



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 44/22**

Luxembourg, 10 March 2022

Judgment in Case C-177/20  
Grossmania

**Persons deprived of their rights of usufruct over agricultural land in Hungary in breach of EU law must be able to claim the reinstatement of those rights in the land register or compensation**

*That is so even if they have not contested the unlawful deletion of those rights before the courts*

In 2013, Hungary adopted legislation which, as of 1 May 2014, cancelled the rights of usufruct belonging to persons who do not have a family relationship with the owner of the agricultural land concerned, located in that Member State.

Grossmania, a company owned by natural persons who are nationals of Member States other than Hungary, held rights of usufruct which they had acquired over agricultural parcels in Hungary. Following the extinguishment by operation of law, on 1 May 2014, of those rights of usufruct in accordance with that legislation, those rights were deleted from the land register. Grossmania did not contest that deletion.

By its judgment of 6 March 2018 in the preliminary rulings, *SEGRO and Horváth*,<sup>1</sup> the Court of Justice held that such legislation constituted an unjustified restriction of the principle of the free movement of capital. Similarly, by its judgment of 21 May 2019,<sup>2</sup> the Court held that, by adopting the national legislation at issue, Hungary had infringed that principle and the right to property guaranteed by the Charter of Fundamental Rights of the European Union.

Following the first judgment, Grossmania applied to the Hungarian authorities to reinstate its rights of usufruct in the land register. That application was, however, rejected on the ground that the legislation at issue was still in force and prevented the reinstatement sought.

Grossmania brought an action against that administrative decision before the Győri Közigazgatási és Munkaügyi Bíróság (Administrative and Labour Court, Győr, Hungary). That court asks the Court of Justice whether, despite the fact that Grossmania did not contest the deletion of its rights of usufruct before the Courts, it must nevertheless disapply that legislation and require the Hungarian authorities to reinstate those rights.

By its judgment delivered today, the Court points out first of all that, in a situation where it has already given a clear reply to a question referred for a preliminary ruling on the interpretation of EU law, as in the present case in the judgment in *SEGRO and Horváth*, the national court must do everything necessary to ensure that that interpretation is applied.

In particular, since the national legislation at issue is incompatible with the principle of the free movement of capital, the Hungarian court **must disregard that legislation when it examines whether the request for reinstatement could be rejected.**

<sup>1</sup> Judgment of the Court of 6 March 2018, *SEGRO and Horváth*, [C-52/16 and C-113/16](#) (see also PR [25/18](#)).

<sup>2</sup> Judgment of the Court of 21 May 2019, *Commission v Hungary (Usufruct over agricultural land)*, [C-235/17](#) (see also PR [65/19](#)).

Next, since at the time Grossmania had not contested the deletion of its rights of usufruct, the Court points out that EU law does not, in principle, require that an administrative body be placed under an obligation to reopen an administrative decision which has become final, even if that decision contravenes EU law. However, the Court emphasises that **particular circumstances may require a national administrative body to review such a decision in order to strike a balance between legal certainty and legality under EU law.** The national legislation at issue constitutes a manifest and serious infringement both of the principle of the free movement of capital and of the right to property guaranteed by the Charter, and appears to have far-reaching adverse economic repercussions. Thus, in the context of striking that balance, **legality under EU law is of particular importance in the present case.**

Furthermore, the Court observes that, even if Grossmania did not challenge the deletion of its rights of usufruct before the courts, the legislation at issue may mislead the former holders of those rights as to the need to contest the deletion measure in order to safeguard their rights of usufruct. Under the national legislation, those rights are extinguished ‘by operation of law’, that is to say without there being any need for subsequent measures in order to implement that extinguishment.

In those circumstances, the Court considers that, in an action relating to the rejection of an application for reinstatement of cancelled rights of usufruct, **the Hungarian courts must disregard the deletion measure concerned, even if it has since become final.**

Finally, the Court states that **it is for the Hungarian authorities and courts to take all the measures necessary to nullify the unlawful consequences caused by the national legislation.** Those measures may consist, primarily, **in the reinstatement of the unlawfully cancelled rights in the land register.** In the event that such reinstatement is impossible, in particular where it is prejudicial to the rights which third parties acquired in good faith following the deletion of the rights of usufruct concerned, **it is appropriate to grant the former holders of the cancelled rights of usufruct the right to compensation,** whether financial or other, the value of which would be capable of making reparation for the economic loss arising from the cancellation of those rights. Furthermore, the former holders of those rights also have a right to compensation for the harm suffered as a result of that cancellation if the conditions laid down in the case-law of the Court have been satisfied, which appears to be the case here.

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**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 European Union law or the validity of a European Union 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](#) of the judgment is published on the CURIA website on the day of delivery.*

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