# Supreme Court poised to reshape justice in City Libor and Euribor scandal cases



The Supreme Court is preparing to make a pivotal ruling regarding the convictions of two former City traders, Tom Hayes and Carlo Palombo, who have long claimed that they were unfairly scapegoated in a high-profile scandal surrounding the manipulation of interest rate benchmarks, namely Libor and Euribor. As the court considers their appeals, significant questions about the nature of justice and accountability in the financial services sector loom large.

Hayes, the first banker to be jailed for "rigging" interest rates, served five and a half years of a 14-year sentence imposed in 2015. His conviction has been following a disconcerting trajectory that highlights both the intricacies of financial regulation and the broader implications of judicial philosophy in the UK. The Serious Fraud Office (SFO) maintains that Hayes and Palombo engaged in a conspiracy to defraud, claiming that their actions involved intentionally manipulating rates that ultimately affected millions of financial products, including mortgages. However, many critics argue that the situation reflects a regulatory environment that was incomprehensibly complex and rife with ambiguity, allowing for interpretation to later paint these traders as criminals.

The core issue under review at the Supreme Court pertains to whether the jury was misled in its understanding of the legality of the traders' actions. The original trial judge ruled that attempts to influence rates based on commercial interests were inherently dishonest, a direction that Hayes's legal team argues unduly prejudiced the jury's deliberation. In fact, judicial frameworks in other jurisdictions, particularly in the United States, have offered a stark contrast. A recent ruling in the US completely cleared two Deutsche Bank traders of similar charges, asserting that there was a lack of evidence for any fraudulent activity connected to Libor submissions.

The scandal itself erupted around 2012, when allegations surged that banks had colluded in artificially inflating or deflating these benchmark rates to secure favourable trading positions. The subsequent criminal investigations led to 37 traders being prosecuted, resulting in various convictions across multiple high-stakes trials. Yet, the fallout from these cases has grown increasingly complicated, especially as subsequent revelations emerged. Notably, emails and other evidence have suggested that pressure from central banks and government officials to manipulate these rates for broader economic stability went largely unaddressed. This has led vocal critics, such as former shadow chancellor John McDonnell, to suggest that Hayes and Palombo's convictions represent a troubling mischaracterisation of a practice that was commonplace at the time.

Prominent figures in the finance sector have also echoed these sentiments, questioning the legitimacy of the legal framework that led to these convictions. The founders of Euribor have decried recent court interpretations, suggesting they reflect a "deep misunderstanding" of the operation and intention behind rate-setting protocols. Such views underscore concerns about legal precedence and the possible chilling effect it could have on financial markets—creating what some have described as a "permanent bias" that could compromise the integrity of benchmark rates.

As the Supreme Court deliberates, the potential ramifications extend far beyond Hayes and Palombo's individual cases. A decision in their favour could lead not only to a review of their convictions but might also ignite calls for greater scrutiny of broader financial practices and the roles of regulatory bodies in shaping market conduct. If these traders are exonerated, it could open discussions about the very nature of criminality in a sector often characterised by murky ethics and complex operational norms.

The impending judgment offers an opportunity not just for redress, but also for systemic recalibration within the UK's financial regulatory environment. The implications are vast; the balance between legal accountability and the realities faced by traders operating under market pressures—and the influence of institutional behaviour—could either pave a path toward reform or perpetuate a cycle of injustice that rivals even the most infamous past financial scandals.

