



Press and Information

General Court of the European Union

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Order in Case T-197/17
Marc Abel and Others v Commission

The General Court dismisses the action for damages brought by almost 1 500 individuals following the adoption by the Commission of a 2016 regulation on pollutant emissions from vehicles

Without ruling on the legality of that regulation, the annulment of which is sought by several European capitals in other cases, the General Court finds that those almost 1 500 individuals have not established that the alleged harm is actual and certain or personal

By a 2016 regulation,¹ the Commission defined the emission limits for oxides of nitrogen not to be exceeded during real driving emissions tests ('RDE tests') to which car manufacturers must subject light passenger and commercial vehicles, inter alia, in the context of approval processes for new types of vehicles. Those RDE tests are intended to respond to the finding that laboratory tests do not reflect the true level of pollutant emissions in real driving conditions and to prevent the possible use of 'defeat devices'.

The emission limits accepted by the Commission have been the subject of several actions before the General Court, including those brought by the Cities of Paris, Brussels and Madrid.² Those actions for annulment are at present being considered by the General Court, with a hearing fixed in those three cases for 17 May 2018.

At the same time as those actions for annulment, 1 429 natural persons, mainly domiciled in France, have brought an action against the EU for the purpose of seeking compensation for the harm which they claim to have suffered as a result of the adoption of the Commission regulation. Today's order concerns this action for damages.

The 1 429 individuals consider that that regulation causes them material damage, linked to the deterioration of the quality of the air that they breathe and the resultant deterioration of their health, and that it has also caused them non-material damage linked to their fears in that regard for themselves and those close to them, and their fears resulting from their loss of confidence in the EU institutions' action to combat environmental degradation. Each of those individuals seeks a symbolic sum of €1 as compensation for material damage and €1 000 as compensation for non-material damage.

By today's order, the General Court dismisses the action for damages brought by the 1 429 individuals as lacking any basis in law.

The Court notes, first of all, that, other than in a contractual dispute, three cumulative conditions must be met in order for the EU to be held liable: (1) an EU institution must have acted unlawfully by committing a sufficiently serious breach of a rule of law intended to confer rights on individuals; (2) the harm alleged must actually exist; and (3) there must be a causal link between the EU's conduct and the damage.

¹ Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ 2016 L 109, p. 1).

² Cases [T-339/16](#), [T-352/16](#) and [T-391/16](#).

In the present case, without ruling on the first and third of those conditions (that is to say, inter alia, the question of the legality of the Commission regulation, which is the subject of the actions brought by the Cities of Paris, Brussels and Madrid), the Court finds that the existence of the damage claimed by the 1 429 individuals has not been proved to the requisite standard. It notes, in this regard, that it is for an applicant to prove that the alleged damage is actual and certain, to demonstrate its extent, and to prove that that damage affects the applicant personally. In particular, it is incumbent on the applicant to prove, in respect of non-material damage, that the institution's alleged conduct was, by reason of its seriousness, such as to cause the applicant damage of that kind.

The Court finds, first, that the extent of the damage linked to a deterioration of air quality has not been adequately proved, in so far as only a very unspecific and general assessment of the additional pollutant emissions caused by the provisions at issue could be attempted, if necessary after a certain time, with only very inconclusive results. In particular, it would be impossible to predict, had the Commission maintained more stringent limits, to what extent potential buyers would have immediately turned to the types of vehicle, possibly fewer in number, which had successfully undergone the tests conducted by complying with those limits or whether they would have preferred to keep their old vehicles for longer. Secondly, the Court finds that the applicants have put forward a general argument and unspecific matters in support of their applications but have not provided any individual evidence making it possible for the personal situation of each applicant to be assessed in relation to the alleged harm, even though they number 1 429 and live in different regions or in different circumstances.

With regard to non-material damage, the Court finds that the fact that all of the parties concerned have a high level of awareness of the problem of air pollution is insufficient to establish that each of them actually fears for their health and that of their family to the point that such fear affects their living conditions to such an extent that a finding of damage can be made. More generally, the Court notes that a feeling that any person may have does not constitute non-material damage that may be the subject of compensation.

The dismissal of the group action for damages brought by the 1 429 natural persons is without prejudice to the outcome of the actions lodged by the Cities of Paris, Brussels and Madrid against the Commission regulation.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification thereof.

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The [full text](#) of the order is published on the CURIA website on the day of delivery

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