

## Judgement<sup>1</sup>

The parties and their counsels are as listed in Exhibit 1-1 (List of the plaintiffs), Exhibit 1-2 (List of the plaintiffs' counsels)<sup>2</sup>, and Exhibit 1-3 (List of the defendant, etc.) .

### Main text

1. The defendant shall pay to the respective plaintiffs other than those listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action)<sup>3</sup>, and the plaintiffs [45]-3, [67]-6 and [95]-3, the sum of three million and three hundred thousand yen (¥3,300,000<sup>4</sup>) together with the amount accrued thereon at a rate of 5% per annum from March 11, 2011, until payment in full is made.

2. The defendant shall pay to the respective plaintiffs listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action) the amount of money set forth in the column "Amounts admitted" corresponding to the respective plaintiffs together with the amount accrued thereon at a rate of 5% per annum from March 11, 2011, until payment in full is made.

3. Both the claims by plaintiffs [45]-3, [67]-6 and [95]-3, and the claims by the other plaintiffs shall be dismissed.

4. The court costs incurred in relation to plaintiffs [45]-3, [67]-6 and [95]-3 shall be borne by plaintiffs [45]-3, [67]-6 and [95]-3, respectively. The court costs incurred in relation to the other plaintiffs shall be divided by ten, and nine tenths of such costs shall be borne by the other plaintiffs, and one tenth of such costs, by the defendant, respectively.

5. In this judgement, only Paragraphs 1 and 2 above may be executed provisionally.

Provided, however, that the defendant may be relieved from the execution if the defendant provides collateral of three million yen (¥3,000,000) to the plaintiffs other than the plaintiffs listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action), and plaintiffs [45]-3, [67]-6 and [95]-3, and the amount of money set forth in the column "Amount of collateral" corresponding to the plaintiffs listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action).

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<sup>1</sup> Afterward, this case was appealed by both the plaintiffs and the defendant.

<sup>2</sup> The Exhibits are omitted.

<sup>3</sup> In Japan, if a plaintiff or a defendant dies, his/her successor(s) may keep the case.

<sup>4</sup> Approximately 33 thousand us dollar

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## Facts and reasons

### Chapter 1. Judgement sought by the parties

#### I. Object of claim

1. The defendant shall pay to the respective plaintiffs other than those listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action) the sum of thirty two million, seven hundred and eighty thousand yen (¥32,780,000) together with the amount accrued thereon at a rate of 5% per annum from March 11, 2011, until payment in full is made.

2. The defendant shall pay to the respective plaintiffs listed in the column "Successors of this action" in Exhibit 2 (List concerning succession of this action) the amount of money set forth in the column "Total amount claimed" in Exhibit 2 together with the amount accrued thereon at a rate of 5% per annum from March 11, 2011, until payment in full is made.

3. The court costs shall be borne by the defendant.

4. Declaration of provisional execution

#### II. Answer to the object of claim

1. All the claims by the plaintiffs shall be dismissed.
2. The court costs shall be borne by the plaintiffs.
3. It is not appropriate to issue a declaration of provisional execution; however, if such declaration is issued, it will be a declaration of derogation of provisional execution subject to the condition that collateral is provided.

## Chapter 2. Overview of this Case, etc.

Each acronym, etc., used in the Judgement shall mean as specifically noted in the text and listed in Exhibit (Glossary and acronyms).

### I. Overview of this Case

This Case was filed as a partial claim for compensation in accordance with the text of Article 3, paragraph 1 of the Act on Compensation for Nuclear Damage, by 321 plaintiffs who had their residences as bases for living in Odaka-ku or Haramachi-ku, Minamisoma-city, Fukushima-prefecture as of March 11, 2011, or their heirs, against the defendant who was engaged in the operation of the reactors at the Nuclear Power Plant (the “NPP”), in order to seek, for the plaintiffs who have not succeeded this action, the payment of the sum of thirty two million, seven hundred and eighty thousand yen (¥32,780,000) per person (i.e., twenty nine million, seven hundred and eighty thousand yen (¥29,780,000), the portion in excess of eight million and five hundred thousand yen (¥8,500,000) that is the amount accepted by the defendant, and three million yen (¥3,000,000) for attorney fees) together with the late charge accrued thereon at a rate of 5% per annum from March 11, 2011, the date of occurrence of the Accident, until payment in full is made (including, for the plaintiffs with dual statuses as those who have and have not succeeded this action, the claims based on the status as those who have not succeeded this action), and for the plaintiffs who have succeeded this action, the payment of the amount inherited by such plaintiffs out of the claims as described above (including receivables as late fees) (including, for the plaintiffs with dual statuses as those who have and have not succeeded this action, the claims based on the status as those who have succeeded this action; therefore, such plaintiffs will seek the payment of the claim of thirty two million, seven hundred and eighty thousand yen (¥32,780,000) as described above (including receivables as late fees) together with the amount inherited by such plaintiffs), by asserting that the compensation amount per person should be no less than thirty eight million, two hundred and eighty thousand yen (¥38,280,000) because the original plaintiffs of this action (the “Plaintiffs of this Action”) (a total of 335 persons) were forced to live in places other than their original homes, they incurred enormous damage due to their inability to lead their lives in the manner they used to do, and suffered irreversible damage due to displacement from *Odaka* as the base of their lives, due to the discharge of radioactive materials and the evacuation orders issued associated with the Accident at the NPP caused by the Earthquake (the “Accident”).

## II. Underlying facts

(For facts that can be easily found based on evidence, etc., such evidence is listed at the end of this document.)

### 1. Parties

(1) The Original Plaintiffs are those who had their residences as bases for living in Odaka-ku, Minamisoma-city, Fukushima-prefecture as of March 11, 2011, excluding plaintiffs [45]-3, [67]-6, [78]-1, [78]-2 and [95]-3. Plaintiff [45]-3 is the one whose grandparents' house was in Odaka-ku on the same date. [67]-6 is the one who was an unborn child at the time whose parents had their residence as the base for living in Odaka-ku on the same date. Plaintiffs [78]-1 and [78]-2 are those who had their residences as bases for living in Ozawa, Haramachi-ku, Minamisoma-city, adjacent to Odaka-ku, on the same date. Plaintiff [95]-3 is the one who at least had a residence in Odaka-ku on the same date (there is a dispute over the place of his/her residence as a base for living on the same date). The places of residences of the Original Plaintiffs as their bases for living on the same date (for the plaintiff [45]-3, the plaintiff's grandparents' place of residence; for plaintiff [67]-6, the plaintiff's parents' place of residence; and for plaintiff [95]-3, the place of the plaintiff's house) (the "Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident") and their ages shall be as listed in Exhibit 3. The Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident are located within a 20 km radius from the NPP. (Plaintiff statement of facts; Entire import of oral argument)

(2) The defendant is a company<sup>5</sup> whose purpose is to engage in an electricity business, etc., as well as a "nuclear operator" that has established and operated the NPP as specified in Article 2, paragraph (3) of the Act on Compensation for Nuclear Damage.

