

ARBITRATION COURT OF MOSCOW
115191, Moscow, ul. Bolshaya Tulsкая, 17
<http://www.msk.arbirt.ru>

In the name of the Russian Federation
DECISION

(as per art.176 of the Arbitration Procedural Code of the Russian Federation)

13 February 2014

Case № A40- 134939/13

The Arbitration Court of Moscow composed of:

Judge: N.V. Fateeva (reg. number of the judge 129-866)

With minutes taken by the secretary E.V. Korshikova.

Participating:

On the plaintiff's side – V.S. Pleshakov – (procuration dated 14.01.2014, identification card),
A.A. Podkovko – (procuration dated 21.01.2014, passport of Russian Federation)

On defendant's side FCS – L.I. Cherkosov (procuration dated 27.09.2013 №15-47/95-13d,
passport), A.V. Nikonov (procuration dated 12.11.2013 №15-47/111-13d, passport),
I.Yu. Kulikov (procuration dated 26.12.2013 №15-47/223-13d, identification), K.V. Lebedev
(procuration dated 26.12.2012 №15-46/100-12d, passport of Russian Federation)

Representing A.Yu. Belyaninov – K.V. Lebedev (procuration dated 02.12.2013, passport of
Russian Federation)

Representing A.V. Smelyakov - K.V. Lebedev (procuration dated 02.12.2013, passport of
Russian Federation)

Has examined in an open court session the case regarding the claim

Of the Association of International Road Transport Carriers (ASMAP) (BIN1027739208166,
legal address: 109147, Moscow, ul. Marksistskaya, d.34, str.9)

Towards the defendants: 1) Federal Customs Service (FCS of Russia)(BIN 1047730023703,
legal address: 121087, Moscow, ul. Novozavodskaya, d.11/5)

2) Andrey Yurievich Belyaninov (legal address: 121087, Moscow, ul. Novozavodskaya,
d.11/5)

3) Alexander Valentinovich Smelyakov (legal address: 121087, Moscow, ul.
Novozavodskaya, d.11/5)

of the defence of its business reputation.

HAS DECIDED:

1. To recognise the following information as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP), notably in relation to “Changes to the application of the TIR procedure as of 14 August 2013” published on the internet under http://www.customs.ru/index.php?option=com_content&view=article&id=17830:-14--2013-----&catid=40:2011-01-24-15-02-45&Itemid=2055;

“Non-delivery of goods, transported under cover of TIR Carnets, breach of commitments by ASMAP for the payment of customs duties and taxes claimed by the Customs authorities, despite measures taken by the FCS of Russia regarding debt recovery, continue to cause damage to the federal budget”.

To oblige the FCS of Russia to retract the information recognised as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP) information, published in the statement related to “Changes to the application of the TIR procedure as of 14 August 2013”, published on the Internet under http://www.customs.ru/index.php?option=com_content&view=article&id=17830:-14--2013-----&catid=40:2011-01-24-15-02-45&Itemid=2055, by publishing a retraction on the site www.customs.ru in the same section of the site and in the same font as the published information subject to the claim, no later than 10 days from the day the decision of the Arbitration Court of Moscow on this case enters into force.

Text of the Retraction:

“The information stating that ASMAP breaches its commitments regarding the payment of customs duties and taxes claimed by the Russian Customs authorities, resulting in damages to the federal budget, is inconsistent with reality”.

2. To recognise the following information as stated in the letter dated 04.07.2013 N°01-18/28660, addressed to the Advisor to the President of the Russian Federation I.E. Levitin as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP), notably in relation to “The FCS of Russia has repeatedly expressed serious concern regarding the breach of commitments by the Association of International Road Transport Carriers (ASMAP). Ever more frequent cases of non-delivery of goods transported under cover of TIR Carnets and the breach of commitments by ASMAP regarding the unconditional payment of all claims from the Customs authorities, issued with respect to the procedure established in accordance with the Customs Convention of the International Transport of Goods under cover of TIR Carnet, 1975, cause damage to the federal budget. As of 1 June 2013 the debt amounts to 41% of the total debt of the stakeholders of foreign economic activities towards the Customs authorities”.

To oblige the FCS of Russia to retract the information recognised as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP), as published in the letter dated 04.07.2013 N°01-18/28660,

addressed to the Adviser to the President of the Russian Federation I.E. Levitin, by sending a Retraction addressed to the Adviser to the President of the Russian Federation I.E. Levitin no later than 10 days from the day the decision of the Arbitration Court of Moscow on this case enters into force.

Text of the Retraction:

“The information stating that ASMAP breaches its commitments regarding the unconditional payment of all the claims of Customs authorities, issued with respect to the procedure established in accordance with the TIR Convention, 1975, resulting in damages to the federal budget, and the information stating that the debt of ASMAP amounts to 41% of the total debt of the stakeholders of the foreign economic activities towards the Customs authorities is inconsistent with the reality.”.