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

1. <https://www.bbc.com/news/articles/c3rp94jr79po> - Please view link - unable to able to access data
2. <https://www.ft.com/content/fe48e89a-1395-4487-83f1-c45bbf3fa647> - Tom Hayes, a former UBS and Citigroup trader convicted of rigging the Libor benchmark rates, is challenging his conviction at the UK Supreme Court. Hayes argues that his original trial was 'fatally compromised' and that jury directions were 'fundamentally wrong in law.' Hayes, who served five and a half years in prison following his 2015 conviction, was the first person found guilty in the global Libor scandal. The Supreme Court hearing, which involves a panel of five senior judges, will consider two technical issues regarding Libor rate submissions. The Serious Fraud Office maintains that Hayes's actions were dishonest, supported by documentary evidence and his own admissions. The Libor scandal, which led to banks incurring billions in fines, involved manipulating a critical interest rate that affected trillions in financial products. Hayes's case is being heard alongside that of Carlo Palombo, another trader convicted of similar offenses related to Euribor.
3. <https://www.lemonde.fr/economie/article/2024/04/19/scandale-libor-euribor-un-jugement-anglais-jette-l-incertitude-sur-les-regles-des-marches-financiers_6228783_3234.html> - The Libor and Euribor scandal resurfaced after a British Court of Appeal upheld the convictions of two traders, Tom Hayes and Carlo Palombo, accused of manipulating interbank benchmark rates between 2005 and 2009. This decision contrasts with other jurisdictions, such as the United States, France, and Germany, where the involved brokers were acquitted or found not guilty. The founders of Euribor, Helmut Konrad, Nikolaus Bömcke, and Jean-Pierre Ravisé, expressed their dismay, describing the British interpretation of the rules as 'false and incorrect.' The ruling established that traders must submit the lowest possible interest rate, an approach deemed absurd by the founders and creating legal uncertainty for financial markets. Tom Hayes and Carlo Palombo plan to request the British Supreme Court to review this decision, highlighting a possible conflict of interest in the appointment of the Court of Appeal judges.
4. <https://www.bbc.com/news/business-68856399> - The founders of a key European interest rate benchmark have said its accuracy could be affected as a result of a 'deep misunderstanding' by English courts. Euribor underpins trillions of euros in loans and tracks the rate banks pay to borrow cash from each other. The Court of Appeal recently upheld the convictions of two bankers jailed for rigging Euribor and the UK's Libor. The ruling risked creating a 'permanent bias' in the Euribor rate, its founders said. To set Euribor, banks make a daily estimate of the interest rate they would pay to borrow a large sum of euros - then an average is taken. The Court of Appeal ruled that when publishing daily estimates of the cost of borrowing cash, banks must select the cheapest rate at which cash could be borrowed or lent. As a result, it rejected the appeals of Carlo Palombo and Tom Hayes, two former traders who were prosecuted and jailed for 'manipulating' Euribor and Libor. The evidence against them were requests they had made of colleagues to publish 'high' or 'low' estimates of the cost of borrowing cash, depending on what would help their banks' trades. However, the founders of Euribor - Helmut Konrad, Nikolaus Bömcke and Jean-Pierre Ravisé - said that was exactly what banks and their traders were expected to do when they set up the benchmark nearly 30 years ago and wrote the code of conduct. They warned that if banks followed the judges' ruling, it would favour one group of investors over another. They said that each day, it would be in the interests of some of the banks to publish a lower estimate of the cost of borrowing cash, in case it might nudge the Euribor average rate in their favour.
5. <https://www.reuters.com/world/uk/trader-hayes-takes-libor-rate-rigging-appeal-uk-top-court-2025-03-25/> - Tom Hayes, a former trader jailed for manipulating the Libor rate, is appealing his conviction at Britain’s top court. Convicted in 2015, Hayes, along with another convicted trader Carlo Palombo, argues that their actions were not automatically dishonest as their convictions depended on a definition of Libor that prohibited taking commercial interests into account. Hayes contends that the jury in his trial was wrongly directed by the judge to consider submissions involving trading advantages as inherently dishonest, which he claims should be a matter for the jury. This appeal follows a significant U.S. decision in 2022 that cleared two Deutsche Bank traders of similar charges. Hayes initially received a 14-year sentence, later reduced to 11 years, and was released after serving approximately five and a half years. Palombo was sentenced to four years.