### 2. Overview of Odaka-ku, Minamisoma-city, Fukushima-prefecture

Minamisoma-city, Fukushima-prefecture, is a city located in the coastal area in the northeast part of Fukushima-prefecture, facing the Pacific Ocean, and composed of, from the north to the south, Kashima-ku, Haramachi-ku and Odaka-ku, which is located north and northwest of the NPP. Odaka-ku is located in the southernmost part of Minamisoma-city, extending about 9 km from the north to the south and 13 km from the east to the west, and has an area of 90 square kilometers. Almost all areas of Odaka-ku are located within a 20 km radius from the NPP. The location of Minamisoma-city in the entire Fukushima-prefecture, and the geographical relationship between Kashima-ku, Haramachi-ku and Odaka-ku in Minamisoma-city and their distances from the NPP, and the geography of Odaka-ku are as described in Exhibits 4-1 and 4-2. (Plaintiffs A3 (pp. 2 and 17), Plaintiffs A12 (p. 6), Plaintiffs A13 (pp. 8 and 9))

### 3. Occurrence of the Accident and evacuation orders, etc.

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<sup>5</sup> Tokyo Electric Power Co.,Inc (TEPCO)

## (1) Occurrence of the Accident

The Earthquake occurred at 2:46 p.m. on March 11, 2011, when the defendant was operating the reactors at the NPP, and the first and second waves of tsunami following the Earthquake (the "Tsunami") reached the NPP on the same date around 3:27 p.m. and 3:35 p.m., respectively. With its height beyond the altitude of the site, the Tsunami, etc., caused partial destruction of the NPP facilities, the total loss of power to Units 1, 2 and 4 of the NPP, the total loss of AC power to Units 3 and 5 thereof, as well as damage to the reactor cooling functions of Units 1 through 3 thereof and to the cooling functions of the spent fuel pool of Unit 4 thereof. At 7:03 p.m. on the same date, the Prime Minister issued a declaration of a state of nuclear emergency set forth in Article 15, paragraph (2) of the Act on Special Measures Concerning Nuclear Emergency Preparedness (i.e., its earlier version prior to the revision by Act No. 47, June 27, 2012). At 3:36 p.m. on March 12, a hydrogen explosion occurred at Unit 1 of the NPP. At 11:01 a.m. on March 14, a hydrogen explosion occurred at the Unit 3 reactor building of the NPP. At 6:14 a.m. on 15 March, a big boom occurred near the pressure suppression chamber of Unit 2 of the NPP, and Unit 4 building was damaged. Due to the series of the accidents (the "Accident"), large amounts of radioactive materials were discharged into the atmosphere. (Plaintiffs A2-1 (pp. 1, 15, 19 and 37))

## (2) Evacuation orders, etc., due to the Accident

In response to the Accident, at 9:23 p.m. on March 11, 2011, the government ordered the residents, etc., within a 3 km radius from the NPP to evacuate and the residents, etc., within a 10 km radius therefrom to stay indoors, and then, in response to the progression of the Accident thereafter, at 5:44 a.m. on March 12, ordered the residents, etc., within a 10 km radius from the NPP to evacuate. Moreover, in response to the hydrogen explosion of Unit 1 as mentioned above, at 6:25 p.m. on the same date, the government ordered the residents, etc., within a 20 km radius from the NPP to evacuate. As a result, a large part of Odaka-ku and part of Haramachi-ku (including the places of residences of plaintiffs [78]-1 and [78]-2 at the time of the Accident) became included in the Areas under Evacuation Orders, and all the Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident pointed out in Paragraph 1(1) above became included in the Areas under Evacuation Orders. Thereafter, in response to the hydrogen explosion of Unit 3 as mentioned above, at 11:00 a.m. on March 15, the government issued the stay-indoors order to the residents, etc., within a 20-30 km radius from the NPP.

On April 22, 2011, the areas within a 20 km radius from the NPP were designated as the Restricted Areas where people are basically not allowed to enter. Consequently, all the Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident were designated as Restricted Areas. Moreover, on the same date, the areas outside a 20 km radius from the NPP where the annual accumulated radiation dose was expected to reach 20 mSv after the occurrence of the Accident were designated as the Planned Evacuation Areas, and a large part of other areas located within a 20-30 km radius from the NPP, as the Evacuation-Prepared Areas, while the stay-

indoors order issued for the areas within a 20-30 km radius from the NPP was lifted. Furthermore, after the rearrangement on the same date, the spots which are difficult to decontaminate because their annual accumulated radiation dose is estimated to exceed 20 mSv a one year since the occurrence of the Accident, and the spots in which people are in effect encouraged to evacuate, were designated as the Specific Spots Recommended for Evacuation. The schematic diagram that indicates the Restricted Areas, the Planned Evacuation Areas, the Evacuation-Prepared Areas and the areas including the Specific Spots Recommended for Evacuation is as contained in Exhibit 5-1. On September 30, 2011, the Nuclear Emergency Response Headquarters (“NERHQ”) lifted the designation of the Evacuation-Prepared Areas mentioned above. The schematic diagram that indicates the Areas under Evacuation Orders, etc., after the lifting of the designation above is as contained in Exhibit 5-2.

On December 26, 2011, the NERHQ indicated its policy to review the Areas under Evacuation Orders, etc. The policy sets out to designate (1) the areas in which the annual cumulative dose is confirmed to be certainly 20 mSv or less as the Evacuation Directive Lifting for Prepared Areas, (2) the areas in which the annual cumulative dose is likely to exceed 20 mSv, and in which, from the viewpoint of reducing the exposure doses of residents, the residents are required to continue to evacuate as the Restricted Residential Areas, and (3) the Restricted Residential Areas, as the areas that will take a long time until the designation is lifted, in which the radioactive material contamination levels are extremely high and the annual cumulative dose is likely to remain 20 mSv or more even after the lapse of five years (i.e., the areas in which the annual cumulative dose will remain higher than 50 mSv at the time) as the Difficult-to-return Areas. In accordance with the policy above, on April 16, 2012, the designation of the Restricted Areas or the Planned Evacuation Areas in Minamisoma-city is rearranged to the designation of the Difficult-to-return Areas, the Restricted Residential Areas or the Evacuation Directive Lifting of Prepared Areas therein. Consequently, the Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident were rearranged to the Restricted Residential Areas or the Evacuation Directive Lifting of Prepared Areas. Thereafter, by August 2013, the previously Restricted Areas and the previously Planned Evacuation Areas were rearranged in sequence to either of the three Areas above. The schematic diagram of the Areas under Evacuation Orders after the rearrangement of area designation in Minamisoma-city is as contained in Exhibit 5-3, and the schematic diagram that indicates the transition of the Areas under Evacuation Orders until the completion of the rearrangement in August 2013 is as contained in Exhibit 5-4 (pp. 1-9).

After the completion of the rearrangement of such Areas, the designation of the Evacuation Directive Lifting of Prepared Areas for Tamura City was first lifted (April 1, 2014), followed by the gradual expansion of order-lifted areas, and on July 12, 2016, the designation of the Restricted Residential Areas and the Evacuation Directive Lifting of Prepared Areas in Minamisoma-city was lifted. Consequently, the evacuation orders for the Places of Residences, etc., of the Original Plaintiffs at the Time of the Accident were lifted. The schematic diagram of transition in the lifting of evacuation orders until the conclusion of oral argument is as contained

in Exhibit 5-4 (pp. 10 ff).

(Plaintiffs A2-1 (pp. 263-266, pp. 273-276, Materials <5>-1 and <5>-2), Plaintiffs A2-2 (pp. 228-232, pp. 242-244), Plaintiffs A4, Plaintiffs A5-1, A5-2, A6-1 and A6-2, Plaintiffs A8-1 through A8-5, Defendants A5, A7, A8, A10, A11, A13 and A175)

(3) Discharge of radioactive materials due to the Accident, etc.

(a) Discharge of radioactive materials due to the Accident

The estimated total amounts of radioactive materials discharged from the NPP into the atmosphere due to the Accident, as announced by the defendant on May 24, 2012, were about 500,000 TBq (trillion (1 trillion) becquerels) for iodine 131 and about 10,000 TBq for cesium 137 (which is about 900,000 TBq in iodine equivalent). (Plaintiff A1 (p. 329), Plaintiff A2-2 (p.275))

(b) Act on Special Measures Concerning the Handling of Radioactive Pollution, etc.

In light of the Accident, the Act on Special Measures Concerning the Handling of Radioactive Pollution was promulgated on August 30, 2011, and partially came into effect on the same date. The Act, in light of the contamination of the environment by radioactive materials that were discharged from the NPP due to the Accident (defined as the “accident-derived radioactive materials” in the Act), aims at promptly reducing the impact of the contamination of the environment by the accident-derived radioactive materials on human health or living conditions (Article 1 of the Act) by clarifying the responsibilities of the national and local governments, nuclear operators and the public with regard to response to the contamination of the environment by the accident-derived radioactive materials, and by specifying the measures to be taken by the national and local governments, nuclear operators, etc., and by other means (Article 1 of the Act).

