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Judgment of the Court in Case C-659/20 | Ministerstvo životního prostředí (Hyacinth Macaws)

The Court provides clarification on the concept of captive breeding of specimens of Hyacinth Macaw

ET breeds parrots in the Czech Republic. In 2015, he applied to the competent regional authority for the grant of an exemption from the prohibition of trade for five specimens of Hyacinth Macaw (*Anodorhynchus hyacinthinus*) born during the year 2014 on his breeding farm. The grandparents of those parrots were initially imported into Bratislava (Slovakia) and then by car into the Czech Republic in June 1993 under circumstances incompatible with CITES. ¹



The regional authority refused to grant the exemption sought on the basis of the opinion of the Nature Conservation Agency of the Czech Republic according to which it could not be stated with certainty that that stock had been established in accordance with legal provisions.

ET brought an administrative appeal against that refusal, in which he claimed that the regional authority had misinterpreted the concept of 'breeding stock' as being made up, in his view, only of the parent pair and the offspring of those parents, and that therefore that authority was not authorised to examine the origin of the

¹ The Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed in Washington on 3 March 1973 (United Nations Treaty Series, vol. 993, No-I-14537)

grandparent pair.

The case having been brought before it, the Czech Supreme Administrative Court asks the Court, first, whether in accordance with EU law,² the concept of 'breeding stock' also covers the ancestors of specimens bred on a farm which have never been owned or kept by that establishment. In the second place, it asks whether EU law³ precludes a specimen of Hyacinth Macaw kept by a breeder from being regarded as born and bred in captivity where its ancestors, which do not constitute a part of that breeder's breeding stock, were acquired by a third party in disregard of the applicable legal provisions or in a manner which is detrimental to the survival of the species concerned in the wild.

In the judgment delivered today, the Court points out first of all that the concept of 'breeding stock' does not refer to a simple breeding process, detached from any concrete physical installation. Therefore, **the ancestors which were never owned or kept by the establishment concerned do not come within the concept of that notion.**

Next, the Court emphasises that the trade in specimens of species threatened with extinction must be subject to particularly strict regulation in order not to further endanger their survival and must only be authorised in exceptional circumstances. In order to determine whether the breeding stock was not established in a manner detrimental to the survival of the species concerned in the wild on account of the removal of an ancestor of that stock from its natural environment, account must be taken of the status of the species at the time of that removal. Where, on that date, as in the present case, that species fell within Appendix I to CITES, its removal must, in any event, be regarded as detrimental to the survival of the species concerned in the wild and no Member State must be able to grant an exemption from the prohibition on the sale of specimens originating from that ancestor.

In that respect, the Court recalls that the exercise of the right to property may be subject to restrictions justified by objectives of general interest pursued by the European Union, such as, in the present case, the protection of wild species.

Furthermore, EU law balances that right and the requirements linked to the protection of wildlife. The placing on the market of those specimens of endangered species contributes to the creation, maintenance or extension of a market for the acquisition of such specimens. The very existence of such a market constitutes, to a certain extent, a threat to the survival of endangered species.

The Court concludes **that EU law precludes a specimen, kept by a breeder, of such an animal species from being regarded as born and bred in captivity where the ancestors of that specimen, which do not form part of the breeding stock of that breeder, were acquired by a third party in a manner which is detrimental to the survival of the species concerned in the wild.**

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.

² Article 1(3) of Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ 2006 L 166, p. 1).

³ Article 54(2) of Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ 2006 L 166, p. 1), read in conjunction with Article 17 of the Charter of Fundamental Rights of the European Union, in the light of the principle of legitimate expectations.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355



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