When Can a Politician Disclose Inside Information to the Media?

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Introduction

On 18 June 2026, the Court of Justice of the European Union ("**CJEU**") delivered its ruling in Case C-376/24, MT v Comité de direction de l'Autorité des Services et des Marchés Financiers ("**FSMA**") (1)

The ruling addresses an issue that had not previously been considered by the CJEU: whether a politician who comes into possession of inside information may disclose that information to the media in order to contribute to a public debate without infringing the Market Abuse Regulation (Regulation (EU) No 596/2014) ("**MAR**").

The case sits at the intersection of two fundamental pillars of EU law: (i) the prohibition on unlawful disclosure of inside information under MAR and (ii) the protection of freedom of expression under Article 11 of the EU Charter of Fundamental Rights (the "**Charter**") and Article 10 of the European Convention on Human Rights ("**ECHR**").

(1) Belgian Financial Services and Markets Authority

The Legal Framework

Under Article 7(1) of MAR, inside information is defined as information which is (i) of a precise nature, (ii) has not been made public, (iii) relates, directly or indirectly, to one or more issuers or to one or more financial instruments, and (iv) if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments.

Pursuant to Article 10(1) of MAR, any person who possesses inside information is prohibited from disclosing that information to any other person, except where the disclosure is made in the normal exercise of an employment, a profession or duties. As a prohibition subject to an exception, the provision must be interpreted strictly, and the burden of demonstrating that a disclosure falls within the exception rests on the person invoking it.

Pursuant to Article 21 of MAR, where a disclosure of inside information is made for the purpose of journalism or other form of expression in the media, such disclosure is to be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, as well as the rules or codes governing the journalistic profession. Article 21 does not create a freestanding exception to the prohibition in Article 10(1) of MAR but rather establishes the framework within which the lawfulness of such a disclosure must be assessed, requiring the competent authorities to give full effect to the fundamental rights of freedom of expression and freedom of the press.

The MAR framework thus gives rise to an inherent tension between two legitimate interests: the protection of market integrity, on the one hand, and the freedom to inform the public and engage in democratic debate, on the other. Against that background, the unanswered question was whether these provisions also extend to politicians who disclose inside information in order to participate in democratic debate.

The Case and the CJEU’s Decision

The case concerned a Belgian politician and former Minister for Public Enterprises who, during interviews with several media outlets, disclosed inside information concerning the Belgian State's planned sale of part of its shareholding in the listed postal operator Bpost (2) in the context of ongoing negotiations with PostNL (3). Following the disclosures, trading in Bpost shares was suspended, the contemplated transaction was abandoned, and the FSMA imposed an administrative fine for the unlawful disclosure of inside information.

Before the Belgian court, the politician argued that the disclosures had been made in his capacity as an opposition politician with the purpose of contributing to a public debate on the privatisation of a major public undertaking. He maintained that he had not sought any financial gain and that his statements were protected by the fundamental right to freedom of expression.

The Belgian court therefore referred two questions to the CJEU. First, whether a politician may rely on the exception in Article 10(1) of MAR where the disclosure forms part of the normal exercise of political duties. Secondly, whether Article 21 of MAR applies only to journalists or may also extend to politicians communicating through the media.

The CJEU answered both questions in the affirmative. As regards the first question, the Court held that, in principle, a politician may rely on the exception in Article 10(1) of MAR where the disclosure of inside information forms part of the normal exercise of his or her functions, provided that the disclosure is strictly necessary and proportionate. As regards the second question, the CJEU clarified that Article 21 of MAR is not limited to journalists. It may also apply to politicians and other individuals communicating through the media, provided they neither seek an economic benefit from the disclosure nor intend to mislead the market. Whether those conditions were satisfied in the present case remains for the Belgian court to determine.

(2) Belgium’s main postal operator, a publicly listed company with more than 50% of its capital held by the Beligan State.
(3) PostNL is the Dutch national postal and parcel delivery company.

Significance of the Ruling

The ruling is significant because it is one of the first CJEU decisions to consider how the market abuse regime should be reconciled with the fundamental right to freedom of expression. While the CJEU confirms that the prohibition on unlawful disclosure of inside information remains the starting point, it also makes clear that MAR cannot be interpreted without regard to the fundamental rights protected by the Charter.

An important practical clarification from the ruling is that Article 21 of MAR is not confined to professional journalism. By recognising that the provision may also extend to politicians and other individuals communicating through the media, the Court has clarified that the assessment under Article 21 depends on the nature and purpose of the communication rather than the professional status of the speaker.

Importantly, however, the CJEU deliberately refrained from deciding whether the politician's disclosure was lawful. Instead, it left that assessment to the Brussels Court of Appeal, providing only general guidance on the factors to be considered. These include whether public debate had already taken place, whether official disclosure was imminent, and whether disclosure of the inside information was genuinely necessary to achieve the stated public interest objective.

The ruling therefore does not create a new exemption from MAR. Rather, it confirms that the existing exceptions must be interpreted in a manner that gives proper effect to freedom of expression, while preserving the fundamental objective of maintaining market integrity. Whether a disclosure will be lawful, therefore, remains a highly fact-specific assessment.

Practical Takeaways

For listed companies with State shareholdings, public authorities and their advisers, the ruling highlights the importance of ensuring that existing insider information procedures adequately address situations in which political actors, including government representatives and State-appointed board members, obtain access to price-sensitive information. In politically sensitive transactions, clear governance arrangements and communication protocols should be in place to minimise the risk of premature disclosures and to ensure that any communication with the media is assessed in light of both the market abuse regime and the fundamental rights recognised by the CJEU.

For politicians and other public officials, the ruling should not be understood as creating a general exemption from MAR. Rather, it confirms that political speech may, in exceptional circumstances, justify the disclosure of inside information where such disclosure forms part of the normal exercise of political functions and satisfies the requirements of necessity and proportionality. The burden of demonstrating that those conditions are met rests on the person invoking the exception.

Although the CJEU's ruling concerns disclosures made by politicians, it also raises the question whether its reasoning may be relevant in other contexts where the protection of fundamental rights intersects with the prohibition on unlawful disclosure of inside information under MAR. One example is employee or trade union representatives serving on the boards of listed companies. As board members, they may receive inside information while also representing the interests of the workforce, for example in connection with a contemplated restructuring, merger or reduction in force. While the judgment does not address these situations, it gives rise to the question of how MAR should apply where employee representatives disclose inside information to the workforce or to a trade union in order to safeguard those interests.

More broadly, the ruling confirms that the application of MAR cannot be divorced from the fundamental rights protected by the Charter. Future cases involving politically motivated disclosures are therefore likely to require a careful balancing of market integrity against freedom of expression, rather than a mechanical application of Article 10 of MAR. Until further guidance emerges from the Belgian courts or from future CJEU case law, the boundaries of this balancing exercise will remain highly fact-specific.

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