Article 25, paragraph (1) of the Act provides that the Minister of Environment may designate “the areas that satisfy the requirements specified in the Ordinance of the Ministry of the Environment for those that the government is required to take measures against such as decontamination, etc., of soil, etc., and carry out collection, transport, storage and disposal of removed soil since they are considered that the contamination of the environment by the accident-derived radioactive materials in the areas is significant, or due to any other circumstances, in view of the radiation dose, etc., detected in the areas and their surrounding areas” as the Special Decontamination Areas. In response to the same paragraph of the Act, Articles 2 and 3 of the Ministerial Ordinance Specifying the Requirements, etc., for Designation of Areas Subject to Management of Contaminated Waste (Order of the Ministry of Environment No. 34, December 14, 2011) indicate that the areas that are, or used to be, the Restricted Areas or the Planned Evacuation Areas (provided, however, that this does not apply to the areas that are not found to require the government to take measures, etc., such as decontamination, etc.) satisfy the requirements mentioned above. In light of the foregoing, Odaka-ku and Ozawa, Haramachi-ku that were respective bases for living of the plaintiffs [78]-1 and [78]-2 were entirely designated as the Special Decontamination Areas.

The basic policy was formulated on November 11, 2011, based on Article 7 of the Act that

provides that the Minister of Environment shall prepare a draft of the basic policy and seek a cabinet decision with regard to responses to contamination of the environment by the accident-derived radioactive materials. With regard to the targets concerning measures for decontamination, etc., of soil, etc., the basic policy indicates that it intends to reduce, in a stepwise and prompt manner, areas with 20 mSv or higher per year of the additional exposure dose, and, for areas where the additional exposure dose is less than 20 mSv per year, to achieve the additional exposure dose of 1 mSv or less per year as a long-term target, and to take other measures.

(Defendant A72, entire import of oral argument, public knowledge)

(Omitted)

### III. Issues in this action and the assertions of the parties related thereto

The issues in this Case is the amount of compensation for the Accident, which is common to all the Original Plaintiffs. The assertions of the parties with respect to the issue is as described below.

(Plaintiffs' assertions)

#### 1. Outline of the plaintiffs' assertions

The Original Plaintiffs had their residences as bases for living in Odaka-ku as described in Exhibit 3 as of March 11, 2011 (provided, however, that two of them had their residences in Haramachi-ku, adjacent to Odaka-ku, and their addresses are also close to Odaka-ku). However, due to the government's evacuation orders arising from the Accident as described in the underlying facts above, the Original Plaintiffs were forced to evacuate from their homes to other places outside of the evacuation areas. As a result, the Original Plaintiffs were forced to live in places other than their original homes, therefore being unable to live their lives they used to have, in which they have suffered enormous and continuous damage through evacuee life. Also, the Original Plaintiffs have suffered irreversible damage from their displacement from the bases of their lives ("*Living in Odaka*") due to the Accident, an unprecedented disaster. The latter damage is not at all overlapped with, and is clearly different in nature from, the former damage that occurs continuously on a daily basis due to the fact that the plaintiffs have been forced to live an evacuee life. Therefore, the Court will hereinafter discuss the details and corresponding amount of compensation for the latter damage (the damage due to the loss of "*Living in Odaka*") and those of the former (damage due to the evacuee life) (as described in Paragraphs 2 and 3 below), respectively. And, in response to the defendant's assertion of the reasonableness of the compensation amount that the defendant has paid or has pledged to pay to the Original Plaintiffs based on the Interim Guidelines, etc., the Court will discuss that the defendant's assertions are wrong (as described in Paragraph 4 below).

(Omitted)

## Chapter 3. Judgement of the Court

### I. Findings

If the underlying facts described above are considered together with each piece of evidence and the entire import of the oral argument indicated in brackets below, the following facts can be found, and there is no evidence that is sufficient to override them (in addition, explanatory information may be provided in brackets below for the purpose of fact-finding).

#### 1. Objective circumstances of the Original Plaintiffs

(Omitted)

#### 2. Infringement of legal interests<sup>6</sup>

##### (1) Judgement of the Court on the infringement of legal interests

By extracting the factual circumstances of common damage as social facts from Section I (Findings) above in order to determine the infringement of legal interests that is common to the Original Plaintiffs who had residences in Odaka-ku, etc. (the "Original Plaintiffs with Residences in Odaka-ku, etc."), the following can be said as described in detail in Paragraph 3 below (1) when leading their lives based on the foundations of their lives in general (food, clothing and shelter; family life; and school, jobs, community activities, etc.) and human relationships in the communities, etc., surrounding their residences as bases for living in which they used to live (the "Broad Foundations of Livelihoods"), they were forced to evacuate with insufficient information due to the sudden occurrence of the Accident, the sudden radioactive fallout over their places of residences as bases for living and their vicinity, and the evacuation orders suddenly issued as a result thereof,

and they were forced to evacuate with insufficient food, clothing and shelter assistance because the evacuation orders were issued for an extremely broad range of target places as well as an enormous number of target people (2) due to the prolonged periods until the evacuation orders above had prospects of being lifted and until such orders were actually lifted, the plaintiffs were forced to evacuate for a long period of time under the abovementioned circumstances (3) for those who did not return after the lifting of the relevant evacuation order, their Broad Foundations of Livelihoods became different from those before the Accident, and for those who returned, the Broad Foundations of Livelihoods to which they used to belong were also forced to change significantly because the periods of the evacuation orders were prolonged in the abovementioned sense, with the broad range of target people and places under the orders and with the

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<sup>6</sup> "Infringement of legal interest" is a requirement in general tort law, while the Compensation Act on Nuclear Damage does not state such a requirement.

contamination of radioactive materials remaining; and (4) it can be said that the plaintiffs were or are under circumstances in which they were or are forced to make decisions from extremely limited choices, compared with cases where the Accident did not occur, on how to organize the Broad Foundations of Livelihoods and their lives in general surrounding their bases for living that are the foundations for their life planning, whether before or after evacuation orders were lifted, on the premise of the prolonged evacuation orders and such changed Foundations, etc., in the abovementioned sense.

The factual circumstances of the damage described above are a clear and direct infringement of the freedom to choose and change one's residence guaranteed in Article 22, paragraph 1 of the Constitution of Japan in the sense that the plaintiffs were displaced from their previous residences as bases for living and prohibited from returning home for a prolonged period of time. Furthermore, the Accident can be said to have seriously harmed the Broad Foundations of Livelihoods to which the Original Plaintiffs with Residences in Odaka-ku, etc., used to belong and the benefits they received from such Broad Foundations of Livelihoods, in light of the suddenness, the broadness of target areas and people, the lengthiness, and the conspicuity of the Accident in the sense that, as described above, this Case is one in which a large number of people in wide areas were suddenly forced to experience isolation from the Broad Foundations of Livelihoods to which each of them used to belong due to the evacuation orders issued in response to the radioactive fallout caused by the Accident, and in which such people incurred enormous damage of unprecedented scale in the sense that they experienced the continued and prolonged circumstances in which there remained no prospects for the evacuation orders to be lifted and, as a result, the abovementioned isolation that continued for a long period of time, and the circumstances in which such Foundations themselves have significantly changed. Because the stability and consistency in the Broad Foundations of Livelihoods is a prerequisite for the maintenance, development and cultivation of a healthy and stable personality, it is essentially desirable that the Broad Foundations of Livelihoods exists in a stable and consistent manner, and that, unless the circumstances are exceptional in reality, the Broad Foundations of Livelihoods be to a significant degree stable, consistently exist, and change in a manner that is modest, with continuity before and after change, and generally predictable (even if changes are expected), thereby enabling people to maintain, develop and cultivate their personalities in a healthy and stable manner. Therefore, for those benefitted from the Broad Foundations of Livelihoods to which they used to belong, when such Foundations suffer damage above a certain level, and interests they enjoyed in such Foundations are essentially damaged, and the damage to their personality reaches a certain level, it is appropriate to understand that the interests in continuous and stable living in the Broad Foundations of Livelihoods to which they used to belong (the "Interests Related to the Broad Foundations of Livelihoods") were infringed. The Interests Related to the Broad Foundations of Livelihoods are related to the personality of individuals; therefore, they can be understood as the moral interests based on Article 13 of the Constitution of Japan.

