



## PRESS RELEASE No 70/26

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Judgment of the Court in Case C-286/25 | BRANDL

### **Rights of usufruct over agricultural land in Hungary: EU law precludes financial compensation calculated solely on the basis of the market value of the land at the time of deletion of those rights from the land register**

*The application of that criterion to fix the compensation amount does not allow for adequate compensation for the damage suffered*

In 2013, Hungary adopted legislation abolishing, as from 1 May 2014, rights of usufruct over agricultural land<sup>1</sup> belonging to persons not having a family connection with the owner of that land. By its judgment of 21 May 2019,<sup>2</sup> the Court of Justice held that those rules 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 new provisions in order to implement that judgment. They allow any natural or legal person whose rights of usufruct had been deleted from the land register to apply to have those rights reinstated in that land register and to obtain financial compensation.

In that context, in 2021 the Hungarian company BRANDL obtained reinstatement of its rights of usufruct. The Hungarian legislation provides that the compensation is to be calculated on the following basis: 1/20 of the market value<sup>3</sup> of the property on the day of deletion, multiplied by the number of years elapsed between the deletion and reinstatement. Taking the view that that compensation did not amount to adequate compensation for the damage suffered by it, BRANDL brought an action before the Győri Törvényszék (Győr High Court, Hungary). That court made a reference to the Court of Justice concerning the question whether EU law precludes national rules limiting compensation to financial compensation calculated solely on the basis of the market value of the property at the time when the rights of usufruct were deleted.

The Court **replies in the affirmative.**

It emphasises that **EU law requires that compensation for damages** caused to individuals **must be commensurate with the damage suffered and ensure effective protection** of their rights. Whilst allowing the Member States discretion to set the criteria for determining the extent of compensation, the Court refers *inter alia* to the case-law according to which **total exclusion of loss of profit<sup>4</sup> from the scope of compensable damage is liable to make it impossible in practice for the damage suffered to be compensated.**

Whilst acknowledging that it is possible to establish **a standard calculation formula** for determining, in each individual case, the amount of compensation owing, the Court emphasises that the principle of effectiveness requires that such a formula **be designed in such a way as to arrive at a compensation amount that covers, with sufficient accuracy, the loss of profit suffered.**

**The criterion of market price**, applied by the Hungarian legislation to calculate the compensation amount, **does not per se enable a calculation to be made of the loss of profit** of the usufructuary whose right has been deleted, since the income that usufructuary might have been able to receive during the period between the cancellation of the rights of usufruct and the reinstatement thereof, by operating or leasing the agricultural land in question, is not directly related to the price the owner of those lands could obtain by selling them at the time of deletion of the rights of usufruct. As a result, the compensation scheme provided for by **the Hungarian legislation makes it excessively difficult in practice to**

**obtain compensation for the damage suffered and is accordingly incompatible with the requirement of adequate compensation for that damage.**

**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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<sup>1</sup> Usufruct permits a person to use agricultural land and collect income (harvest or leasing) therefrom without being the owner of that land.

<sup>2</sup> 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](#)).

<sup>3</sup> That value corresponds to the sale price the owner of those lands could obtain depending on the interplay of supply and demand at the time of that deletion.

<sup>4</sup> In the case of a cancellation of rights of usufruct over agricultural land, the loss of profit comprises operating or leasing income from that land which the usufructuary whose right has been deleted was unable to collect during the period between that cancellation and the reinstatement of those rights.