

**Question for written answer P-006625/2012
to the Commission
Rule 117
Tamás Deutsch (PPE)**

Subject: Legal effect of 'prohibition of aggravation' provisions following a derogation period

Hungary's Act of Accession specifies that 'In no instance may nationals of the Member States or legal persons formed in accordance with the laws of another Member State be treated less favourably in respect of the acquisition of agricultural land than at the date of signature of the Accession Treaty'.

Assessing whether European Union law allows Hungary to apply land ownership policy provisions / instruments – following the expiry of a derogation period – pursuant to the above (known as the 'prohibition of aggravation') which are compatible with EU law¹ and which were not included in Hungarian legislation at the time when the Accession Treaty was signed is proving problematic for a number of experts.

We are of the opinion that the subject of this provision (the prohibition of aggravation) applies only to derogation periods and that its principle objective – in the event, according to the Accession Treaty, of it being possible to restrict a fundamental freedom guaranteed by EU law – is to ensure that there should be no further restrictions on fundamental freedoms during such a period. Therefore, following the expiry of a derogation period, the compatibility of provisions introduced in connection with the acquisition of ownership of agricultural land with EU law must be evaluated on the basis of the case law of the Court of Justice of the European Union.

We cannot therefore accept any interpretation which – as with the prohibition on aggravation – would result in the Member States concerned being discriminated against during a derogation period in sensitive areas regarding which – according to the authors of the Accession Treaties – the inclusion of an adaptation period was necessary.

Our interpretation is supported by the fact that in the case of Hungary, citizens of other Member States and legal persons as defined by the legislation in force at the time the Accession Treaty was signed were not able to acquire ownership of agricultural land.

Does the Commission agree with our view on the 'prohibition of aggravation'?

¹ Based on the case law of the Court of Justice of the European Union: C-452/01; C-370/05