If this Case is seen in that light, it is a serious invasion of the personality of individuals that a large

number of people in wide areas were suddenly displaced from the Broad Foundations of Livelihoods to which they used to belong and kept in such circumstances over a long period of time, and that the Broad Foundations of Livelihoods have significantly changed even if they become able to return thereto. In this regard, it is obvious that there is an infringement of the Interests Related to the Broad Foundations of Livelihoods in this Case, the degree of which is high; therefore, it can be said that the personality rights themselves are based on Article 13 of the Constitution are substantially infringed upon (see Judgement of the Kumamoto District Court dated May 11, 2001, p.30 of Hanrei Jiho Vol. 1748<sup>7</sup>).

(2) Relations of the infringement with the damage asserted by the plaintiffs

Because the plaintiffs separately assert the damage due to the evacuee life and the damage due to the loss of “*Living in Odaka*,” it can be understood that, with regard to the infringement of legal interests, they separately assert the infringement of the interests in not being forced to evacuate and the infringement of the interests in “*Living in Odaka*”; however, as described above, the infringement of the legal interests recognized by the Court is essentially of the same nature because such infringement of legal interests is also considered by the Court as the infringement of the Interests Related to the Broad Foundations of Livelihoods due to the sudden and prolonged isolation of the plaintiffs in wide areas from the Broad Foundation of Livelihood to which they used to belong and, furthermore, due to the significant change in the Foundations (including the infringement of the freedom to choose and change their residences in the sense of being forced to evacuate (displacement, prohibition of return) from their previous residences as bases for living). In addition, the Interests Related to the Broad Foundations of Livelihoods can be analyzed in detail (e.g., interests that each person enjoys in elements such as food, clothing and shelter; family life; and school, jobs, community activities, etc.; human relationships in communities, etc., to which he or she belongs) according to the attribution of the person in question, but are not limited to an aspect that stable foundations of livelihoods are formed by organically integrating respective foundations that constitutes the Broad Foundations of Livelihoods or, in other words, there are interests that are not limited to just a simple sum of respective interests enjoyed in the respective foundations. Also, in this Case, because the Original Plaintiffs with Residences in Odaka-ku, etc., had their foundations of livelihoods therein at the time of the Accident, the Interests Related to the Broad Foundations of Livelihoods can be called the “interests in *Living in Odaka*” as asserted by the Plaintiffs.

In light of the fact that the infringement of the Interests Related to the Broad Foundations of Livelihoods is sudden, wide-ranging, prolonged and significant, and that the Interests Related to the Broad Foundations of Livelihoods include not only the sum of the interests enjoyed in the Broad Foundations of Livelihoods but also the interests arising from the fact that these

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<sup>7</sup> In this case, the issue was the amount for suffering and anguish of plaintiffs who had been long forced to insolidated from their home because of their disease.

Foundations are organically integrated, it is appropriate, in reviewing the extent of the infringement and evaluating such infringement, to evaluate how the respective Foundations have changed as a whole based on the understanding of how they have changed respectively, rather than reviewing whether each of the interests per se enjoyed in the respective Foundations deserves legal protection. In this respect, for example, it is also appropriate to evaluate the changes in the natural and historical environments (traditional events and customs, etc.) of Odaka-ku and in human relationships, etc., in the community, etc., thereof as pointed out by the plaintiffs, as circumstances for determining the extent of the infringement of the Interests Related to the Broad Foundations of Livelihoods.

Also, in this Case, the Court will calculate the total amount of compensation for the damage due to the loss of “*Living in Odaka*” and the damage due to the evacuee life, rather than calculating the amount of compensation for these items of damage separately, considering first that, as to the distinction made in plaintiff claims between the damage due to the loss of “*Living in Odaka*” and the damage incurred from the evacuee life, there is an aspect in which such a distinction can be made, but this distinction is not necessary because those items of damage are listed in different details under the category of damage (i.e., compensation) in their claims for compensation for damage on a single subject matter, secondly, that, from a practical viewpoint, for example, it is clearly asserted by the plaintiffs that the “economic anxieties” are identical among various specific damage listed in their respective claims for compensation for damage and are in part difficult to be clearly distinguished from the “destruction of close human relationships,” “loss of and change in close human relationships, etc.,” “loss of life plans and of motivation in life; anxiety about the future life,” “worries about being unable to map out a future,” etc., thirdly, that there may occur two kinds of damage at the same time (e.g., change in Odaka-ku, etc., and its irreversibility become clearer day by day due to the prolonged evacuation as pointed out below), in which case the psychological distress will constitute damage with dual aspects, and, lastly, that the defendant has accepted the payment of psychological damage for a part thereof (including the monthly payment of one hundred thousand yen (¥100,000) set out as payable in the Interim Guidelines), which can be understood as having a purport of covering the dual aspects of damage, at least in light of Section I.7(1) above with respect to the payment after the lifting of the evacuation orders.

### 3. Compensation amount

#### (1) Methods of review

The calculation of the compensation amount shall be made by the Court at its own discretion in consideration of various reasons that had arisen by the time of the conclusion of oral arguments in the fact-finding proceedings (see the Judgement of the Second Petty Bench of the Supreme Court dated October 31, 1969, Shumin No. 97, p.143; the Judgement of the Third Petty Bench of the Supreme Court dated May 27, 1997, Minshu Vol. 51 No. 5, p. 2024; etc.). However, such discretion has natural limitations, and the exercise of such discretion is required to remain

within a reasonable and allowable extent in light of conventional wisdom (Judgement of the Third Petty Bench of the Supreme Court dated February 22, 1994, Minshu Vol. 48 No. 2, p. 441). The infringement of the Interests Related to the Broad Foundations of Livelihoods due to the Accident is extremely serious and unprecedented in its suddenness, area covered, length in time and significance, which is the same for the Original Plaintiffs with Residences in Odaka-ku, etc. It is challenging to calculate psychological damage in such cases; however, in order to calculate a reasonable and appropriate amount of compensation for such damage based upon social convention, the Court will determine the compensation amount to be awarded in this Case (paragraph (3) below) by confirming the factual circumstances of the infringement of the Interests Related to Broad Foundations of Livelihoods due to the Accident, reviewing the evaluation for specific factors to be considered in calculating the compensation amount, mainly focusing on the points of assertions or objections made by the plaintiffs and the defendant (paragraph (2) below), and, as asserted by the plaintiffs, allowing for how conventional compensation amounts have been calculated in the cases in Japan that serve as references for this Case.

(2) Review of the mode of infringement and the factors for consideration

(a) Mode of infringement of the Interests Related to the Broad Foundations of Livelihoods

(A) Until the lifting of evacuation orders

As found in Section I.3(2) above, the information of the Accident was not sufficiently communicated to the residents at the initial stage of evacuation orders after the Accident, at least in Minamisoma-city including Odaka-ku, etc., and the evacuation of the residents had to be carried out in a considerably chaotic situation because it was considered that the areas beyond 10 km from the NPP were outside of evacuation areas, and because there was not even any preparation of an emergency drill. Furthermore, as found by the Court, in response to the stay-indoors orders for the areas within a 20-30 km radius from the NPP, evacuees from Minamisoma-city were requested to make a collective evacuation out of the city in the situation where they experienced food shortage without adequate benefits for food, clothing and shelter. Thereafter, as found in Section I.3(3)(a) above, the places of residences of the Original Plaintiffs with Residences in Odaka-ku, etc., as their bases for living were designated as the Restricted Areas on April 22, 2011. Entry into the Restricted Areas is in principle prohibited, and the system for temporary entry, at least in its beginning, placed considerably many restrictions; therefore, it was difficult for the residents to take sufficient daily necessities out of the Restricted Areas. In addition to that, considering also the factual circumstances of damage incurred by the Original Plaintiffs with main Residences in Odaka-ku, etc., that were found in Section I.6 above, the initial evacuation at the time of occurrence of the Accident was sudden and extremely harsh for the Original Plaintiffs with Residences in Odaka-ku, etc., in the sense that the actual damage to food, clothing and shelters were serious, and that changes in activities related to school, jobs, communities and others were drastic. Also, according to the facts found in Sections I.3(2), I.3(3)(a) and I.6 above, since it is clear that the evacuation in Odaka-ku, etc., was not carried out in an organized manner, it can

easily be presumed that human relationships in the communities to which the plaintiffs belonged were suddenly destroyed or at least significantly changed. Because of the above, it can be viewed not only that the plaintiffs' freedom to choose and change their residences were clearly and directly infringed upon, but that the Interests Related to the Broad Foundations of Livelihoods were significantly infringed upon due to the initial evacuation at the time of the occurrence of the Accident based on the evacuation orders.

