

Slovakia rail: Abuse of dominant position - penalties too low and delays too long

In **2012**, the Antimonopoly Office of Slovak Republic (AMO SR) had already taken a decision in a very interesting case related to the key condition to be able to offer rail freight services, the **availability of railway rolling stock**.

Between 2005 and 2010, the state owned rail company Železničná spoločnosť Cargo Slovakia (ZSCS) **refused to sell or lease surplus electric locomotives** and it also refused to provide fuelling services to other operators.

The competition authority had considered that **this attitude of refusing to supply was an abuse of a dominant position** within the meaning of article 102 of the Treaty on the Functioning of the European Union and must be sanctioned.

On 19 July 2019, AMO SR confirmed its position but imposed a sanction of nearly 3 million € - instead of 10 million € – after the original decision had been annulled by the Regional Court in Bratislava and the Supreme Court of the Slovak Republic. In the current decision, the Office took into account the comments of the courts.

The decision has not come into force yet, meaning that it required **10 years for the Slovakian authorities to penalise**, with a small sanction, the state rail freight monopoly for abuse of dominant position. ERFA is writing to **DG COMP** asking them to review competition processes in Slovakia. It is totally unacceptable for any new operator to have to wait ten years for the resolution of what the competition authority clearly believes is anti-competitive behaviour.

Carole Coune, ERFA Acting Secretary General :

The future of the climate also depends of the audacity of the judges. For the development of a healthy market in second hand rolling stock of all types, as there is for air and road vehicles, competition authorities and judges must play their role : investigate and condemn severely the refusal to supply as abuse of dominant position in the meaning of article 102 of the Treaty.

For more information, you can contact:

Carole Coune, Acting Secretary General, European Rail Freight Association asbl, info@erfarail.eu, Tel +32 2 513 6087 & +32 478 303 005 ; Rue Montoyer 23, B-1000 Brussels ; Reg nr. 0478.440.721 . Belgian official gazette 26.11.2007