

PRESS RELEASE

**CMS Hasche Sigle
Partnerschaft von Rechtsanwälten
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Subject	CMS success: operating licence for substitute fuel-powered plant in Hoechst Industrial Park is legal

EU conservation law: CMS reaches settlement to end lawsuit against substitute fuel-powered plant in Frankfurt

Frankfurt am Main – A settlement has been reached to end the administrative complaint procedure regarding licensing the substitute fuel-powered plant in Hoechst Industrial Park, Frankfurt. Friends of the Earth Germany (BUND) had taken legal action against the licence, but eventually realised that their chances of success were slim. Accordingly, the parties involved – Darmstadt Regional Administrative Authority as competent licensing body and Thermal Conversion Compound Industriepark Höchst GmbH (T2C), a subsidiary of Infracore Höchst – reached a settlement before Hesse’s Higher Administrative Court in Kassel. As a result, the approval for the plant is now legally effective and it can continue to produce electricity and steam for the local businesses in Hoechst Industrial Park.

A team led by lead partner Dr Dirk Rodewoldt advised Infracore Höchst on all aspects of the matter. Since the start of proceedings some eight years ago, a substantial CMS team has advised on all aspects of the case, providing support with regard to corporate law structuring, financing, tax aspects, the project and construction contracts and in relation to the operating licence, which was granted more than six years ago. By obtaining incontestability for the licence, the CMS lawyers have now ensured the future of the project. The case raised difficult issues relating to nature conservation and European law, particularly in connection with nitrogen immissions in areas designated as FFH (fauna and flora habitats). CMS has achieved a landmark ruling regarding the application of EU environmental law, with implications far beyond this one case.

T2C, a subsidiary of Industriepark Höchst GmbH & Co. KG, operates one of Germany's biggest substitute fuel-powered plants for disposing of municipal waste, which produces electricity and steam for an industrial park in the Höchst district of Frankfurt. Since Friends of the Earth Germany (BUND) have decided not to appeal against the approval, the outcome represents complete commercial success for the operator.

CMS Hasche Sigle

Advisors in administrative complaint procedure:

Dr Dirk Rodewoldt, Lead Partner, Project Agreements and Environment,

Dr Ursula Steinkemper, Counsel, Environment,

Beate Engin, Senior Associate, Environment,

A substantial CMS team headed by partners Dr Martin Bell (overall coordination), Dr Marc Riede (Finance), Klaus Jäger (Corporate), Martin Krause (Construction Contracts) and Dr Thomas Link (Tax) also worked on the project.

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