

# HERBERT SMITH FREEHILLS ADVISES AQUIND ON SUCCESSFUL APPEAL BEFORE THE EUROPEAN GENERAL COURT

24 November 2020 | London  
Deals and cases

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Global law firm Herbert Smith Freehills has advised Aquind, developer of the Aquind electricity interconnector, on its successful appeal before the General Court of the Agency for the Cooperation of Energy Regulators' ("ACER") decision to reject an application for exemption pursuant to Article 17 of Regulation (EC) No 714/2009.

[The judgment](#) has EU-wide implications as it clarifies EU law in a point of importance to all EU interconnectors. In addition, it also clarifies the scope of the Board of Appeal of the European regulator, ACER.

The General Court found that ACER's Board of Appeal had (i) incorrectly limited its review to manifest errors of assessment and (ii) wrongly considered that Aquind (as a Project of Common Interest) should have sought a regulated regime pursuant to Article 12 of Regulation (EU) No 347/2013 prior to applying for an exemption.

Aquind interconnector is a 2GW HVDC subsea electricity interconnector that is being developed between the south coast of England and Normandy in France.

This case is particularly of note in delineating the regulated route for interconnectors as opposed to the alternative exempt option. There has arguably been a recent trend towards a regulated approach for electricity infrastructure. However, this decision is important in clarifying that, subject to a project meeting the appropriate conditions, both the regulated and exempt routes are valid, alternative choices for a project developer. As well as a successful outcome for Aquind, this judgment will be of assistance to other companies who are considering applying for regulatory exemptions for their own developments.

Herbert Smith Freehills is advising Aquind on all aspects of the project development and has been assisting with this regulatory workstream since Aquind's original application for an exemption in May 2017. The team was led by Silke Goldberg, with support in particular from Eric White, Chris Davis and Jannis Bille.

[Click here](#) for further details on the case and the judgment.