is not in labour relations and is engaged in looking after children.

Side by side with breach of the principle of equality and fairness in the field of realization of the right to labour and social security, the Constitutional Court was compelled to be faced with fixing of different rules of establishment of the rate of unemployment allowance for citizens, prior to discharge having worked under labour contract with individual entrepreneur, and citizens discharged from organizations (Judgment of 22nd October, 2009). The Constitutional Court n ruled that in accordance with the provisions of the Law of the Russian Federation "On Employment of Population in the Russian Federation" equal social protection is not ensured for the period of search of a new job for persons appertaining to one and the same category (citizens having previously been in labour relations, having lost job by virtue of circumstances, not connected with commission of guilty actions by them and recognized as unemployed), which does not conform to constitutional principle of equality and goals, for the sake of whose attainment restriction of rights and freedoms of citizens is admitted.

The indicated decisions of the Constitutional Court were aimed at elimination of restrictions influencing accessibility of social goods. Examples of decisions of the Constitutional Court on other aspects of social integration, which do not pretend to show the whole completeness of the picture, but only demonstrate diversity of questions being put before the body of constitutional justice, are adduced below.

In its practice, the Constitutional Court of the Russian Federation turned to problems in the field of migration legislation, which would be connected with social integration. These, as a rule, were cases concerning grounds and conditions of limitation of a foreign citizen's

possibility to stay (reside) in the Russian Federation. The most significant is Ruling of the Constitutional Court of 12th May, 2006. In this decision the Court has pointed out that restriction of stay in the Russian Federation of foreign citizens infected with AIDS cannot be regarded as violating the rights of foreign citizens. However, when resolving the question of the need to deport a foreign citizen or a stateless person, on whom AIDS infection has been revealed, from the Russian Federation, as well as when resolving the question of his temporary residence on the territory of the Russian Federation, law-enforcement bodies and courts must, proceeding from humane reasons, take into account his family status, state of health (including clinical stage of the disease) and other exceptional circumstances deserving attention. Subsequently this position was extended by the Court to the procedure of taking the decision on undesirability of stay (residence) of a foreign citizen in the Russian Federation in the event when his stay (residence) creates real threat to public health (Ruling of the Constitutional Court of the Russian Federation of 4th June, 2013).

In the Judgment of the Constitutional Court of 14th May, 2012 on the case concerning the review of constitutionality of the provision of Paragraph 2 of Section 1 of Article 446 of the Civil Procedure Code of the Russian Federation in connection with complaints of G. and S., the Constitutional Court of the Russian Federation, solving the problem of correlation of interests of a creditor (exactor) and a debtor-citizen, came to the conclusion on the need to legislatively establish the bounds of operation of property (executor's) immunity as applied to housing (its parts), if for the citizen-debtor and his family members living together in this housing it is the only one suitable for permanent residence. Interests of the creditor (exactor) can be satisfied by way of levying execution on such a housing "in a case when respective object of real estate by its qualities obviously exceeds the level sufficient for provision of reasonable need of the citizen-debtor and his family members of housing".

In the Judgment of the Constitutional Court of 23rd February, 1999 on the case concerning the review of constitutionality of the provision of Section 2 of Article 29 of the Federal Law of 3rd February, 1996 "On Banks and Banking Activity" in connection with complaints of V., V. and L., the Constitutional Court of the Russian Federation came to the conclusion on the need to protect economically the most weak part of an agreement , having pointed out that "in the absence of grounds for reduction of interest rates on fixed period deposits fixed in a federal law, bank is not entitled to envisage the condition, allowing it to unilaterally reduce interest rates on these deposits, in agreements concluded with citizens".

In the Judgment of 8th June, 2010 on the case concerning the review of constitutionality of Item 4 of Article 292 of the Civil Code of the Russian Federation in connection with the complaint of Ch., the Constitutional Court considered the question of admissibility of alienation of a housing by minors' parents – owners of the premises in the absence of the consent of bodies of guardianship and trusteeship and came to the conclusion that interference of bodies of guardianship and trusteeship with the process of alienation of housing is necessary in cases when parents of minors for some or other reasons do not fulfil their duties in their respect.

