

Re-registration of usufruct rights on arable land and compensation can be claimed from the State, in connection with their earlier unlawful termination

The background to the case is that in 2013, the criminalisation of bad faith contracts was introduced in the Criminal Code, and in the Real Estate Transactions Act, which came into force in May 2014, and thereby the usufruct right registered on agricultural land for the benefit of non-close relatives was retroactively abolished.

Even when the Real Estate Transactions Act came into force in 2014, there was a great uproar that the usufruct right on the land for the benefit of non-close relatives was abolished without any provision for compensation. Since then, the government's communication in this regard has been that they are protecting Hungarian farmland against foreign speculators. This communication is justified in that, although Hungarian land prices have been rising by an average of 7-10 percent per year in recent years, it is still much cheaper than in Western Europe, thus enticing speculators to buy.

Even at the time of the law's creation, the European Commission had already indicated to the Hungarian Government that this legislation was contrary to EU principles, primarily violating freedom to conduct businesses, but that it also created an unpredictable environment with its retroactive effect, and that compensation was also lacking. The case ran through several threads in the Court of Justice of the European Union, in individual court cases a preliminary ruling procedure was initiated by a Hungarian court, and the European Commission also initiated an infringement proceedings against Hungary on this issue, and the Commission also turned to the Court of Justice of the European Union.

In one case, in a lawsuit known as the Segro case, the court ruled that the contested legislation restricts the free movement of capital. Among other things, it was considered that it also discriminated against foreigners, since the Hungarian state had long prohibited foreigners from investing in agricultural land, so the only way to do business was to establish usufruct rights, and for this reason alone, there were several citizens of the Member States in this legal relationship. However, it cannot be ruled out in the case that the direct descendant left under the regime to acquire usufruct rights was not contracted for speculative purposes.

The Court of Justice of the European Union has ordered Hungary to put an end to the above unlawful situation in breach of EU law and to compensate those affected. According to the decision of the Hungarian government, those whose usufruct rights were terminated in 2014 in connection with the above may damage the re-registration of their cancelled usufruct right and may also receive compensation.

The two proceedings may be initiated sequentially or independently of each other. It is also possible to initiate compensation proceedings without the claimant requesting the re-registration of his cancelled usufruct right or vice versa.

If the claimant also wishes to have his usufruct re-registered and claims compensation, the compensation procedure must be initiated within 60 days of the completion of the re-registration procedure. The National Land Centre is responsible for the procedures.