

# NEWS

## DEAL

# REPORT

### **Hengeler Mueller Wins Federal Court Case for Arcandor on Convertible Bonds**

With respect to the proceedings involving the Association for the Protection of Minority Shareholders in Stock Corporations (S.a.M. - Schutzvereinigung aktienrechtlicher Minderheitsaktionäre) and Arcandor AG, the 2nd Civil Senate of the German Federal Court of Justice in Germany (Bundesgerichtshof - BGH) responsible for corporate law has found in favour of Arcandor, whereby authorisation to issue convertible bonds merely has to provide for a minimum issue price for the new shares that are designed to serve the convertible bond. The board of directors can determine the exact issue price when issuing the convertible bonds. The BGH has thus rejected the viewpoint of several regional and higher regional courts which, in the last three years as a result of litigation by minority shareholders, had required the inclusion of set issue prices in the resolution of authorisation and declared shareholder meeting resolutions with minimum issue prices to be null and void. In so doing, the BGH has rectified a state of law that had led in practice to considerable difficulties.

The defendant Arcandor AG was represented in all three instances by Hengeler Mueller. The Hengeler Mueller team included partner Wolfgang Grobecker and associate Simon Link.

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