The problem of restriction of the rights of persons having earlier been tried for commission of crimes may be ascribed to the number of problems, which the Constitutional Court was compelled to solve in the field of criminal justice.

In the Judgment of the Constitutional Court of 18th July, 2013 the problem was considered related to the ban on engagement in educational, as well as any other labour activity in the field of education, upbringing and work with minors for persons having ever been exposed to criminal persecution for the commission of crimes, including those against life and health, freedom, honour and dignity of person, public health and public morality, basis of the constitutional system and security of the State, against public security. Such a ban, introduced in the Labour Code of the Russian Federation by the legislator in 2010, has

concerned a considerable number of persons, who were discharged from children's establishments on the basis of the new law.

In the indicated Judgment the Constitutional Court, having recognized the ban on engagement in educational activity, as well as other professional activity in the field of education, upbringing and development of minors, introduced by the legislator, on the whole as well-founded, at the same time has substantially limited operation of this ban. In particular, the list of categories of persons to whom this ban extends after cancellation or removal of their criminal record was shortened; indefinite and unconditional character of the ban on engagement in educational activity without consideration of the kind and degree of gravity of the committed crime, time having expired from the moment of its commission, the form of guilt, circumstances characterizing the personality, including person's behavior after the commission of the crime, attitude towards fulfillment of labour duties, as well as other factors, allowing to determine whether a concrete person represents danger for life, health and morality of minors, was recognized as unconstitutional; obligatory character of a workman's discharge prior to completion of proceedings on a criminal case, as well as in the event of decriminalization of the action for which he was made criminally answerable was recognized as unconstitutional.

In the Judgment of the Constitutional Court of 10th October, 2013 on the case concerning the review of constitutionality of a number of provisions of the Federal Law "On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" the problem was considered of restriction of passive electoral right of citizens of the Russian Federation, previously convicted to deprivation of liberty for the commission of grave or particularly grave crimes. The Constitutional Court has pointed out in this Judgment that unlimited in time restriction of passive electoral right by the federal law may not be justified by the fact of previous conviction alone as its only substantiation; such restriction cannot be irreversible, it is admissible only as a temporary measure, and a full ban on realization of passive electoral right is admissible only in the event of prescription of criminal penalty in the form of life imprisonment.

1.3. Is there a trend towards an increase in cases on legal issues relating to social integration? If so, what were the dominant questions before your Court in the past and what are they at present?

Pronounced tendency towards the increase of the number of cases relating to social integration is not observed in the Constitutional Court of the Russian Federation. At the same time, it should be noted that problems of legal regulation connected with breach of the principles of equality and fairness by the legislator are continually in the field of vision of the Constitutional Court.

2. International standards of social integration

2.1. What are the international influences on the Constitution regarding issues of social integration/social issues?

The Constitution of the Russian Federation contains sufficiently large set of social and economic rights, on the basis of which the Constitutional Court inculcates international standards of social integration into Russian legal reality.
In general form social rights are proclaimed in the Constitution of the Russian Federation, and their concrete content and guarantees of realization are determined by federal laws and laws of subjects of the Russian Federation. On the basis of legislation in force, the content of social rights is defined sufficiently broadly and broaches the norms of various branches of law and legal institutions. And realization of these rights is ensured by granting a broad circle of possibilities, including by establishment for individual categories of citizens of additional

social goods in the form of measures of social support, whose important function is maintenance of normal social life. All this takes place in the light of greater recognition of the significance of social rights, which goes on in the whole world both on the level of national constitutional (supreme) courts and on the level of international judicial bodies and international organizations, first of all the European Court of Human Rights and the Council of Europe.

The Constitution of the Russian Federation adopted in 1993, before approval at the national referendum passed through a long process of preparation and discussion with drawing in of a large number of specialists, sometimes adhering to opposite views on some or other issues. One of the most disputable and complex problems which arose in the course of working out the Constitution draft, became the problem of inclusion of social rights as such in the Constitution, as well as fixing of the principle of social State. In the end a large block of social rights, as well as the principle of social State were included in the Constitution of the Russian Federation, which in many respects was predetermined by grasp of international standards in the field of protection and ensuring of social rights by elaborators of the document. In particular, the provisions of international treaties, a party to which was the Russian Federation, were taken into consideration, for example the International Covenant on Economic, Social and Cultural Rights, whose provisions were even extended in Chapter 2 of the Constitution, or the provisions of the Convention on the Rights of the Child, Convention on the Status of Refugees, standards elaborated in the ILO conventions – all sources of international law, which at the 1996 Copenhagen summit were named as a base for determination of international standards of social integration.

