



Court of Justice of the European Union

**PRESS RELEASE No 2/22**

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Judgment in Joined Cases C-177/19 P Germany - Ville de Paris and Others  
v Commission,  
C-178/19 P Hungary - Ville de Paris and Others v Commission and  
C-179/19 P Commission v Ville de Paris and Others

Press and Information

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## **The Court of Justice sets aside the judgment of the General Court partially annulling the Commission regulation fixing emission values for real driving emissions tests for new light vehicles.**

*Since the cities of Paris, Brussels and Madrid are not directly concerned by that regulation, their actions seeking its annulment must be dismissed as inadmissible*

By adopting Directive 2007/46,<sup>1</sup> the EU legislature established a harmonised framework for the approval of motor vehicles in order to facilitate their registration, sale and entry into service in the European Union. In the context of the ‘Dieselgate’ scandal, the European Commission set up a procedure for testing the real driving emissions (‘RDE’)<sup>2</sup> of light passenger and commercial vehicles, approved in accordance with the applicable legislation,<sup>3</sup> in order better to reflect the emissions measured on the road. The requirements for the RDE tests were subsequently supplemented by Commission Regulation 2016/646,<sup>4</sup> which sets limit values for emissions of oxides of nitrogen which must not be exceeded during those tests (‘the contested regulation’).

The City of Paris, the City of Brussels and the Municipality of Madrid (‘the respondents’) each brought an action for annulment of the regulation at issue, in so far as it prevented them from imposing restrictions on the circulation of passenger vehicles in relation to their pollutant emissions. The Commission raised objections of inadmissibility against the abovementioned actions, alleging that the regulation at issue was not of direct concern to the applicant cities within the meaning of the fourth paragraph of Article 263 TFEU.

Those actions were nevertheless partially upheld by the General Court, which held that the regulation at issue was of direct concern to the applicant cities.<sup>5</sup> In interpreting Directive 2007/46,<sup>6</sup> in the context of which the regulation at issue was adopted, the General Court, in particular, considered that that regulation must be regarded as a regulatory act which does not entail implementing measures and which directly affects the exercise by those cities of their powers to regulate the circulation of motor vehicles.

Ruling on appeals brought by the Federal Republic of Germany (Case C-177/19 P), Hungary (Case C-178/19 P) and the Commission (Case C-179/19 P), the Court of Justice sets aside the judgment of the General Court and clarifies, in that context, the concept of ‘direct concern’ as a

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<sup>1</sup> Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ 2007 L 263, p. 1).

<sup>2</sup> Commission Regulation (EU) 2016/427 of 10 March 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ 2016 L 82, p. 1).

<sup>3</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).

<sup>4</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>5</sup> Judgment in *Ville de Paris, Ville de Bruxelles and Ayuntamiento de Madrid v Commission* (T-339/16, T-352/16 and T-391/16) (see also Press Release No 198/18).

<sup>6</sup> Article 4(3) of Directive 2007/46.

condition for the admissibility of an action for annulment brought by a regional entity of a Member State against an act of the European Union.

### ***Findings of the Court***

First of all, the Court notes that a regional or local entity with legal personality may, like any natural or legal person, institute proceedings against an act of EU law only if it comes within one of the situations referred to in the fourth paragraph of Article 263 TFEU,<sup>7</sup> which requires that the act at issue must be of direct concern to the person or entity in question. In order for an infra-State entity to be directly concerned by the measure in question, two cumulative criteria must be satisfied. First, **the contested measure must directly affect the legal situation of those entities** and, secondly, it must leave no discretion to its addressees who are entrusted with the task of implementing it.

Next, the Court examines whether the second subparagraph of Article 4(3) of Directive 2007/46, according to which Member States are not to 'prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles ... if they satisfy the requirements of the [directive]', effectively prevents the applicant cities from exercising their powers to regulate the circulation of passenger vehicles in order to reduce pollution and, accordingly, whether, having regard to the relationship between that provision and the contested regulation, those cities must be regarded as being directly concerned by that regulation. To that end, the Court interprets the provision at issue in the light of its wording, its context, the objectives pursued by the legislation of which it forms part, and relevant information concerning its legislative history.

As regards the wording of the second subparagraph of Article 4(3) of Directive 2007/46 and, in particular, the prohibition laid down therein on restricting the 'circulation on the road' of certain vehicles, the Court states that that provision covers not only the circulation of vehicles in the territory of a Member State, but also other activities, such as the registration, sale and entry into service of vehicles. Such restrictions entail a general barrier to access to the vehicle market.

As regards the context of that provision, the Court notes that **the obligations imposed on Member States** under Directive 2007/46 **concern the placing on the market of motor vehicles and not their subsequent use**. It also notes that, although the second subparagraph of Article 4(3) of that directive lays down a negative obligation preventing Member States from prohibiting, restricting or impeding the circulation on the road of vehicles which comply with the requirements of the directive, its first subparagraph lays down a positive obligation allowing Member States to register and authorise the sale and entry into service of those vehicles, without any mention of circulation on the road. Thus, contrary to the interpretation adopted by the General Court, the scope of the negative obligation cannot be wider than the scope of the positive obligation, since the wording of those two subparagraphs is complementary. Finally, the Court notes that the applicant cities do not have powers in relation to vehicle type-approval.

As regards the objective pursued by Directive 2007/46, that objective consists in the establishment of a uniform procedure for the approval of new vehicles and, by extension, in the establishment and functioning of the internal market, while seeking to ensure a high level of road safety by means of the total harmonisation of technical requirements concerning, inter alia, the construction of vehicles.

Moreover, the legislative history of the second subparagraph of Article 4(3) of Directive 2007/46 shows that the purpose of the prohibition on preventing the 'circulation on the road' of certain vehicles was not to extend the scope of the legislation on vehicle type-approval, but only to prevent the circumvention, by the Member States, of the prohibition on opposing access to the market for vehicles which comply with the applicable legislation.

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<sup>7</sup> Article 263(4) TFEU provides that 'Any natural or legal person may, under the conditions laid down in 263(1) and (2), institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.'

Therefore, according to the Court of Justice, **the General Court's interpretation amounts to giving the second subparagraph of Article 4(3) of Directive 2007/46 a broad scope in order to support the conclusion that that provision precludes certain local restrictions on circulation which are intended, inter alia, to protect the environment.** That interpretation is not consistent with the context of that provision, with the objectives of the legislation of which it forms part, or with the legislative history of that provision.

Consequently, the Court concludes that **the General Court erred in law in holding that the regulation at issue is of direct concern to the applicant cities**, within the meaning of the fourth paragraph of Article 263 TFEU.

As regards the applicant cities' concerns with regard to the possibility of infringement proceedings being brought against one of the Member States to which they belong for infringement of the regulation at issue, the Court points out that **the adoption of legislation limiting the local circulation of certain vehicles for the purposes of protecting the environment is not liable to infringe the prohibition imposed by the contested regulation**, with the result that it cannot have a direct effect on any action for failure to fulfil obligations.

In the light of the foregoing, the Court of Justice **sets aside the judgment under appeal** and, considering that the state of the proceedings so permits, **gives final judgment in the matter, dismissing the actions for annulment brought by the applicant cities as inadmissible.**

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**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.

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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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