



Press and Information

Court of Justice of the European Union

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Judgment in Case C-302/20
Autorité des marchés financiers

Freedom of the press: the disclosure by a journalist of inside information relating to the forthcoming publication of an article reporting rumours concerning companies listed on the stock exchange is lawful where it is necessary for the purpose of carrying out a journalistic activity and respects the principle of proportionality

A journalist published two articles on the *Daily Mail* website reporting rumours about takeover bids for the shares of the companies Hermès (by LVMH) and Maurel & Prom. The prices indicated in that article were significantly higher than the prices of those shares on Euronext. That publication resulted in a considerable increase in the price of those shares. Shortly before the publication of those articles, purchase orders were made for the shares in question by certain British residents, who sold those shares once that publication had taken place. The Autorité des marchés financiers française (AMF) (Financial Markets Authority, France) imposed a fine of € 40 000 on the journalist because he had told those British residents about the forthcoming publication of his articles and had thus disclosed ‘inside information’ to them.

Hearing an action brought against that decision, the cour d’appel de Paris (Court of Appeal, Paris, France) made a request for a preliminary ruling to the Court of Justice concerning the interpretation of the provisions of EU law on insider dealing. First, it asks whether information relating to the forthcoming publication of a press article reporting a market rumour may be regarded as inside information, the disclosure of which is prohibited. Secondly, it questions the Court regarding the exceptions to that prohibition in the particular context of journalistic activity.

According to the Court of Justice, information relating to the forthcoming publication of a press article reporting a market rumour concerning an issuer of financial instruments is capable of constituting information ‘of a precise nature’ and, therefore, of falling within the scope of the concept of ‘inside information’, where it mentions, inter alia, the price at which the securities will be purchased, the name of the journalist who authored the article and the media organisation which will publish it.

The disclosure of inside information for the purpose of journalism may be justified, under EU law, by virtue of the freedom of the press and the freedom of expression. The ‘purposes of journalism’ may cover investigative work carried out by the journalist in preparation for publication, in order to verify rumours.

However, the disclosure of inside information by a journalist is lawful only where it is regarded as being necessary for the exercise of his or her profession and as complying with the principle of proportionality. The national court must therefore examine the following questions: first, was it necessary for the journalist seeking to seek to verify a market rumour to disclose to a third party, not only the content of that rumour, but the fact that an article reporting that rumour would soon be published? Secondly, is the restriction on the freedom of the press which the prohibition of such disclosure would entail excessive – taking into account the potentially dissuasive effect on the exercise of journalistic activity and the rules and codes to which journalists are subject – by comparison with the harm which such a disclosure is liable to cause, not only to the private interests of certain investors but also to the integrity of the financial markets?

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and the résumé](#) of the judgment is published on the CURIA website on the day of delivery.

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