What is more, when preparing the draft Constitution, the elaborators took into account also progressive legal positions worked out within the framework of the Council of Europe and within the framework of the European system of human rights protection, because it was decided that one of the main goals of the new Russia were utmost protection and respect for human rights, one of the most important mechanisms of attainment of which should have been entering of the Russian Federation in the Council of Europe and adhesion to the European Convention for the Protection of Human Rights and Fundamental Freedoms. In the course of elaboration of the Constitution of the Russian Federation and discussion on possible future models of construction of civil society and law-governed State, great influence was exerted also by the experience of foreign democratic states in solving social problems and fixing and maintenance of social rights

However, the process of influence of the international community in the field of social integration and solution of social problems was not exhausted at the stage of elaboration and adoption of the operating Constitution alone. The Constitutional Court constantly turns in its practice to the experience of international community when interpreting the constitutional provisions on social State, in the course of elaboration of the concept of law-governed social State, as well as when interpreting constitutional provisions on social rights, thereby incorporating international standards of social integration into Russian legal reality.

2.2 Does your Court apply specific provisions on social integration that have an international source or background?
2.3. Does your Court directly apply international instruments in the field of social integration?

2.4. Does your Court implicitly take account of international instruments or expressly refer to them in the application of constitutional law?

In its activity, the Constitutional Court of the Russian Federation is guided exclusively by the Constitution of the Russian Federation, which has supreme legal force in the hierarchy of normative acts. But Russian Constitution includes a mechanism, which allows to introduce

new principles and norms into national legal system, as also international treaties as they arise, as well as to renovate the existing ones – as they develop.

According to the Constitution of the Russian Federation, human and civil rights and freedoms are recognized and guaranteed according to the universally recognized principles and norms of international law and this Constitution (Section 1 of Article 17); these principles and norms, as well as international agreements of the Russian Federation are an integral part of its legal system; international agreement has priority before the law in the event of their collision (Section 4 of Article 15). Constitutional provisions have priority before international documents, but are interpreted by the Constitutional Court in accordance with the universally recognized principles and norms of international law.

Russian Federation is party to all basic international instruments in the field of human rights, including treaties concerning social rights, one of the goals of which is social integration. In the light of the principle of law-governed social State, which is always taken into account by the Constitutional Court when passing decisions, it is impossible to leave out international standards in this field. By means of this mechanism, in particular, the European Convention for the Protection of Human Rights and Fundamental Freedoms, having entered in force for the Russian Federation on 5th May, 1998, has been incorporated into the legal system of Russia.

The Constitutional Court of the Russian Federation has repeatedly applied international standards of social integration. International legal documents in the field of social integration are both applied directly, for instance, in the Ruling of 13th October, 2009 on dismissal of the complaint of Kh. against violation of her constitutional rights by the provisions of Sub-Item 1 of Item 1 of Article 18 of the Federal Law “On State Pension Maintenance in the Russian Federation” and taken account of implicitly, for example, extensive practice of the Constitutional Court in the field of protection of social rights always takes into account the provisions of the International Covenant on Economic, Social and Cultural Rights, Convention on Disabled Persons, ILO conventions and others.

The Constitutional Court refers not only to the Convention for the Protection of Human Rights and Fundamental Freedoms and other international treaties of the Russian Federation, but also to international acts and documents not ratified by the Russian Federation or having recommendatory character, but embodying certain international standards in one or another field of social activity.

It is worth noting that the expression “international standards of social integration” is practically not used directly in the texts of the Constitutional Court’s decisions. Instead expressions which are more traditional for our legal terminology are used, such as “international standards”, “social rights of unprotected groups of the population”, etc.