Thereafter, as described in Section I.3(3)(a) above, Odaka-ku, etc., were designated as the Restricted Areas in the rearrangement on April 22, 2011, and Original Plaintiffs with Residences in Odaka-ku, etc., were accordingly forced to continue their evacuation; therefore, the plaintiffs' freedom to choose and change continued to be clearly and directly infringed upon, and the circumstances of the infringement of the Interests Related to the Broad Foundations of Livelihoods also continued thereafter. Moreover, the plaintiffs were, at the time, forced to choose either permanent or temporary stay in evacuation shelters in circumstances where they had no prospects available if evacuation orders would be lifted.

With respect to the living environment during the evacuation, as can be seen in the factual circumstances of damage incurred by the Original Plaintiffs with Main Residences in Odaka-ku, etc., as found in Section I.6 above, the respective plaintiffs feel distress over the changes in their living environment associated with the evacuation, regardless of the status of their residing in temporary housing.

The evacuation orders toward Odaka-ku, etc., due to the Accident continued for a considerably long period of time from immediately after the Accident to July 12, 2016 (i.e., five years and four months), during which the infringement of the freedom of the Original Plaintiffs with Residences in Odaka-ku, etc., to choose and change residence and the infringement of the Interests Related to the Broad Foundations of Livelihoods including the previously mentioned infringement continued. Furthermore, it was June 12, 2015, when the prospects of the lifting of evacuation orders was temporarily announced (Section I.3(4)(b)), by which time, for four years and three months, the plaintiffs continued to be forced to choose either a permanent or temporary stay in evacuation shelters with no such prospect.

Also, the scope and process of the evacuation orders are as described in Section I.3 (Exhibits 5-1 through 5-4), which covers significantly wide areas and long periods also for the areas surrounding the residences as bases for living of the Original Plaintiffs with Residences in Odaka-ku, etc. In other words, almost all areas of Odaka-ku, etc., are covered over a long period of time.

Moreover, looking at the factual circumstances of damage incurred by the Original Plaintiffs with Main Residences in Odaka-ku, etc., as pointed out in I.6 above, it is considered that some people feel that they lost motivation in life that they used to have, some lost close relationships with neighbors and cannot create new ones, and some were forced to change their life plans and have lost their vision. The mode of infringement of the Interests Related to the Broad Foundations of Livelihoods of the Original Plaintiffs with Residences in Odaka-ku, etc., is

extremely diverse among the plaintiffs; therefore, the circumstances described above cannot be generalized. However, these circumstances are the ones that must be viewed as those that indicate how important it is for people that the Broad Foundations of Livelihoods continue to exist in a stable and consistent manner, and how serious it is for the plaintiffs that the Interests Related to the Broad Foundations of Livelihoods are infringed due to the Accident.

Thus, the evacuation orders due to the Accident suddenly commenced and are unprecedentedly prolonged and wide-ranging, which caused significant damage to the Original Plaintiffs with Residences in Odaka-ku, etc. As found in Section I.3(4)(a) above, even considering that certain activities have become permitted after the rearrangement (of the Areas under Evacuation Orders) into the Evacuation Directive Lift Prepared Areas or the Restricted Residential Areas, and the system that enables the residents to stay at their own residences such as the Preparatory Stay or the Exceptional Stay were implemented a reasonable number of times, it can be viewed that the infringement of the Interests Related to the Broad Foundations of Livelihoods is extremely serious for the plaintiffs who used to belong to (the places that later became) the Areas under Evacuation Orders.

(B) After the lifting of the relevant evacuation orders

a) Those who returned to Odaka-ku, etc.

Due to the Accident, damage occurred in Odaka-ku as found Section I.5 above. In particular, in the first place, the population of Odaka-ku has considerably decreased compared with that before the Accident, and the rate of elderly people accounts for a considerably high percentage (i.e., 60%). Also, the number of children is small, and in particular, kindergarten, primary and secondary school enrollments have considerably decreased; although high school enrollment is still reasonable, there are few commuters from Odaka-ku. Due to such reduction in population, etc., the *Odaka* Police Station is receiving voices of concern arising from the fact that there are no residents around. Also, it is confirmed that there is a significant increase in animal damage compared with that before the Accident, from which it can easily be presumed that this is caused by the evacuation of residents associated with the Accident. The number of commercial facilities has significantly decreased compared with that of before the Accident, and, although it is true that there are certain shops open at present, there is no supermarket, particularly in Odaka-ku. Because there is no prospect of reopening or establishment of supermarkets, etc., there, the residents have difficulty in finding daily goods and food unless they go all the way to Haramachi-ku. Also, while a certain number of businesses have reopened, job opportunities have considerably declined compared with before the Accident, in the sense that factories, etc., that used to provide large-scale job opportunities are closed and have no prospects of reopening. Furthermore, almost all houses in the central area that was formed in the west to *Odaka* Station (in particular, the area along the shopping streets in front of the Station) have been disassembled or are being disassembled. Considering the questionnaire results that are found in Section I.5(1)(a)(C) in addition to the situation above, the Court must recognize that there exists a

considerable obstacle to the increase in the population of Odaka-ku (e.g., in particular, by increasing the return of working generations and children), which can easily be presumed that said obstacle will also be an obstacle to the reopening of places of businesses such as commercial facilities and the recovery of agriculture. Moreover, seeing from, in particular, the aspect of the life of elderly people who constitute a large part of returnees, the number of medical facilities has dramatically declined after the Accident, and, for welfare-related services, only day care has resumed. Despite a certain degree of reconstruction, transportation conditions remain in a state that falls short of the convenience compared with that before the Accident, and we have to say that there is no convenience and reliability in life, at least at levels comparable to those that were enjoyed before the Accident. It is obvious that the situation of Odaka-ku as described above was caused by the evacuation of people and the withdrawal of businesses following the evacuation orders issued associated with the Accident. Taken together, it can easily be presumed that both the life-supporting infrastructure, etc., that used to be available before the Accident constituting the Broad Foundations of Livelihoods to which the Original Plaintiffs with Residences in Odaka-ku, etc., used to belong, and the human relationships in the communities, etc., to which they used to belong, were destroyed or at least changed compared with those that existed at the time of the occurrence of the Accident. Thus, it is found that, when returning to Odaka-ku, etc., the Original Plaintiffs with Residences in Odaka-ku, etc., faced, in various ways due to the Accident, a significant change in the Broad Foundations of Livelihoods to which they used to belong. It is difficult to assume that most of the various aspects that went through changes will be recovered to the conditions that the plaintiffs used to enjoy before the Accident at an early date, and it is difficult to recognize that the recovered state of the Foundations is identical to the previous one unless the recovery is made at an early date; in this sense, therefore, it can be viewed that such changes are irreversible. In this respect, it can be understood that, for the plaintiffs who returned to Odaka-ku, etc., after the lifting of the relevant evacuation order, there remains the infringement of the Interests Related to the Broad Foundations of Livelihoods even after their return.

b) Those who have not returned to Odaka-ku, etc.

