Press and Information

Court of Justice of the European Union

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Judgments in Cases C-234/20 and C-238/20
Sātiņi-S

The Court of Justice interprets the provisions of EU law relating to compensation payments granted under Natura 2000

Protection of the environment is capable of justifying a restriction on the use of the right to property which does not necessarily give rise to a right to compensation

Natura 2000 is a Community network of nature protection areas established under the 'Habitats' Directive. [1] This network also includes areas designated pursuant to the 'Birds' Directive [2] and seeks to ensure the long-term survival of the most valuable and threatened species and habitats in Europe.

Case C-234/20

In 2002, Sātiņi-S purchased 7.7 ha of peat bog, situated in a nature protection area and in a Natura 2000 conservation area of Community importance in Latvia.

On 2 February 2017, Sātiņi-S applied to the Rural Support Service for compensation for 2015 and 2016 in view of the prohibition on establishing cranberry plantations on that peatland. By decision of 28 February 2017, that authority rejected that application on the ground that the applicable national legislation did not provide for such compensation.

Sātiņi-S brought an appeal against that decision before the Administratīvā apgabaltiesa (Regional Administrative Court, Latvia), which dismissed that action by judgment of 26 March 2018. Sātiņi-S brought an appeal on a point of law against that judgment before the referring court, the Augstākā tiesa (Senāts) (Supreme Court, Latvia).

This court referred to the Court of Justice several questions for a preliminary ruling concerning Regulation No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) [3] and Article 17 of the Charter of Fundamental Rights of the European Union ('the Charter').

Article 30 of that regulation provides that support is to be granted annually per hectare of agricultural area or per hectare of forest in order to compensate beneficiaries, in the areas concerned, for additional costs and income foregone resulting from disadvantages, related to the implementation of the 'Habitats' Directive, the 'Birds' Directive and the 'Water Framework' Directive[4]. That article further states that Natura 2000 agricultural and forest areas designated pursuant to the 'Habitats' Directive and the 'Birds' Directive are to be eligible for payments related to the support in question.

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[1] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).

[2] Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7).

[3] Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ 2013 L 347, p. 487, and Corrigendum OJ 2016 L 130, p. 1).

[4] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

In today's judgment, the Court finds, in the first place, that 'peat bogs' or 'peat land' situated in Natura 2000 areas which are not covered by the definition of 'agricultural area' or that of 'forest' within the meaning of Regulation No 1305/2013 are ineligible for payments under Article 30 of that regulation.

Next, the Court examines whether that regulation permits a Member State to exclude peat bogs from entitlement to Natura 2000 payments or to limit the grant of support for such areas to situations where their designation as 'Natura 2000 areas' has the effect of adversely affecting the exercise of a specific type of economic activity in those areas, in particular, forestry.

In this regard, the Court states that, under Article 2(2) of that regulation, a Member State is entitled to establish a definition of the concept 'forest', the effect of which is to exclude peat bogs or peat land from entitlement to payments, even though they are areas corresponding to the definition set out in Article 2(1)(r) of Regulation No 1305/2013. Furthermore, in principle, EU law confers on the Member States a margin of discretion as regards, first, the choice of measures which they intend to implement among those provided for by EU law and, second, the determination of the restrictions or disadvantages on account of which payments are granted.

According to the Court, Article 30(6)(a) of Regulation No 1305/2013 must be interpreted as allowing a Member State to exclude from Natura 2000 payments, first, 'Natura 2000 agricultural areas' within the meaning of that provision, including, peat bogs which would come within such areas and, second, peat bogs situated in Natura 2000 areas, which, in principle, come within the concept of 'forest' within the meaning of that regulation, and thus he concept of 'Natura 2000 forest areas' within the meaning of that regulation. In addition, a Member State may limit such payments for Natura 2000 forest areas, including, where appropriate, peat bogs, to situations where the designation of those areas as 'Natura 2000 areas' has the effect of adversely affecting the exercise of a specific type of economic activity, in particular forestry.

Finally, the Court notes that it is apparent from the wording of Article 17 of the Charter that that article expressly confers a right to compensation only in the event of deprivation of the right to property, such as expropriation, which is clearly not the situation in the present case.