A number of examples from the Constitutional Court’s practice may be adduced where international documents of social integration were taken into account:

1) approaches of the Standard Rules for Ensuring Equal Possibilities for Disabled Persons, concept of inclusive education, which is the corner-stone for social integration of children with peculiarities of development, were borne in mind by the Constitutional Court when passing the Ruling of 16th November, 2006 on dismissal of the complaint of B. against violation of her constitutional rights and constitutional rights of her son under age by the provisions of Articles 69 and 71 of the Family Code of the Russian Federation. In this Ruling the Convention on the Rights of the Child, which is one of the main sources of international standards of children’s social integration, was also directly mentioned. The same standards were taken into account when passing the Ruling of 24th September, 2013 on dismissal of the complaint of K. against violation of his constitutional rights by the provisions of Item 1 of

Article 3 and Item 2 of Article 4 of the Federal Law of 29th February, 2012 "On Amendments to Individual Legislative Acts of the Russian Federation in the Part of Provision of Children-Orphans and Children Having Remained Without Parental Care with Housing", Article 1091 of the Housing Code of the Russian Federation, Article 1 and Items 1 and 9 of Article 8 of the Federal Law "On Additional Guarantees of Social Support of Children-Orphans and Children Having Remained Without Parental Care" in the wording of the Federal Law of 29th February, 2012;

2) when the Constitutional Court was considering the issue of constitutional rights of national minorities, it also resorted to international standards in order to ensure observance of constitutional rights and integration of their representatives in the Russian society. For example, in the Judgment of 3rd March, 2004 on the case concerning the review of constitutionality of Section 3 of Article 5 of the Federal Law "On National-Cultural Autonomy" in connection with the complaint of D. and Sh. Frame Convention on Protection of National Minorities was used;

3) social rights of elderly people were considered in the Ruling of 13th October, 2009 on dismissal of the complaint of Kh. against violation of her constitutional rights by the provision of Sub-Item 1 of Item 1 of Article 18 of the Federal Law "On State Pension Maintenance in the Russian Federation". In this Ruling references were made to international standards of social integration contained in the International Covenant on Economic, Social and Cultural Rights, to the Charter of Social Rights and Guarantees of Citizens of the Independent States, adopted by the Inter-Parliamentary Assembly of the States-Parties of the Commonwealth of Independent States, to the Charter of Elderly People.

4) another example – questions relating to the protection of maternity and childhood, considered in the aforementioned Judgment of 6th December, 2012 on the case concerning the review of constitutionality of Item 4 of Section 1 of Article 33 and Sub-Item "a" of Item 3 of Section 37 of the Federal Law "On State Civil Service in the Russian Federation" in connection with the complaint of P., in which the Constitutional Court made reference to the ILO Convention No. 183 on revision of the Convention (revised) of 1952 on protection of maternity (concluded in Geneva on 15th June 2000).

5) when verifying on 22nd March, 2007 constitutionality of the provision of Section 1 of Article 15 of the Federal Law "On Budget of the Fund of Social Insurance of the Russian Federation for 2002" on the complaint of B., where the question was of limitation of maximum sum of payment of pregnancy and childbirth allowance to a woman, the Constitutional Court took into consideration numerous ILO conventions in the field of guarding maternity, including the Convention of 28th June, 1952 No. 102 on minimum norms of social security;

6) questions broaching the rights of disabled persons were considered by the Constitutional Court in the Judgment of 27th June, 2012 on the case concerning the review of constitutionality of Items 1 and 2 of Article 29, Item 2 of Article 31 and Article 32 of the Civil Code of the Russian Federation in connection with the complaint of D. In this Judgment the Court, apart from anything else, made reference to the basic international treaty fixing the rights of persons with limited abilities – the Convention on the Rights of Disabled Persons (adopted on 13th December, 2006 by the Resolution 61/106 of the UN General Assembly).

2.5. Has your Court ever encountered conflicts between the standards applicable on the national and on the international level? If so, how were these conflicts solved?

Such a case has taken place only once. In 2009 the Constitutional Court studied the complaint which contested constitutionality of a provision of the Federal Law "On the Status of Military Servicemen", envisaging the right to nursing leave for care of a young child only for female military servicemen.