According to the review in Paragraph a) above, it is understood that Odaka-ku, etc., has gone through significant and irreversible changes in quality in various ways, and, for the Original Plaintiffs with Residences in Odaka-ku, etc., who returned to Odaka-ku, etc., it is impossible to return to Odaka-ku, etc., with the well-furnished Broad Foundations of Livelihoods to which they used to belong. Also, for those who have not returned to Odaka-ku, etc., it can never be said that, even after the lifting of the relevant evacuation order, they made decisions not to return to Odaka-ku, etc., under their own initiative in the same manner as decisions to move from Odaka-ku, etc., to another place before the Accident. In this respect, it is understood that, also for the Original Plaintiffs with Residences in Odaka-ku, etc., who have not returned to Odaka-ku, etc., there is the infringement of the Interests Related to the Broad Foundations of Livelihoods even

after the relevant evacuation order was lifted.

c) Assertions of the plaintiffs and the defendant with respect to this point

The plaintiffs assert the “demise of *Odaka*” or “loss of *Odaka*” in showing the damage due to the loss of “*Living in Odaka*” while the defendant denies this; as pointed out in Paragraph a) above, the state of Odaka-ku, etc., after the relevant evacuation order was lifted has significantly changed in quality, compared with that of Odaka-ku, etc., before the Accident. On the other hand, as pointed out above, what should be called the “Revival of *Odaka*” is supported by the facts that the return of certain residents, resumption of school, and reopening of certain commercial facilities, etc., and places of businesses, etc., are recognized, that the holding of traditional events such as Soma Nomaioi and Nomakake<sup>8</sup> and the festivity thereof, the revival or scheduled revival of festivals and events are recognized (Section 1.5(1)(e)), and that the efforts for recovery of agriculture and planning of specific measures in the Minamisoma reconstruction comprehensive plan (Sections 1.5(1)(d)(B) and 1.5(2)) are recognized. Those facts are also the circumstances that should be taken into consideration in evaluating the infringement of the Interests Related to the Broad Foundations of Livelihoods.

In addition, the defendant asserts that Odaka-ku’s objective circumstances themselves do not base the infringement of the specific rights of the Original Plaintiffs, which is understood that the defendant asserts that the change of the objective circumstances in Odaka-ku does not affect the compensation amount for the plaintiffs. However, the Court cannot adopt the Defendant’s assertions because, if each of the interests enjoyed by the Original Plaintiffs with Residences in Odaka-ku, etc., in the objective circumstances, etc., in Odaka-ku, etc., is taken one by one, it is, as described in Paragraph 2(2) above, reasonable to take into consideration the status of change in each objective circumstance, etc., as a circumstance for determining the extent of the infringement of the Interests Related to the Broad Foundations of Livelihoods in order to judge how the Broad Foundations of Livelihoods to which the Original Plaintiffs with Residences in Odaka-ku, etc., used to belong have changed as a whole, even if each interest cannot be viewed as deserving legal protection for each of all the Original Plaintiffs with Residences in Odaka-ku, etc., (see Judgement of the First Petty Bench of the Supreme Court dated March 30, 2006, Minshu Vol. 60 No. 3, p. 948<sup>9</sup>).

(b) Factors for consideration other than those in (a) above

(A) With respect to the specific damage incurred by the Original Plaintiffs with Residences in Odaka-ku, etc., among the factual circumstances of the damage incurred by them, the plaintiffs assert, as the damage due to the evacuee life, (1) factual circumstances of the damage incurred at the beginning of the evacuation, (2) factual circumstances of the damage due to the prolonged

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<sup>8</sup> Traditional festival held in Minamisoma-city of which the Residents have been proud.

<sup>9</sup> In this case, the issue was the public interest of nice view of a street. The Japanese Supreme Court denied such an interest in the case.

evacuee life, (3) loss of and change in close human relationships, etc., (4) bullying, discrimination, etc., (5) radiation damage, (6) deterioration in health conditions, (7) economic anxiety and (8) ambiguous loss; assert, as the damage due to the loss of “*Living in Odaka*”, (9) destruction of close human relationships, (10) loss of life plans and of motivation in life; anxiety about future life, (11) deterioration in health conditions, (12) psychological distress associated with destruction of community, (13) economic anxiety and (14) ambiguous loss; assert, in particular, as psychological distress of those who return to *Odaka*, (15) radiation damage, (16) inconvenience in life and (17) deterioration of public security; and assert, as to psychological distress of those who do not return to *Odaka*, (18) psychological distress due to the fact that they have to leave a special ancestral place, *Odaka*, (19) psychological distress due to the fact they cannot continue to live in their residences filled with a lot of memories, (20) hardships faced in new places and (21) remorse for having left *Odaka*. The details of Points (1), (2), (3), (9), (12), (16), (17) and (20) are as described in Paragraph (a) above, and the other Points will be reviewed below in consideration of the assertions of both parties and the opinions of the Court.

(B) (4) Bullying, discrimination, etc.; (6), (11) Deterioration in health conditions

The facts that there were bullying, discrimination, etc., and deterioration in health conditions due to the Accident are understood as reasons for an increase in compensation based on individual circumstances, which is therefore excluded from the proceedings of this Case.

Nevertheless, there are some Original Plaintiffs with Residences in Odaka-ku, etc., who suffered discrimination, defamation, etc., associated with the Accident and, as described in Section I.4(4) above, it is pointed out that there is discord between the evacuees due to the Accident and residents of the evacuation areas caused by the prolonged evacuation, that there is prejudice against “contamination from radiation” due to the general public’s thinking, and that there are many such Plaintiffs whose health condition became worse during the evacuee life, which indicates the particularity of the mode of infringement of the Interests Related to the Broad Foundations of Livelihoods due to the Accident. Therefore, the fact that the plaintiffs were put in the position where things like the above could happen should be understood as a circumstance for determining the extent of the infringement of the Interests Related to the Broad Foundations of Livelihoods.

(C) (5), (15) Radiation damage

The plaintiffs assert “the fact that they heavily exposed at the beginning of the evacuation” (as an aspect of damage due to the loss of “*Living in Odaka*”), their suffering from strong fear of and anxiety about health damage, the existence of temporary storage spaces, the fact that the Accident is not settled (as the suffering of those who return to *Odaka*), and the fact that there is radiation damage (as the damage incurred in evacuee life that will be the base for compensation for evacuation), respectively; therefore, the abovementioned points will be discussed below.

First, with respect to health effects of low dose exposure (less than 100 mSv), the ICRP

2007 Recommendations, while adopting the LNT model in which the incidence rate of cancer or genetic influence increases in direct proportion to dose increment, state that “it should be stressed that biological/epidemiological knowledge clearly demonstrates the hypothesis that is the basis of the model may not be immediately obtained.” On that basis, the ICRP 2007 Recommendations state that the excess cancer mortality risk is 0.55% per 100 mSv, and on the assumption of this and the LNT model, the individual cancer mortality risk is 0.11% for exposure to 20 mSv (i.e., 11 in 10,000 people); 0.0275% for exposure to 5 mSv (275 in 1 million people); and 0.0055% for exposure to 1 mSv (55 in 1 million people), respectively. Also, the Report of Working Group on Risk Management of Low-dose Radiation Exposure states that it is difficult to prove a clear increase in risk of developing cancer due to radiation exposure because the radiation exposure dose of 100 mSv or less is small enough to be hidden in the effects of carcinogenesis caused by other factors, and that the LNT model is “not accepted as scientifically proven truth.” On the other hand, in the middle of that discussion, there was an opinion that there is a possibility that the risk of developing cancer becomes clear in a situation after a longer period of time has passed. Under the discussion about the general health effects of low dose exposure as described above, the UNSCEAR 2013 Report, while pointing out that it contains some inaccuracies, estimates that the average annual additional exposure doses immediately after the Accident of those who evacuated from the Precautionary Evacuation Areas (i.e., the places of residences of the Original Plaintiffs with Residences in Odaka-ku, etc., at the time of the Accident) result in effective dose of 1.1-5.7 mSv for an adult, of 1.3-7.3 mSv for a child or 10-year-old child, and of 1.6- 9.3 mSv for a baby or 1-year-old child, and states that the rise in the incidence rate of health effects in a group exposed to radiation due to the Accident is not necessarily identifiable against the standard level (however, this does not preclude the possibility that there may be an excessive increase in disease cases in the future). The current radiation dose in Odaka-ku can be identified and found to the extent as described in Sections I.4(2)(b).

(For those above, see Sections I.4(1) and I.4(2) above.)

