

C-384/93 Alpine Investments [1995] ECR I-01141

Fact: The Ministry of Finance in the Netherlands prohibited Alpine Investments BV from contacting individuals by telephone without their prior consent in writing in order to offer them various financial services. The applicant was offering commodities futures, which entails the parties undertaking to buy or sell a specified quantity of a commodity of a given quality at a price and date fixed at the time the contract is concluded (in essence, a derivative). The applicant had been granted a license to place orders with its brokers, which included a provision that Alpine Investments BV would have to comply with any rules of the Minister of Finance. The applicant contended that the prohibition on cold calling was incompatible with Art. 56 TFEU in so far as it concerned potential clients established in other Member States, not just the Netherlands.

Held: The Court held that the freedom to provide services would become illusory if national rules were at liberty to restrict offers of services. The prior existence of an identifiable recipient could not be a condition for application of the provisions on the freedom to provide services. Moreover, Art. 56 was capable of catching situations where the trans-national element was constituted by a phone call rather than physical movement. The prohibition deprived the applicant of a rapid and direct technique for marketing and for contacting potential clients in other Member States, and was therefore a restriction on the freedom to provide cross-border services.