

Disputing non-normative acts of the antimonopoly authority both at a higher-ranking authority (or a higher-ranking officer) and in courts

Upon finishing in consideration of cases involving violation of antimonopoly legislation and other administrative procedures (in particular coordination of transactions), the FAS of Russia issues non-normative acts, which may provide for certain sanctions (resolutions for levying a fine) and the duty to perform certain actions (compliance orders).

Disputing non-normative acts contravening the interests of business entities is possible via challenging them at an arbitrazh court and at a higher-ranking authority (or a higher-ranking officer).

The most widespread means of challenge is when an applicant appeals to a court. A business entity has the right to file an application with an arbitrazh court to have non-normative legal acts declared invalid (illegal) if the disputed non-normative acts do not correspond to the law and violate their rights and legal interests in the area of entrepreneurial and other economic activity.

An extrajudicial challenge takes place depending on the authority that adopted the disputed act: a non-normative act of a territorial office of the FAS is disputed at the central office (TsA) of the FAS of Russia, while a non-normative act from a department of the TsA of the FAS of Russia goes to the Head of the FAS of Russia.

The basis for launching an extrajudicial challenge procedure is constituted by the appeal (complaint). The applicant has the right to send the complaint in writing or in the form of an electronic document indicating the details of the antimonopoly authority or the officer who issued the disputed non-normative act. Documents and materials confirming its arguments may be attached to the complaint.

Representation of the interests of the applicant when disputing the non-normative acts of the antimonopoly authority takes place in the following ways:

- a preliminary determination of the means for disputing the non-normative acts;
- preparing a draft complaint (application) and supporting materials;
- receiving information on the course of consideration of the claim (application);
- representation of interests in the context of consideration of the complaint, with all required procedural actions being taken;
- receiving a decision on the results of considering the complaint (application).

A correct and timely application of the mechanism for disputing non-normative acts of the FAS of Russia is capable of effectively protecting the rights of a business entity.