3. To recognise as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMАP) the information circulated in the video clip of the “Press conference of the Head of FCS of Russia, Andrey Belyaninov, related to the “Measures to guarantee customs transit and other topical issues of customs administration”, held at RIA “Novosti” on 14.08.2013”, and published on the Internet under

http://www.customs.ru/index.php?option=com_content&view=article&id=18026:2013-08-14-12-08-53&catid=26:2011-01-24-14-45-21&Itemid=1830&Itemid=1851, as well as under http://www.youtube.com/watch?v=imZNWghQazo&feature=player_embedded#t=0: “The debt of ASMAP towards the FCS of Russia has been accumulating for a long time, and to date has exceeded 20 billion Rubles. Naturally, we turn to this organisation so that they, as we commonly say, “pay the taxes and sleep peacefully”. Well, as from 14 August 2013, which is today, we have a restless sleep ... they are not sleeping and we are not sleeping either, because we would like to see this money go into the revenue part of the budget, and they have, probably, some difficulties, maybe objective ones, even if in my opinion it is not the case, to somehow adjust the FCS of Russia’s claims towards ASMAP. I am sorry for those abbreviations, you will hear them quite often today, it’s just to make clear who is involved in this discussion. In my opinion, it is a matter of a relationship between the federal executive agency which carries out a fiscal function (FCS of Russia) and an entity which is not paying taxes”.

To oblige Andrey Yurievich Belyaninov to retract the information inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMАP) as circulated in the video clip of the “Press conference of the Head of FCS of Russia, Andrey Belyaninov on the “Measures to guarantee customs transit and other topical issues of customs administration”, held at RIA “Novosti” on 14.08.2013”, and published on the internet under http://www.customs.ru/index.php?option=com_content&view=article&id=18026:2013-08-14-12-08-53&catid=26:2011-01-24-14-45-21&Itemid=1830&Itemid=1851, as well as under http://www.youtube.com/watch?v=imZNWghQazo&feature=player_embedded#t=0 by placing a video-retraction on the sites www.customs.ru и www.youtube.com in the same section as the information subject to the retraction, no later than 10 days from the day the decision of the Arbitration Court of Moscow on this case enters into force, indicating that: “The

information that there is a fact of non-payment of taxes by ASMAP, as well as the information that the debt of ASMAP towards the FCS of Russia to date exceeds 20 billion Rubles, are inconsistent with reality.”.

4. To recognise as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP) the information circulated in the video clip of the “Declaration of the Head of the Public Relations Office of the FCS of Russia, Alexander Smelyakov, on the RBK Channel”, published on the internet under

http://www.customs.ru/index.php?option=com_content&view=article&id=17991:2013-08-09-12-44-46&catid=26:2011-01-24-14-45-21&Itemid=1830&Itemid=1851, as well as under http://www.youtube.com/watch?v=ojRDulcfNXw&feature=player_embedded#t=0 “We are trying to resolve our differences with ASMAP (Association of International Road Transport Carriers), which unfortunately does not fulfil its obligations lately to transfer money to the budget”.

To oblige Alexander Valentinovich Smelyakov to retract the information recognised as inconsistent with reality and defamatory towards the business reputation of the Association of International Road Transport Carriers (ASMAP) as circulated in the video clip of the “Declaration of the Head of the Public Relations Office of the FCS of Russia, Alexander Smelyakov, on the RBK Channel”, published on the internet under http://www.customs.ru/index.php?option=com_content&view=article&id=17991:2013-08-09-12-44-46&catid=26:2011-01-24-14-45-21&Itemid=1830&Itemid=1851, as well as under http://www.youtube.com/watch?v=ojRDulcfNXw&feature=player_embedded#t=0, by placing a video-retraction on the sites www.customs.ru и www.youtube.com in the same section as the information subject to the retraction, no later than 10 days from the day the decision of the Arbitration Court of Moscow on this case enters into force, indicating that: “The information stating that ASMAP breaches its commitments regarding the transfer of money into the budget is inconsistent with reality”.

To recover from the FCS of Russia (BIN 1047730023703, legal address: 121087, Moscow, ul. Novozavodskaya, 11/5) in favour of the Association of International Road Transport Carriers (BIN 1027739208166, legal address: 109147, Moscow, ul. Marksistskaya, 34, stroenie 9) the state fee payment amounting to 16’000.00 RUB.

To return from the federal budget to the Association of International Road Transport Carriers the overpaid state fee amounting to 16’000.00 RUB.

This Decision may be appealed in the Arbitration Court within one month of its adoption.

Judge N.V. Fateeva