M., military serviceman, being a father of a young child, contested this norm since, in his view, it was discriminatory and hindered realization by male military servicemen, doing military service under contract, of the right to bring up their children. In the Ruling of 15th January, 2009 the Constitutional Court dismissed M.'s complaint. Passing this decision, the Constitutional Court, leaning on ILO Convention No. 111 concerning discrimination in the field of labour and occupations of 25th June, 1958, pointed out that absence of the possibility to combine by military servicemen, doing military service under contract, fulfillment of service duties and nursing leave is determined by specific character of the legal status of military servicemen and conforms to constitutionally significant goals of restriction of human and civil rights and freedoms (Article 55, Section 3, of the Constitution of the Russian Federation), so far as is connected with the need to create conditions for effective professional activity of military servicemen, fulfilling the duty of defence of the Fatherland.

Proceeding from fairly limited participation of women in carrying out military service and presence of a specific, connected with maternity, social role of a woman in the society, the Constitutional Court regarded legal regulation securing female military servicemen's right to nursing leave as not violating petitioner's rights and conforming to Article 38 of the Constitution of the Russian Federation, which envisages State protection of maternity, childhood and family, and to the principles of equality of human and civil rights and freedoms.

In the judgment of 7th October, 2010 on the case (M. vs. Russia) the European Court of Human Rights pointed out that granting of the right to nursing leave to female military servicemen at simultaneous refusal of this right to male servicemen is deprived of reasonable substantiation and, notwithstanding that family life in this case was not a subject of State infringement, has recognized breach in the petitioner's case of Article 14 (Prohibition of discrimination) in the interconnection with Article 8 (Right to respect for private and family life) of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950. This decision in the part, concerning violation of petitioner's rights, was left without considerable changes by the judgment of the Grand Chamber of the ECHR of 22nd March, 2012 on the case No. 30078/06.

Settlement of this conflict was carried out within the framework of Russian legislation with consideration of legal positions of the Constitutional Court. Court of general jurisdiction, considering the case on reconsideration of a judicial decision having entered into legal force in connection with the need to execute judgment of the European Court of Human Rights, came to the conclusion that execution of the decision of the European Court of Human Rights does not require application of the provisions of the legislation of the Russian Federation, having earlier been recognized by the Constitutional Court of the Russian Federation as not violating constitutional rights of the petitioner in his concrete case. The circumstance was also borne in mind that the petitioner actually had been granted the nursing leave, although not of full duration, at present the child has already attained the age of 3, and M. has received compensation. Within the framework of this proceeding court of general jurisdiction did not enjoy its right to petition the Constitutional Court with a request on constitutionality of norms, on which the Ruling had been passed on dismissal of M.'s complaint, for ultimate solution of the question of conformity or non-conformity of the provisions of the legislation on military servicemen on such a leave to the Constitution of the Russian Federation.

3. Constitutional instruments enhancing /dealing with/ for social integration

3.1. What kind of constitutional laws does your Court apply in cases of social integration – e.g. fundamental rights, principles of the Constitution ("social state"), "objective law", *Staatszielbestimmungen,* …?

When considering questions connected with social integration (both directly concerning realization of social rights and, in particular, problems of social security and touching upon the interests of concrete social groups – taxation, protection of property rights, gender equality, etc.), the Constitutional Court uses the entire arsenal of constitutional-law instruments which are at its disposal. Motivating part of decisions devoted to respective problems usually includes characteristic of normative content of basic rights, guaranteed by the Constitution of the Russian Federation and international acts to which Russia is a party. At this the list of basic social rights is not regarded as exhaustive and does not hinder constitutional protection of other universally recognized social rights and freedoms.

Besides, argumentation leans on a number of constitutional principles, including those formulated by the Constitutional Court itself, which in their totality constitute the content of the notion "social State" – one of the basic characteristics of Russian statehood.

According to the approach of the Constitutional Court, social State contemplates creation of equal opportunities for all members of society, conduct of social policy recognizing after every one of them the right to such standard of living, which is necessary for maintenance of health and welfare of himself and his family when he works, as well as in cases of unemployment, illness, disability, old age. This places on the State the obligation to create compensatory mechanisms, ensuring the equality of starting opportunities in realization of social rights to the most weak members of society (including by way of establishment of additional social goods in the form of measures of social support and privileges).

