

PRESS RELEASE

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SCHILLING, ZUTT & ANSCHÜTZ

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Decision of the French Constitutional Council: Prohibition of prosecution for alleged insider trading after acquittal by French Exchange Supervisory Authority

In a landmark decision, the French Constitutional Council decided that the judicial criminal prosecution for alleged insider trading is prohibited if the accused natural or legal persons have been previously acquitted by the French Exchange Supervisory Authority (AMF) based on the same facts.

Proceedings for alleged insider trading had been initiated against Daimler, the French group Lagardère as well as several EADS-managers with regard to the sale of EADS-shares in 2006 by the AMF. After investigations of several years, the proceedings ended in 2009 with an acquittal. However, criminal proceedings were initiated against the same companies and persons in 2010. In its defense, Daimler referred to the correct decision of the AMF as well as to French constitutional law and court decision on European level to show that the proceedings before French courts were a breach of the prohibition of double-penalization and double-prosecution (*ne bis in idem*). The decision which has been rendered now is of great relevance and goes beyond the current case.

Since the beginning of the proceedings, Daimler has been represented by Schilling, Zutt & Anschütz and Metzner Associés. Following the change of the responsible partner from Metzner to Allen & Overy, Allen & Overy has been active for Daimler in France since 2014. The same team which was now successful before the French Constitutional Council had already been successful before the AMF. Team Daimler-Inhouse: Renata Jungo Brünger, Dr. Kerstin Neumann, Dennis Döpfer, Paul Hecht, Stephanie Roth, Team SZA: Professor Dr. Jochem Reichert, Dr. Nicolas Ott (both Partner Mannheim), Prof. Dr. Kristian Fischer (Constitutional Law/European Law), Dr. Kristin Ullrich (Counsel Mannheim), Dr. Andreas Herr (Frankfurt), Allen & Overy Paris: Aurélien Hamelle, Denis Chemla, Ophélie Claude, Alexandre Fichaux.

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