



PRESS RELEASE No 141/24

Luxembourg, 12 September 2024

Judgment of the Court in Case C-557/23 | SPAR Magyarország

Markets for agricultural products: Hungarian legislation requiring traders to offer for sale certain agricultural products at a fixed price and in predetermined quantities is contrary to EU law

That legislation prevents traders, without appropriate justification, from freely setting the selling prices and the quantities offered for sale of those products on the basis of economic considerations

In February 2022, in the context of the Covid-19 pandemic, **Hungary regulated, by Government Decree, the marketing of six basic products** (certain types of sugar, wheat flour, sunflower oil, pigmeat, poultrymeat and milk). From November 2022, as a result of the war in Ukraine, the decree was amended and two other products were added to the list, namely eggs and potatoes. That Government Decree remained in force until 31 July 2023.

According to that decree, traders that had already marketed those products at a specified earlier date were required, on pain of a fine, **to offer for sale a predetermined quantity** – based on, initially, the average daily quantity offered for sale during a reference period and, subsequently, the quantity of the products at issue in stock during that reference period – **at a regulated price**.

In May 2023, the Hungarian authorities imposed a fine on the retailer SPAR Magyarország after finding that, in one of its shops, it had not respected the daily quantities in stock of five products referred to in the decree. SPAR brought proceedings before the Szeged High Court (Hungary) seeking annulment of the decision of the authorities. Since there were doubts concerning the compatibility of the Government Decree with the CMO Regulation ¹ and in particular with the principle of free formation of selling prices of agricultural products on the basis of fair competition, that court sought a preliminary ruling from the Court of Justice.

First of all, the Court notes that **the Government Decree undermines fair competition**, a fundamental component of the CMO Regulation. The obligation to offer for sale agricultural products at regulated prices and in specific quantities prevents traders from freely setting their selling prices and the quantities they wish to sell on the basis of economic considerations.

Next, the Court considers Hungary's argument alleging that that restriction is justified by the objectives of combating inflation and protecting disadvantaged consumers by means of a guaranteed supply of basic foodstuffs at affordable prices. The Court finds that, even if the contested Government Decree were appropriate for achieving those objectives, **the measures that it entails are not proportionate**. The undermining of free access by traders to the market in conditions of effective competition and the disturbance of the entire supply chain caused by the regulated prices and quantities imposed on those traders go beyond what is necessary to attain the objectives pursued by the decree.

In those conditions, the Court holds that **the Hungarian Government Decree**, including the system of fines provided for in that decree, **is contrary to the CMO Regulation**.

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 EU law or the validity of an EU 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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Regulation \(EU\) No 1308/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended by Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021.