3.2. In cases where there is access of individuals to the Constitutional Court: to what extent can the various types of constitutional law provisions be invoked by individuals?

In his petition to the Constitutional Court the petitioner must indicate, among other things, the provisions of the Constitution of the Russian Federation and the Federal Constitutional Law "On the Constitutional Court of the Russian Federation" which entitle to petition the Constitutional Court, specific grounds, provided for by the law for the consideration of the petition by the Constitutional Court, legal substantiation of his position with reference to the relevant norms of the Constitution of the Russian Federation. In order that the petition coming from a citizen be recognized as admissible, it must, among other things, contain indication at the right provided for by the Constitution, which the petitioner regards as violated by the contested law applied in his concrete case, consideration of which has been completed in court.

There are no restrictions whatsoever for references in the course of arguing the petitioner's position to some or other provisions of the Constitution, norms of laws, legal positions of the Constitutional Court and any other sources of law, as well as to legal doctrine.

3.3 Does your Court have direct competence to deal with social groups in conflict (possibly mediated by individuals as claimants/applicants)?

Competence of the Constitutional Court with regard to the resolution of cases on constitutionality of laws and other normative legal acts, including in the field of regulation of social relations, is determined by national legislation. For a petition to be recognized as admissible, the petitioner must confirm that the contested norm, having been applied in his concrete case whose consideration has been completed in court, touches upon constitutional rights of this person. At the same time, in spite of the individual character of complaints on social issues received by to the Constitutional Court, they sometimes testify to the presence of system problems in the field of social integration. For instance, in the beginning of the 2000-s the Constitutional Court received numerous petitions of citizens, who contested various provisions of the Federal Law of 22nd August, 2004 "On Amendments

to Legislative Acts of the Russian Federation and Recognition as Having Lost Force of Some Legislative Acts of the Russian Federation in Connection with Adoption of Federal Laws "On Amendments and Supplements to the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation" and "On General Principles of Organization of Local Self-Government in the Russian Federation" .

The said legislative act (so called Law on Monetization of Privileges) contemplated modernization of social support system, including by means of substitution of natural privileges with money payments. Realization of this law revealed its shortcomings, which predetermined considerable number of complaints to the Constitutional Court, which in a number of its decisions emphasized the need to ensure stability of the legislation in social sphere and preservation of the attained level of social support; maintenance of citizens' confidence in law and actions of the State, contemplating legal certainty, inadmissibility of making arbitrary amendments into the operating system of norms and predictability of the legislative policy in social sphere, so that the participants of relevant legal relations can foresee in reasonable bounds consequences of their behavior and be confident in invariability of their officially recognized status, acquired rights, in efficacy of their State protection, i.e. in the idea that the right acquired by them on the basis of operating legislation will be respected by the authorities and will be realized (see e.g. Judgment of 5th April, 2007).

3.4. How does your Court settle social conflicts, when such cases are brought before it (e.g. by annulling legal provisions or by not applying them when they contradict the principle of equality and non-discrimination)?

The Constitutional Court can recognize a contested act, testifying to the existence of a social conflict, as not conforming to the Constitution of the Russian Federation (entirely or in part). Disqualified act (or its individual norms) loses legal force and cannot be applied henceforward by courts, other bodies and officials. In such cases, as a rule, the Constitutional Court places obligation on the legislator to establish new regulation satisfying the criteria of constitutionality and, in particular, the principle of social State, on the basis of which the entire law-applying activity in this field will be carried out. Besides, in some situations the Constitutional Court determines the order of execution of its decision, at the same time establishing temporary regulation, operating until appropriate amendments are made to social legislation.

For example, the Constitutional Court has recognized as not conforming to the Constitution of the Russian Federation the provisions of the Federal Law "On State Civil Service of the Russian Federation", admitting dismissal from the State civil service on the initiative of the employer's representative of pregnant women doing State civil service, who are not being on maternity leave, in cases not connected with liquidation of the respective State body, including at commission of disciplinary misdemeanor (Judgment of 6th December, 2012).
In some cases the Constitutional Court recognizes a norm as conforming to the Constitution of the Russian Federation, revealing its constitutional-law meaning. In such an interpretation exactly the contested norm can be applied after the decision of the Constitutional Court by subject of law realization. For example, the Court has disclosed the constitutional-law meaning of Section 8 of Article 325 of the Labour Code of the Russian Federation, regulating the procedure of employers' compensation of expenses on payment for the cost of the journey of persons working in areas of the Extreme North and localities equated with them and conveyance of luggage to the place of utilization of leave and back (Judgment of 9th February, 2012).

