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Judgment of the Court in Case C-419/23 | Nemzeti Földügyi Központ

Rights of usufruct over agricultural land in Hungary: EU law does not preclude the reinstatement of such rights in accordance with a judgment of the Court of Justice, even where their initial registration was unlawful

Such reinstatement does not give rise to a disproportionate interference with the rights of the persons who were the landowners of those lands at the time of the unlawful deletion of the rights of usufruct concerned

In 2013, Hungary adopted legislation abolishing, as from 1 May 2014, the rights of usufruct belonging to persons not having a family connection with the owner of the agricultural land situated concerned in that Member State. By its judgment of 21 May 2019, ¹ the Court of Justice held that, by adopting the national legislation at issue, Hungary had infringed the principle of the free movement of capital and the right to property guaranteed by the Charter of Fundamental Rights of the European Union. In 2021, Hungary adopted specific provisions in order to implement that judgment, so that any natural or legal person whose rights of usufruct had been deleted from the land register pursuant to the 2013 legislation could apply to have those rights reinstated in that land register.

In 2022, on the basis of those provisions, the National Land Centre, Hungary ordered the reinstatement in the land register of a right of usufruct held previously over agricultural land. The owner of the agricultural land in question, who is resident in Germany, brought an action before the Győr High Court (Hungary), seeking annulment of that reinstatement decision, on the ground that the right of usufruct in question had been unlawfully registered in the land register in 2002. That court asks the Court if EU law precludes reinstatement of the right of usufruct at issue due to the fact that it was originally registered unlawfully in the land register.

The Court **replies in the negative**.

It observes that **the national legislation adopted in 2021 constitutes a restriction on the free movement of capital** since the reinstatement of the right of usufruct reduces the value of the land concerned and limits the ability of the owners thereof to have enjoyment of the rights related to that land. That said, **that legislation pursues an overriding objective in the public interest in that it is intended to give effect to a judgment finding an infringement, is appropriate for ensuring attainment of that objective and does not seem to go beyond what is necessary in order to attain such an objective.**

It is only where there are objective and legitimate obstacles to the reinstatement of the right of usufruct in the land register that the award of compensation to the former holder of the right, in lieu and stead of that reinstatement, may be considered as restoring the rights enjoyed under EU law to the person concerned. **The fact that the original registration of that holder's right of usufruct in the land register was effected unlawfully does not constitute such an objective and legitimate obstacle.**

In that regard, the Court observes that a Member State is free to adopt legislative provisions under which it decides that such an irregularity, resulting from its national law, no longer needs to be sanctioned.

Moreover, the right of usufruct originally registered in the land register existed until there was proof to the contrary, with the result that **the principle of legal certainty also weighs in favour of reinstatement of that right.**

Lastly, the only consequence of the national legislation at issue is the restoration of the owner of the plot of agricultural land at issue in the rights acquired by that owner when purchasing that land, the right of usufruct at issue having been definitively registered in the land register before the date of that purchase.

Moreover, that national legislation **cannot be regarded as being a limitation on the right to property of the owner** of that plot of land. The full property rights over the plot of agricultural land at issue, acquired by the landowner by virtue of the 2013 Hungarian legislation, cannot be deemed to have been lawfully acquired within the meaning of Article 17(1) of the Charter of Fundamental Rights, which guarantees the right to property.

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.

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

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¹ Judgment of the Court of 21 May 2019, *Commission v Hungary (Usufruct Over Agricultural Land)*, [C-235/17](#) (see also Press Release [N° 65/19](#)).