



Press and Information

General Court of the European Union

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Judgment in Cases T-339/16

Ville de Paris v Commission, T-352/16 Ville de Bruxelles v Commission, T-391/16 Ville de Madrid v Commission

## **The General Court upholds the actions brought by the cities of Paris, Brussels and Madrid and annuls in part the Commission's regulation setting excessively high oxides of nitrogen emission limits for the tests for new light passenger and commercial vehicles**

*The Commission did not have the power to amend the Euro 6 emission limits for the new real driving emission tests*

In its Regulation 2016/646,<sup>1</sup> the Commission defined the not-to-exceed emission limits for oxides of nitrogen during the new real driving emission tests ('RDE tests') to which car manufactures must subject light passenger and commercial vehicles, in particular in the context of approving new vehicle types. Those RDE tests seek to address the finding that laboratory tests do not reflect the true level of pollutants during real driving and to thwart any use of 'rigged software'. The Commission set those limits on the basis of the limits defined for the Euro 6 standard to which it applied correction coefficients in order to take account of, in its view, statistical and technical uncertainties. For example, for a limit defined in the Euro 6 standard at 80 mg/km, the limit is set for RDE tests at 168 mg/km for a transitional period, and subsequently at 120 mg/km.

The cities of Paris, Brussels and Madrid dispute the emission limits adopted by the Commission and each city brought an action for annulment before the General Court. They submit that the Commission was not entitled to adopt the oxides of nitrogen emission values selected because they are less demanding than the limits set by the applicable Euro 6 standard.<sup>2</sup>

In today's judgment, the General Court points out, **as regards the admissibility of the actions**, which was challenged by the Commission, that an action for annulment brought by a person other than a Member State or an EU institution against a regulatory act is admissible, in particular if that act is of direct concern to the person bringing the action and does not entail implementing measures. The General Court finds that the contested act did not require implementing measures in order to be applicable to the applicant cities and points out that it has been held that the fact that an EU act prevents a public entity from exercising its own powers as it sees fit has a direct effect on its legal position. The Court stresses that this is particularly true when it is the public entity's regulatory powers that are limited. In the present case, the Court verifies whether the applicants' legal position is indeed directly affected. The three cities have already, under their environmental and health protection powers, adopted measures to restrict vehicle traffic in order to combat the proven air pollution in their cities. The Court also verifies whether traffic restrictions, relating to the level of vehicle pollutants, adopted by the public authorities that are emanations of the Member States, run counter to the requirements of EU law, in so far as they apply to vehicles compliant with the most recent standards and limits, and the Court holds that that is indeed the case. To that extent, **the cities of Paris, Brussels and Madrid are entitled to challenge the oxides of nitrogen emission limits determined by the Commission for RDE tests since they could not include vehicle types which have successfully undergone those tests, and which meet the**

<sup>1</sup> 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).

<sup>2</sup> Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ 2007 L 171, p. 1).

**other type-approval requirements, within the parameters of a traffic-restriction measure based on the level of pollutants.**

As regards the question of **whether the Commission has the power** to adopt the measures relating to the oxides of nitrogen emission limits in the context of the RDE tests, the General Court notes that those measures were adopted as measures implementing Regulation No 715/2007, on the basis of the provisions of that regulation which enable the Commission to determine the specific procedures, tests and requirements for type approval.

The Court emphasises, however, that the oxides of nitrogen emission limits set by the Euro 6 standard constitute an essential element of that regulation, which cannot be amended by the Commission, and that that regulation provides that those limits must be complied with during real driving and, therefore, during RDE tests. **The General Court concludes from this that the Commission had no power to amend those limits for the RDE tests by applying correction coefficients. It further holds that even if it had to be accepted that technical constraints may justify a certain adjustment, a difference such as that stemming from the contested regulation means that it is impossible to know whether the Euro 6 standard is complied with during those tests.** The General Court makes clear that **the lack of competence on the part of the Commission established necessarily implies an infringement of Regulation No 715/2007.**

As regards the extent to which the measures in Regulation 2016/646 adopted by the Commission should be annulled, the General Court finds that only the provision setting the oxides of nitrogen emission limits must be annulled, not the other provisions of the regulation setting out the conditions in which the RDE tests must be carried out. As regards **the temporal effect of the annulment**, the General Court holds, in the light of the legal uncertainty which could ensue before new legislation were adopted, that the protection of public health and of the environment, like that of the interests of consumers and car manufacturers, justifies **maintaining the effects of the annulled provision in relation to the past and for a reasonable period in order to enable the relevant legislation to be amended, limited to twelve months** from the expiry of the period for bringing an appeal against the present judgment or, if an appeal is brought, from the date on which it is dismissed.

The Court holds, lastly, as regards the City of Paris's claim for nominal damages of €1 for damage to its image and legitimacy, that such damage is not proven, but would in any event be sufficiently compensated for by the annulment of the provision at issue.

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**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 of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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

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