3.5. Can your Court act preventively to avoid social conflict, e.g. by providing a specific interpretation, which has to be applied by all state bodies?

Preventive possibilities of constitutional justice in preventing or minimizing social conflicts are limited by the following circumstances.
First, model of subsequent constitutional control operates in Russia, within the framework of which the Court appraises constitutionality of normative acts having already entered into legal force, and not of the draft laws.

Secondly, the Constitutional Court carries out abstract control of norms only upon petitions of authorized subjects invested with the right of constitutional request. Upon petitions of citizens and their associations only concrete control of norms may be exercised by the Constitutional Court.
Finally, the Constitutional Court itself may not initiate constitutional proceedings; it is carried out only in connection with petitions which have been received and recognized as admissible.

At the same time, legal positions formulated in Court's decisions, orientating the legislator and law-appliers in a certain way, exert considerable perspective influence on legal regulation of a broad circle of questions principally important for successful social integration. Such influence reduces conflict potential of individual objects of regulation and on the whole leads to reduction of the general level of social conflict.

Basing itself on the Constitution of the Russian Federation, the Constitutional Court has formulated a number of principles of legal regulation in the field of social protection and realization of social right, following from it.

For example, interpretation of the provisions on social State, on juridical equality and fairness (in its two hypostases: equalizing and distributing) in regulation, ensuring and protection of social rights allowed the Constitutional Court to work out legal positions, having essential significance for legislative regulation of social relations in the field of social protection of citizens.

The principle of maintenance of citizens' confidence in law and actions of the State, formulated by the Constitutional Court, is a guiding line of no less importance for the legislator. Observance of this principle contemplates ensuring legal certainty, reasonable stability of legal regulation, inadmissibility of making arbitrary amendments to the operating system of norms and predictability of the legislation. Changes of social legislation, forms and means of social protection must be accompanied, first, by granting citizens the possibility to adapt themselves to the introduced changes during reasonable transitional period, including by means of establishment of temporary regulation of social relations, secondly, by creation of a compensatory mechanism allowing to eliminate or soften negative consequences of such changes (Judgment of 24th May, 2001; rulings of 4th December, 2003, of 11th May, 2006, of 4th April, 2007, of 1st April, 2008 and others).

Besides, the Constitutional Court, in particular, has formulated requirements following from the Constitution, brought forward to the legislator when it introduces new taxes and guaranteeing the rights of owners against arbitrary and excessive interference of the State.

3.6. Has your Court ever encountered difficulties in applying these tools?

Determination of the balance of various constitutional values becomes a sufficiently complicated task. In this connection, significant is the Judgment of the Constitutional Court of 23rd December, 1997 adopted on the outcome of consideration of the case in which, in

particular, constitutionality was reviewed of the order of priority of writing off monetary resources under payment documents, envisaging payments to budgets of the budgetary system of the Russian Federation.

The Constitutional Court has emphasized inadmissibility of opposing constitutional obligation to pay remuneration for labour to the obligation to pay lawfully established taxes and duties, so far as establishment of rigid priority for one of them means impossibility of realization, and consequently disparagement of equally protected rights and lawful interests of some or other groups of citizens. It was considered herewith that taxation pursues, among other things, the object of financial providing of social tasks of the State.

Conformably to a more narrow sphere of social integration of individual categories of the population in the context of the question under consideration, the problem of different legal nature of the measures of social support, which are included in the system of social protection should also be mentioned, as well as privileges aimed at rendering goods to individual categories of the population in connection with their particular legal status (war veterans, persons having other merits before the country). Establishment and abrogation of the latter appertain to the discretional powers of the legislator.

