# The Courts of three instances confirmed legitimacy of the FAS Russia’s decision and determination regarding “RZhD” OJSC

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On 24th August 2010, the Federal Arbitration Court of the Moscow District confirmed legitimacy of the decision and determination of the Federal Antimonopoly Service (FAS Russia) regarding “Russian Railways” OJSC (“RZhD” OJSC) and dismissed the cassation appeal of “RZhD” OJSC.

On 3rd April 2009, FAS Russia found that “RZhD” OJSC, which has dominant position in the market for the services of railway transportation and the services for use of public railway infrastructure (as a carrier and the infrastructure owner), abused its dominance on the market of railway transportation (Part 1 Article 10 of the Federal Law “On Protection of Competition”).

“RZhD” OJSC was imposing contracts for organization of passenger transportation upon owners of passenger rolling stock. The cost of services was 9 % of the transportation fee. Also “RZhD” OJSC created privileged conditions for “RZhD-Tour” Ltd. Such actions created obstacles for other legal entities (companies) that organize tourist traffic using its own or leased rolling stock for passenger transportation and (or) services.

FAS Russia established that acting as a natural monopoly “RZhD” OJSC violated Clause 8 Part 1 Article 10 of the Federal Law “On Protection of Competition” —imposing disadvantageous conditions upon counteragents or conditions irrelevant to the subject of the contracts.

FAS Russia also found that “RZhD” OJSC violated Clause 8 Part 1 Article 10 of the Federal Law “On Protection of Competition” (creating discriminatory conditions) and Clause 9 Part 1 Article 10 of the Federal Law “On Protection of Competition” — preventing market entry of companies that organize tourist traffic using its own or leased rolling stock for passenger transportation and (or) services.

Having investigated the case, FAS Russia issued a determination to “RZhD” OJSC to stop the antimonopoly violation. “RZhD” OJSC disagreed with the FAS Russia’s decision and determination and filed a law suit.

The Moscow Arbitration Court, the 9th Arbitration Appeal Court and the Federal Arbitration Court of the Moscow District the Federal Arbitration Court of the Moscow District fully confirmed legitimacy of the decision and determination of the Federal Antimonopoly Service regarding “Russian Railways” OJSC.