From these points, it is difficult to identify and find both the radiation dose to which the Original Plaintiffs with Residences in Odaka-ku, etc., were exposed at the beginning of the evacuation immediately after the Accident and the radiation dose to which residents are exposed through their lives in Odaka-ku, etc., at the current stage; therefore, the Court cannot find the degree of health effects by such doses in a specific manner. However, we are in a situation where intergovernmental organizations adopt the understanding that even the low-dose exposure does not mean no risks of health effects, and that the low-dose exposure is associated with risks of health effects according to the degree of radiation dose exposure. In this respect, it cannot, at least, be said to be unreasonable that certain stress may be caused due to the spreading of radioactive materials due to the Accident and the artificial radiation exposure and living in a contaminated environment as a result caused by such spreading (of radioactive materials). This is supported also by the point found in Section I.4(4) above that strong anxiety and fear symptoms are formed among those evacuated from the places within a 30 km radius from the NPP

immediately after the Accident. It is appropriate to take into consideration, as a circumstance for determining the extent of the infringement, the fact that the issue of the contamination by radioactive materials caused stress to the evacuees even if the contamination or the radiation exposure from radioactive materials with objectively specific health risks is not found, because the contamination by radioactive materials due to the Accident and the evacuation orders due to such contamination are the modes of infringement of the Interests Related to the Broad Foundations of Livelihoods.

Also, as found in Section I.4(3) above, the current state of the NPP is not sufficient enough to be found with the potential of posing specific risks to the health, etc., of the residents surrounding the NPP. On the other hand, considering the current state of the NPP, it is considered that it cannot be said that the Accident is completely settled; therefore, it cannot be said to be unreasonable that certain stress, at least, may be caused by such circumstances. Moreover, since this is also the matter of the mode of infringement of the Interests Related to the Broad Foundations of Livelihoods, it is similarly appropriate to take it into consideration as a circumstance for determining the extent of the infringement.

In addition, the radiation damage incurred in evacuation places falls under individual circumstances, which is therefore not subject to hearing in this Case.

(D) (7), (13) Economic anxiety, etc.

The plaintiffs assert that the Original Plaintiffs with Residences in Odaka-ku, etc., suffer from anxiety due to the Accident because of increases in the burdens of expenses for transportation and accommodation needed for meeting their families and friends and of expenses for newly required food, etc., and newly required rent, and because of the loss of their jobs. Among these burdens, those that specifically increased in excess of the increase in the cost of everyday life should be taken into consideration as the property damage, which is not subject to hearing in this Case. Also, what are understood as increases in the cost of everyday life should be considered in Section (c) below. Anxiety due to the loss of a job is an individual circumstance, which is therefore not subject to hearing in this Case. In addition, if the gist of the plaintiffs' assertion is that the plaintiffs have experienced anxiety about the fact that their income and expenditure have changed following the significant change in the Broad Foundations of Livelihoods to which they used to belong, and the fact that their income and expenditure change from their previous state, this assertion must also be taken into consideration in evaluating the infringement of the Interests Related to the Broad Foundations of Livelihoods.

Moreover, in this respect, that the defendant indicates certain standards for compensation for property damage, and, in particular, that certain standards for damage associated with securing housing and with incapacity to work, and for business losses (Section I.7(3) above), are the circumstances which to some extent must be taken into consideration, in comparison with the situation where there is no such indication. Although the Court will not make any judgement on the adequacy of the standards for compensation, and on whether any legally considerable amount of compensation for property damage, etc., is actually paid to the Original Plaintiffs with

Residences in Odaka-ku, etc., because such matters are not subject to hearing in this Case, the Court will take them into account to the extent that the defendant has at least indicated such standards for compensation as found in Section I.7(3) above.

(E) (8), (14) Ambiguous loss, (10) loss of life plans and of motivation in life; anxiety about future life, (18) psychological distress due to the fact that they have to leave a special ancestral place, *Odaka*, (19) psychological distress due to the fact they cannot continue to live in their residences filled with a lot of memories, (20) hardships faced in new places and (21) remorse for having left *Odaka*.

As described in Paragraph (a) above, considering that the infringement of the Interests Related to the Broad Foundations of Livelihoods occurred in a sudden, prolonged, wide-ranging and significant manner, it is natural that anxiety about the future life arises in connection with the changes in which the plaintiffs were forced to change the life plans they had before the Accident and in which their motivation in life changed at least compared with those they had before the Accident, that the plaintiffs suffered psychological distress by leaving from Odaka-ku, etc., where their long-held residences existed or the residences where they lived before the Accident, and had trouble adjusting to new places, and therefore that the abovementioned circumstances are those that must be taken into consideration in terms of the infringement of the Interests Related to the Broad Foundations of Livelihoods.

Also, as described above, it was June 12, 2015, a long four years and three months since the Accident, that the prospect of lifting the evacuation orders issued associated with the Accident issued for the places of residences of the Original Plaintiffs with Residences in Odaka-ku, etc., as bases for living at the time of the Accident was announced in some form, and it was July 12, 2016, a long five years and four months since the Accident, that the order was actually lifted. Moreover, although, following the actual lifting of the orders, there is no more legal restriction on the plaintiffs' returning to or activities in Odaka-ku, etc., the current reality is as described in Paragraph (a)(B)a) above, and there has been significant changes in the Broad Foundations of Livelihoods to which they used to belong. Furthermore, as pointed out in Paragraph (C) above, the plaintiffs are in a circumstance that, at least, cannot be said to be unreasonable if they feel certain stress caused by the existence of radiation or radioactive materials. In the abovementioned situation, there were significant changes in the Broad Foundations of Livelihoods to which each of the plaintiffs used to belong, which means that the plaintiffs were or are placed under circumstances in which they are forced to make decisions—at any stage and based on the premise of the abovementioned circumstances—on how to organize the Broad Foundations of Livelihoods and settle their lives in general, surrounding their bases for living that will form the foundations for their life planning, from choices that are extremely limited compared with those before the Accident. For example, those who decided not to return before the lifting of the relevant evacuation order can be said to be forced to give up their lives in Odaka-ku, etc., the bases of their living, with no prospects for the timing of the lifting of the relevant such an increase evacuation order and for circumstances

thereafter, and also those who decided not to return after the lifting of the evacuation orders will have no choice but to weigh up life in the evacuation place that have formed for the time being against the life in their bases for living after their return. On top of that, even if they return, they will, as described above, at least have to accept the circumstances where the environment, etc., of Odaka-ku, etc., that can be said to constitute an element of the Broad Foundations of Livelihoods to which they used to belong have suffered irreversible changes. This also applies to those who decided to return after the relevant evacuation order was lifted. The magnitude of psychological distress because of being placed under the abovementioned circumstances is clear from the expression of the agony of making decisions to return by the Original Plaintiffs with Main Residences in Odaka-ku, etc., found in Section I.6 above. Then, the fact that the plaintiffs were forced to make the aforementioned decisions arose from, as a premise, the sudden, prolonged, wide-ranging and significant infringement of the Interests Related to the Broad Foundations of Livelihoods due to the Accident, and from the circumstance in which the loss per se of the Broad Foundations of Livelihoods to which the plaintiffs used to belong, among losses resulting from the “loss of the one and only person or thing” as described in Section I.4(4) above, is uncertain. Such above-mentioned “ambiguous loss” causes a complicated stress response (Section I.4(4)), which therefore must be taken into consideration as a circumstance that indicates the degree of psychological distress caused by the infringement of the Interests Related to the Broad Foundations of Livelihoods due to the Accident. With this connection, the fact that one feels (21) remorse for leaving Odaka-ku must be taken into consideration as a circumstance that causes psychological distress.

(c) Increase in the cost of living

It can easily be presumed that the evacuation that was carried out following the evacuation orders issued associated with the Accident will necessarily cause certain increase in the burden of the general cost of living, and it is natural that a proximate cause between such an increase and the Accident can be found, which per se is not disputed by the defendant. On the other hand, in this Case, there is no presentation of evidence on specifically how much the increase in the general cost of living of the Original Plaintiffs with Residences in Odaka-ku, etc., is. Therefore, the Court must say that it is difficult to find or admit the amount specified as the actual damage.

However, the original number of victims of the Accident was massive, as a result of which there are a number of the Original Plaintiffs in this Case. In this regard, it can at least be said that, although also from the perspective of both prompt remedy and the operation of proceedings, it is not appropriate for the Court to ask for proof of the increase in the general cost of living of the respective plaintiffs, it is appropriate that the increase in the abovementioned general cost of living be considered by adding to the amount of compensation.