In some situations legislative fixation of the mechanisms of rendering social privileges is used in order to compensate damage to certain categories of persons (for instance to those having suffered in consequence of Chernobyl' nuclear power plant accident or nuclear tests on the Semipalatinsk testing area), so far as damage caused to citizens in consequence of radiation influence which, proceeding from its scale and the number of victims, cannot be compensated in the procedure established by civil, administrative, criminal and other branch legislation, engenders particular character of relations between citizen and the State. The obligation to compensate such damage, including in the form of granting measures of social support, is taken by the State upon itself.

Accordingly, the mechanism of fulfillment of its obligation by the State must not restrict the rights of these persons or narrow the circle of persons having already been recognized by the law as recipients of these measures (Ruling of 11th July, 2006 and others). Meanwhile, in the practice of establishment of compensatory mechanisms intended to compensate damage, determination of legal status of recipients of measures of social support, as well as the question of ascription of some or other categories of persons to respective group of authorized subjects may cause difficulties.

3.7. Are there limitations in the access to your Court (for example only by State powers), which prevent it from settling social conflicts?

According to the national legislation, both bodies of public authority and private persons are entitled to contest constitutionality of legislative acts.
At the same time, petitions of private persons may be considered exceptionally within the framework of concrete control of norms, i.e. only in connection with court application of the contested act in the concrete case of the petitioner which has taken place. In addition, not all bodies of public authority, capable because of functions performed by them to distinguish maturing social conflict at the most early stage, are invested with the right of constitutional request considered in the procedure of abstract control of norms. In this connection worth mentioning is absence of such a right with the Commissioner for Human Rights in the Russian Federation (national Ombudsman). Such regulation, however, cannot be evidence of deprivation of the Constitutional Court of the possibility to settle social conflicts.

4. The role of constitutional justice in social integration

4.1. Does your Constitution enable your Court to act effectively in settling of avoiding social conflict?

Jurisdictional possibilities afforded both by the Constitution of the Russian Federation and national legislation developing its provisions in detail allow the Constitutional Court not only to resolve cases which reflect social conflicts sufficiently effectively, but also to a certain extent through formation of legal positions to carry out prophylaxis of social conflicts, prevent their growing up and thereby to contribute to social stability.

At the same time, the possibilities of this influence are limited by status characteristics of the Constitutional Court as a body which acts only on the basis of petitions to it and not on its own initiative, carrying out subsequent and not preliminary control of norms, limitation of the list of subjects of abstract constitutional request, limitation of the institution of individual complaint by the sphere of concrete control of norms.

4.2. Does your Court *de facto* act as "social mediator", or/and has such a role been attributed to it?

Neither of the normative acts forming legal status of the Constitutional Court, including the Federal Constitutional Law, places the mission of social mediator on it and invests it with specific prerogatives necessary for fulfillment of mediatory tasks. But legal force which its decisions have, as well as character of the influence which it exerts on the fields of legislative and law-enforcement activity determine substantial reduction of the tension of social confrontation, accompanying resolution of cases, which are legal projection of conflicts social by nature in the procedure of constitutional judicial proceedings.

In this context the Constitutional Court, establishing balance between public and private interests in its decisions, in a certain sense *de facto* plays the role of social mediator.

4.3. Have there been cases, when social actors, political parties could not find any agreement, they would "send" the issue to your Court which had to find a "legal" solution, which normally should have been found in the political arena?

All issues of social nature, having ever been considered by the Constitutional Court, including upon petitions of subjects of abstract constitutional request (for example deputies of the State Duma representing various political parties) were in conformity with legislatively established jurisdiction of the Constitutional Court.
When considering cases connected with protection of social rights, the Constitutional Court is compelled, proceeding from the principles of social fairness, juridical equality and proportionality, to find balance of competing social values having obvious political significance and thereby fix the boundaries of admissible increase of the burden of social transformations. Such was, for example, the Constitutional Court's conclusion on inadmissibility of arbitrary renunciation of bodies of State power of fulfillment of public-law obligations, having previously been placed on them (see e.g. Judgments of 16th December, 1997, of 24th May, 2001, of 19th June, 2002, of 23rd April, 2004; Rulings of 4th December, 2007, of 1st April, 2008, of 5th February, 2009, 0f 3rd February, 2010 and others).