



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 150/20**  
Luxembourg, 3 December 2020

Judgment in Case C-352/19 P  
Région de Bruxelles-Capitale v Commission

## **The Brussels Capital Region's action for annulment of the Commission's Implementing Regulation renewing the approval of the active substance 'glyphosate' is inadmissible**

*It has not shown that it was directly and individually concerned by that decision*

On 8 March 2018, the Brussels Capital Region, Belgium, brought an action before the General Court of the European Union seeking the annulment of Commission Implementing Regulation 2017/2324<sup>1</sup> renewing the approval of the active substance 'glyphosate'. By Decree of 10 November 2016, the Brussels Capital Region had prohibited the use of pesticides containing glyphosate.

By the order under appeal before the Court of Justice,<sup>2</sup> the General Court had declared the action for annulment inadmissible for lack of standing to bring proceedings. More specifically, the Court ruled that the Brussels Capital Region was not directly concerned by the contested regulation.

By its appeal, the Brussels Capital Region asks the Court to set aside the order under appeal, declare the action for annulment admissible and refer the case back to the General Court.

In today's judgment, the Court recalls, first of all, that an action by a local or regional entity must satisfy the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU which makes the admissibility of an action brought by a natural or legal person against a decision which is not addressed to him or her subject to the condition that the decision is of direct and individual concern to that person or, if it is a regulatory act, that that act is of direct concern to that person and that the regulatory act does not entail implementing measures.

In response to the argument of the Brussels Capital Region that its action falls within the scope of the Aarhus Convention<sup>3</sup> and therefore that the conditions of admissibility laid down in the TFEU must be interpreted in the light of the provisions of that convention which relate to access to justice, the Court states that international agreements cannot prevail over EU primary law. Thus, **the provisions of the Aarhus Convention cannot have the effect of modifying the conditions of admissibility of actions for annulment laid down in the TFEU**. The Court therefore dismisses the application of the Brussels Capital Region on that basis.

The Brussels Capital Region claims moreover that the contested implementing regulation allows authorisations to place on the market plant protection products containing the active substance 'glyphosate' to continue to have effect, whereas, in the absence of a renewal of approval of that active substance, those authorisations would have lapsed. The Court observes that **the renewal of the approval of an active substance does not lead to the confirmation, extension or renewal of authorisations to place on the market plant protection products which contain that active**

<sup>1</sup> Commission Implementing Regulation (EU) 2017/2324 of 12 December 2017 renewing the approval of the active substance 'glyphosate' in accordance with Regulation (EC) 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) 540/2011 (OJ 2017 L 333, p. 10).

<sup>2</sup> Order of 28 February 2019, *Région de Bruxelles-Capitale v Commission* (T-178/18w).

<sup>3</sup> Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998.

**substance**, since their holders must apply for renewal of the approval within 3 months from the approval of the active substance, an application on which the Member States themselves must decide within 12 months. Moreover, the obligation, where no decision is taken on the renewal of the authorisation before its expiry, to extend the authorisation for the necessary period is a matter for the federal authority in Belgium, which is competent under national law to 'establish product standards', and not for regions such as the Brussels Capital Region. In addition, while it is true that Belgian law provides that the regions are to be 'involved in drawing up federal regulations on product standards' and that the marketing and use of a pesticide for agricultural use may be approved by the competent federal minister only after the opinion of a committee in which the Brussels Capital Region is represented by an expert, that advisory competence does not constitute a direct effect of Regulation No 1107/2009 concerning the placing of plant protection products on the market.<sup>4</sup>

With regard to the condition of 'direct concern', the Court recalls that that condition means, in particular, that the measure in question must directly affect the legal situation of the natural or legal person who intends to bring an action under the fourth paragraph of Article 263 TFEU. The Brussels Capital Region claims that the contested act poses a risk for the validity of the ban on the use of pesticides containing glyphosate laid down by its Decree of 10 November 2016. However, according to the Court, the doubts as to the validity of the scheme prohibiting the use of pesticides containing glyphosate in the light of the Belgian Constitution, whose link with the contested act the appellant does not make clear, are not such as to establish that it is directly concerned by that regulation. In response to the argument of the Brussels Capital Region that the adoption, despite an adverse legal context, of the Decree of 10 November 2016 was dictated by public interest concerns of a political nature, and not only by legal considerations, the Court points out that **the condition of 'direct concern' must be assessed only with regard to the legal effects of the measure in question, the possible political effects of that measure not having any bearing on that assessment.**

**The Court therefore dismisses the appeal brought by the Brussels Capital Region in its entirety.**

---

**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

---

*Unofficial document for media use, not binding on the Court of Justice.*

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

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

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106

---

<sup>4</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1).