6. <https://www.bbc.com/news/business-68595204> - Two former bankers found guilty of rigging key interest rates have had their appeal against their convictions dismissed by the Court of Appeal. Tom Hayes and Carlo Palombo were among 37 City traders prosecuted for manipulating rate benchmarks, Libor and Euribor. Both men spent time in prison before being released in 2021. Their case went before the Appeal Court after a judge in the US overturned similar convictions there. The convictions hinged on whether the traders acted dishonestly by influencing the setting of key Libor and Euribor interest rates, or whether it was normal practice at the time.
7. <https://www.bbc.com/news/business-68563091> - Tom Hayes and Carlo Palombo, two former bankers jailed for rigging interest rates, are appealing against their convictions after an eight-year battle to clear their names. Hayes and Palombo were among 37 City traders prosecuted for manipulating rate benchmarks Libor and Euribor. If they are successful it could lead to the reversal of all such convictions. But prosecutors point to earlier appeals against conviction that were not successful. The former traders were found guilty of manipulating Libor and Euribor, two benchmark interest rates that track what banks pay to borrow cash from each other. Each day, 16 banks would submit an estimate of the cost of borrowing a large sum of cash from other banks and an average would be taken to get the Libor benchmark, with a similar process to get Euribor. The cash desks submitting those rates would look at the interest rates at which other banks on the market were offering funds, which differed from each other by one hundredth of a percentage point or two, and select a rate from that range to submit. Hayes and Palombo asked the cash desk to submit those rates high or low, depending on what would benefit their banks' trades, like, they say, did many other traders. If they agreed to do so, that was, according to the Serious Fraud Office, a conspiracy to defraud. The judge in the Hayes trial directed the jury that it was dishonest and unlawful for a bank to allow its commercial interests to influence its trades in any way - a matter of fact that should have been for the jury to decide, lawyers for Tom Hayes told the court. Further, the prosecution hadn't been required to prove he deliberately broke any rules. "There's no law of genuineness - just as there's no law of dishonesty. Judges don't get to decide whether something's dishonest or not in a jury trial," said Adrian Darbishire KC, acting for Tom Hayes. "All that was left to the jury was whether he was aware that what he did was dishonest - not whether it was dishonest in the first place." He said the judge in Hayes's trial had relieved the prosecution of any need to prove that he had deliberately taken part in a dishonest agreement. For Carlo Palombo, Tim Owen KC argued the rules of setting Euribor were not meant to be confused with criminal law. He asked whether Libor guidelines, which were set by the now defunct British Bankers' Association, were of the necessary quality to "sustain a criminal offence". He said they were "just single bits of paper written by a trade association" and likened them to rules set by a rugby club as opposed to formal regulations. That gave rise to a "sea of ambiguity", he said. \* Interest rate ‘rigger’ wins right to appeal in UK \* US throws out charges against interest rate ‘rigger’ \* Ex-Barclays trader guilty of rate rigging Separately from the court hearing, senior politicians, including former shadow chancellor John McDonnell and former Brexit Secretary David Davis, say the traders have been "scapegoated". The Serious Fraud Office, which brought the prosecutions in the UK, first decided in 2011 not to prosecute so-called Libor manipulation. However, it reversed its decision in July 2012 after a public outcry when Barclays was fined £290m by US and UK regulators for manipulating Libor and Euribor. In nine trials on both sides of the Atlantic from 2015 to 2019, a total of 19 people were convicted - most of them British, but also American, French, German, Japanese and Italian traders. No victims of the alleged "fraud" by the jailed traders have ever been produced. Nor have prosecutors ever demonstrated that a fraudulent transaction took place. Instead of being prosecuted under the Fraud Act 2006, they were prosecuted under the common law offence of "conspiracy to defraud". Tom Hayes was sentenced to 11 years in jail in 2015. He served five and a half years and was released in January 2021, still protesting his innocence. Carlo Palombo was sentenced to four years in jail in 2019.