In the present case, the prohibition on establishing cranberry plantations on property coming within the Natura 2000 network does not constitute a deprivation of the right to property of that immovable property, but a restriction on its use, which may be regulated by law to the extent necessary in the public interest, in accordance with the provisions in the third sentence of Article 17(1) of the Charter.

However, according to the Court, it does not appear that a measure, which merely prohibits planting cranberries in peat bogs, for the purposes of protecting nature and the environment, constitutes, in the absence of compensation for affected owners, a disproportionate and intolerable interference impairing the very substance of the right to property.

The Court notes, in that regard, that, although the Member States may consider, where appropriate, provided that they do so in compliance with EU law, that full or partial compensation is appropriate for owners of plots affected by conservation measures taken under the 'Birds' Directive and the 'Habitats' Directive, the existence of an obligation under EU law to grant such compensation cannot, however, be inferred from that finding.

The Court concludes that Article 30 of Regulation No 1305/2013, read in conjunction with Article 17 of the Charter, must be interpreted as meaning that a Natura 2000 payment must not be granted to the owner of a peat bog that comes within the Natura 2000 network on the basis that a restriction has been made to an economic activity which may be carried out on such a peat bog, in particular the prohibition on planting cranberries*,* where, at the time when he or she acquired the immovable property concerned, the owner was aware of such restriction.

Case C-238/20

In 2002, Sātiņi-S purchased two properties, with a total surface area of 687 ha, including ponds with a surface area of 600.70 ha, in a protected nature reserve, which was subsequently included, in 2005, in the Natura 2000 network in Latvia.

In 2017, Sātiņi-S applied to the Environmental Protection Authority for an award of compensation for the damage caused to aquaculture by birds and other protected animals. That authority refused that request, on the ground that Sātiņi-S had already been awarded a total amount corresponding to the *de minimis* rule of € 30 000, over a period of three fiscal years, provided for in Article 3(2) of Regulation No 717/2014. [5]

Sātiņi-S brought an action against that decision, claiming that, because it is compensatory in nature, compensation for the damage caused to aquaculture by protected animals was not State aid. Since its claim was dismissed at first and second instance, Sātiņi-S brought an appeal on a point of law before the referring court, the Augstākā tiesa (Senāts) (Supreme Court, Latvia).

In today's judgment, the Court holds, first of all, on grounds substantially similar to those in Case C-234/20, that Article 17 of the Charter must be interpreted as not precluding the compensation granted by a Member State for the losses suffered by an economic operator as a result of the protective measures applicable in a Natura 2000 network area under the 'Birds' Directive being significantly less than the damage actually incurred by that operator.

Next, whilst asked to determine whether compensation granted through State resources, such as that at issue in the main proceedings, confers on its recipient an advantage for the purposes of Article 107(1) TFEU concerning State aid, in view of its allegedly compensatory nature, the Court observes that the costs of complying with regulatory obligations for the protection of the environment, in particular that of wild fauna, and responsibility for the damage, which the latter may cause to an undertaking in the aquaculture sector, are part of the normal operating costs of such an undertaking. Therefore, the grant of compensation for damage caused to its undertaking by protected animals constitutes an economic advantage to which the undertaking concerned cannot in principle be entitled under normal market conditions.

According to the Court, Article 107(1) TFEU must be interpreted as meaning that compensation granted by a Member State for the losses suffered by an economic operator as a result of the protective measures applicable in a Natura 2000 network area under the 'Birds' Directive confers an advantage capable of constituting 'State aid' for the purposes of that provision, where the other conditions relating to such a classification are satisfied.

Finally, the referring court asks whether Article 3(2) of Regulation No 717/2014 must be interpreted as meaning that, in a case where the compensation such as that described in the second question fulfils the conditions of Article 107(1) TFEU, the *de minimis* ceiling of € 30 000, provided for in that provision, is applicable to that compensation.

The Court finds that, to the extent that Regulation No 717/2014 is applicable, the Member State concerned may, if it decides, as in the present case, to limit the aid at issue to € 30 000, classify that aid as '*de minimis* aid' and, consequently, refrain from notifying that aid to the Commission.

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 judgments (C-234/20 and C-238/20) is published on the CURIA website on the day of delivery.

[5] Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 [TFEU] to *de minimis* aid in the fisheries and aquaculture sector (OJ 2014 L 190, p. 45).

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