(d) Review of the compensation amount

Although it should be understood that the damage from the infringement of the Interests Related to the Broad Foundations of Livelihoods was incurred by the Original Plaintiffs with Residences in Odaka-ku, etc., at the time of the Accident, its patterns of emergence may include the one that is incurred constantly over the period of evacuation, such as isolation from the Broad Foundations of Livelihoods to which the plaintiffs used to belong (including the infringement of the freedom to choose and change residence as described Paragraph (a)(A) above). In this regard, as to hospitalization which is similar to the previously mentioned damage the sense of inhibiting daily life, the compensation therefor is a factor that should be taken into consideration. According to the Standard for Calculating Damages in Civil Traffic Accident Cases 2011, vol. 1 (Collection of Standards) published by the Tokyo Branch of Nichibenren Traffic Accident Consultation Center (so called "Red Book 2011") that is respected in Japanese court cases and also significantly by the Court, the compensation for hospitalization, for example, for 64 months (from March 11, 2011 to July 12, 2016) will be basically six million, three hundred and forty thousand yen (¥6,340,000), and for 85 months (from March 11, 2011 to March 31, 2018), seven million and six hundred thousand yen (¥7,600,000). It can be viewed that, for the purpose of compensation for hospitalization, factors considered include that there is a direct physical damage to the body, etc., such as injury, etc., that requires hospitalization, and that there is a severe infringement of freedom of movement, coupled with such injury to the body, etc. However, if the infringement of the Interests Related to the Broad Foundations of Livelihoods is considered as damage that is common to the Original Plaintiffs with Residences in Odaka-ku, etc., only from the viewpoint of the infringement of the physical freedom and the freedom of movement, it is understood that, looking at the entire prolonged period of time, the extent of infringement is lower, compared with the prolonged hospitalization even if the Court fully take into consideration that the evacuation at the beginning of the Accident was extremely harsh, particularly with the harshness of the living environment under the prolonged evacuation (Paragraph (2)(a)(A) above). However, as described above, in this Case, there is also a mode of infringement of the Interests Related to the Broad Foundations of Livelihoods that cannot be fully evaluated from the perspective of the infringement of the freedom of action, such as psychological distress under circumstances in which the plaintiffs are forced to make decisions about the Broad Foundations of Livelihoods and the organizing of their lives from extremely limited choices as described Paragraph (b) above caused by the damage to, and uncertain loss of, the Broad Foundations of Livelihoods to which the plaintiffs used to belong. In this regard, the extent of the infringement is higher than hospitalization. In addition, although the plaintiffs assert the comparison between hospitalization and criminal compensation system, it cannot be said that hospitalization is similar to the criminal compensation system that is on the premise that the criminal is taken under custody and that the criminal's freedom of action and movement is almost completely restricted.

Furthermore, in this Case, because there was not only the irreversible and significant change in the Broad Foundations of Livelihoods to which the plaintiffs used to belong, but also the infringement of the Interest Related to the Broad Foundations of Livelihoods due to such

change, either during the evacuation or after the lifting of the relevant evacuation order, the latter point should be taken into consideration, in addition to the former.

For this reason, in evaluating the entire infringement without taking into account the increase in the general cost of living, the evaluation of the infringement that occurred around the time of the lifting of the evacuation orders, as part of the one that occurred at the time of evacuation, in part involves the evaluation of the infringement that may occur thereafter; therefore, the amount pointed out by the Court above as compensation for hospitalization that should be taken into consideration in calculations should be used as the minimum amount of the total compensation amount, and then the amount that cannot be fully evaluated therein should be added thereto. On the other hand, in evaluating the entire compensation above, its balance with compensation for death that is irreversible and the most serious infringement on the lives of humans—the most important rights and interests that should be prioritized, should be considered. In this regard, the Red Book (2011 ver.) sets out that the compensation for death will be between twenty million yen (¥20,000,000) and twenty-eight million yen (¥28,000,000).

Next, as described (c) above, it is appropriate to consider the increase in the general cost of living as part of compensation. In this regard, incidental expenses associated with hospitalization are one of the factors that should be taken into consideration, and the Red Book (2011 ver.) sets out that such expenses will be one thousand and five hundred yen (¥1500) per day (about forty five thousand yen (¥45,000) per month). On the other hand, considerations for the evaluation must include the facts that the increase in the general cost of living varies depending on the Original Plaintiffs with Residences in Odaka-ku, etc., and therefore have to be conservatively estimated in this Case in which common damage is a matter of concern, and that, as described in Section I.7(2) above, it suffices in this Case to assume the general cost of living other than expenses for evacuation, temporary entry into their homes, returning home, and compensation for loss of or decrease in the values of their properties, etc., because they are separately acceptable for compensation. Also, as to which period to use to evaluate that increase, the period until March 2018 as accepted by the defendant should be the one in which the increase in the general cost of living should be taken into consideration as grounds for increasing the amount of compensation. As it is clear from the assertions made by the plaintiffs and the factual circumstances of the damage incurred by the Original Plaintiffs with Main Residences in Odaka-ku, etc., as found in Section I.6 above, some plaintiffs have already returned to Odaka-ku; therefore, the Court must say that it is difficult to see that the cost of living increases due to evacuation after their return to Odaka-ku, etc., and that, in this Case in which the damage common to the plaintiffs is a matter of concern, it is impossible to take into consideration the general cost of living for the period after March 2018 that is accepted by the defendant.

In this regard, the plaintiffs also assert that the defendant should compensate for the damage due to the evacuee life excluding the cost of living at least for the period up to July 2019. However, the plaintiffs distinguish between the damage due to the evacuee life and the damage due to the loss of “*Living in Odaka*,” and, for the former, claim the compensation for the damage

in a manner to specify the period subject to compensation and then to add the total of the monthly amounts. The Court will not adopt the calculation method asserted by the plaintiffs because both of the above fall under the infringement of the Interests Related to the Broad Foundations of Livelihoods; therefore, the plaintiffs' assertion lacks premise and will not be adopted by the Court.

### (3) Interim Guidelines, etc.

The defendant explains the reasonableness of the Interim Guidelines, etc., and asserts that the Guidelines should be fully respected in the judicial proceedings. However, because the Interim Guidelines, etc., are originally only "general guidelines to contribute to the voluntary resolution by the parties" (Article 18 of the Act on Compensation for Nuclear Damage), it goes without saying that the details of the Guidelines are not binding Court. Therefore, the Court may and should make judgement on the validity of the plaintiffs' claims setting aside the details of the Interim Guidelines, etc.

### (4) Judgement

As described above, it may be viewed that the Original Plaintiffs with Residences in Odaka-ku, etc., have suffered the enormous common damage that is the infringement of the Interests Related to the Broad Foundations of Livelihoods due to the Accident on March 11, 2011 when the Accident occurred. In calculating the compensation, the points described above must be taken into consideration. Considering all the circumstances revealed in this Case focusing on the points described in Sections II.2 and II.3, for the common compensation amount to such plaintiffs due to the Accident that exceeds eight million and five hundred thousand yen (¥8,500,000) that is accepted by the defendant, the Court considers that three million yen (¥3,000,000) per plaintiff shall be appropriate.

(Omitted)

## 6. Conclusion

Consequently, the Court decides as stated in the main text, partially admitting the claims by the plaintiffs other than the plaintiffs [45]-3, [67]-6 and [95]-3 since these claims have grounds to the extent stated in the main text, dismissing the other claims by such plaintiffs and the claims by plaintiffs [45]-3, [67] -6 and [95] -3 since they have no grounds, and applying Article 61, the main text of Article 64 and the main text of Article 65, paragraph (1) of the Code of Civil Procedure for the court costs, Article 259, paragraph (1) of the same Code for the declaration of provisional execution, and Article 259, paragraph (3) of the same Code for the declaration of derogation of provisional execution for which the petition was filed by the defendant.

Civil Division No. 50 of Tokyo District Court

Presiding Judge: MIZUNO Yuko

Judge: YAMASHITA Hiroyuki

Judge: NAKAYOSI Osamu

(Exhibits omitted)