

Second Plea: The appellant did not exercise decisive influence in the sense required by the case law between 3 May 2007 to 28 January 2009 ('the post-IPO period').

Third Plea: Request that the Court of Justice affords the appellant the benefit of any reduction of the fine granted to Prysmian.

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- (¹) Commission Decision of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — Power Cables).
- (²) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003, L 1, p. 1).

**Request for a preliminary ruling from the Bundesverwaltungsgericht (Austria) lodged on
25 September 2018 — Adler Real Estate AG and Others**

(Case C-605/18)

(2018/C 445/08)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Appellants: Adler Real Estate AG, Petrus Advisers LLP, TZ

Defendant authority: Finanzmarktaufsichtsbehörde

Questions referred

1. Is Article 3(1a), fourth subparagraph, (iii), of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, (¹) as last amended by Directive 2013/50/EU of the European Parliament and of the Council, to be interpreted as meaning that it is a requirement for the permissibility of the imposition of 'more stringent requirements' on the 'holder of shares, or a natural person or legal entity', that the 'laws, regulations or administrative provisions' providing for more stringent requirements for holdings publicity are 'supervised' by an authority designated by the Member State pursuant to Article 4 of Directive 2004/25/EC (²) ... concerning takeover bids and that such supervision encompasses compliance with the more stringent requirements regarding holdings publicity within the meaning of Directive 2004/109/EC?
2. Does Article 47 of the Charter of Fundamental Rights of the European Union preclude a national practice according to which a decision having the force of *res judicata* taken by the supervisory authority pursuant to Article 4 of Directive 2004/25/EC by means of which a natural person's breach of national provisions adopted in implementation of Directive 2004/25/EC was established is also given binding effect in the context of criminal proceedings conducted against that same natural person owing to a breach of national standards connected with such proceedings in implementation of Directive 2004/109/EC (Transparency Directive), with the result that that natural person is prevented from challenging, in law and fact, the breach of law already established with the force of *res judicata*?

(¹) OJ 2004 L 390, p. 38.

(²) Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ 2004 L 142, p. 12).