

## Conseil Constitutionnel Agrees with Winston and Rules Article L. 46 of Electoral Code Contrary to Constitution

NOVEMBER 28, 2014

Winston & Strawn's Paris-based attorneys obtained a victory before the Conseil Constitutionnel (French Constitutional Council). Mr. Bigot, managing partner of Winston & Strawn's Paris office who is also a reserve officer of the French Marine, represented Mr. De Lorgeril, an Officer, Captain and former spokesperson of the French Marine. Mr. De Lorgeril was elected as town councilor of Garat. However, by French law, active professional military may not hold an office as an elected representative and must choose between their office and professional activity. By choosing the former, they are considered as temporarily disengaged and lose their remuneration and social benefits.

Mr. De Lorgeril refused to choose between his office and his military activity, which led the Prefect to ask for the cancellation of his election before the Administrative Court. Mr. Bigot raised the unconstitutionality of the provisions of the Electoral Code by asserting that the system applicable to military men was contrary to the principle of Article 6 of the Declaration of Human Rights regarding the free access to elective office.

In a rare instance in which a matter go through two steps of the court of first instance, the Administrative Court transferred the matter to the *Conseil d'Etat*, which then transferred it to the *Conseil Constitutionnel*.

On November 28, 2014, the *Conseil Constitutionnel* held that Article L. 46 of the Electoral Code was contrary to the Constitution. It postponed the date of repeal of these provisions to January 1, 2020 or the next general renewal of town councils.

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Gilles Bigot