Provisional text

JUDGMENT OF THE COURT (Fifth Chamber)

13 January 2022 (*)

(Appeal – Action for annulment – Environment – Type approval of motor vehicles – Regulation (EU) 2016/646 – Emissions from light passenger and commercial vehicles (Euro 6) – Setting of the not-to-exceed (NTE) values for emissions of oxides of nitrogen during the real driving emission (RDE) tests – Fourth paragraph of Article 263 TFEU – Admissibility of an action – Infra-State entity with powers in the field of environmental protection to limit the circulation of certain vehicles – Condition that the applicant must be directly concerned)

In Joined Cases C-177/19 P to C-179/19 P,

THREE APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, lodged on 22 February 2019 (C-177/19 P and C-178/19 P) and 23 February 2019 (C-179/19 P),

Federal Republic of Germany, represented by J. Möller, D. Klebs and S. Eisenberg, acting as Agents,

appellant,

supported by:

European Automobile Manufacturers Association, represented by F. Di Gianni and G. Coppo, avvocati,

Romania, represented initially by E. Gane, O.-C. Ichim, L. Liţu and C.-R. Canţăr, and subsequently by E. Gane, O.-C. Ichim and L. Liţu, acting as Agents,

Slovak Republic, represented by B. Ricziová, acting as Agent,

interveners in the appeal,

the other parties to the proceedings being:

Ville de Paris (France), represented by J. Assous, avocat,

Ville de Bruxelles (Belgium), represented by M. Uyttendaele, C. Derave, N. Mouraux and A. Feyt, avocats, and by S. Kaisergruber, Rechtsanwalt,

Ayuntamiento de Madrid (Spain), represented by J. Assous, avocat,

applicants at first instance,

European Commission, represented by J.-F. Brakeland and M. Huttunen, acting as Agents,

defendant at first instance (C-177/19 P),

and

Hungary, represented by M.Z. Fehér, acting as Agent

appellant,

supported by:

European Automobile Manufacturers Association, represented by F. Di Gianni and G. Coppo, avvocati,

intervener in the appeal,

the other parties to the proceedings being:

Ville de Paris (France), represented by J. Assous, avocat,

Ville de Bruxelles (Belgium), represented by M. Uyttendaele, C. Derave, N. Mouraux and A. Feyt, avocats, and by S. Kaisergruber, Rechtsanwalt,

Ayuntamiento de Madrid (Spain), represented by J. Assous, avocat,

applicants at first instance,

European Commission, represented by J.-F. Brakeland and M. Huttunen, acting as Agents,

defendant at first instance (C-178/19 P),

and

European Commission, represented by J.-F. Brakeland, acting as Agent,

appellant,

supported by:

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the other parties to the proceedings being:

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Ville de Bruxelles (Belgium), represented by M. Uyttendaele, C. Derave, N. Mouraux and A. Feyt, avocats, and by S. Kaisergruber, Rechtsanwalt,

Ayuntamiento de Madrid (Spain), represented by J. Assous, avocat,

applicants at first instance (C-179/19 P),

THE COURT (Fifth Chamber),

composed of E. Regan (Rapporteur), President of the Chamber, C. Lycourgos, President of the Fourth Chamber, and M. Ilešič, Judge,

Advocate General: M. Bobek,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 10 June 2021,

gives the following

Judgment

1 By their appeals, the Federal Republic of Germany (C-177/19 P), Hungary (C-178/19 P) and the European Commission (C-179/19 P) seek to have set aside the judgment of the General Court of the European Union of 13 December 2018, *Ville de Paris, Ville de Bruxelles and Ayuntamiento de Madrid* v *Commission* (T-339/16, T-352/16 and T-391/16, EU:T:2018:927; 'the judgment under appeal'), by which the General Court, first, annulled point 2 of Annex II to 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; 'the regulation at issue'), in so far as it sets, in points 2.1.1 and 2.1.2 of Annex IIIA to Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing 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 2008 L 199, p. 1), the value of the final CF pollutant conformity factor and the value of the temporary CF pollutant conformity factor for the mass of the oxides of nitrogen and, secondly, ordered that the effects of the annulled provisions should be maintained pending the adoption, within a reasonable period, of new legislation replacing those provisions, which period could not exceed 12 months from the date on which that judgment took effect.

Legal context

Directive 2007/46/EC

2 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), as amended by Commission Regulation (EU) No 214/2014 of 25 February 2014 (OJ 2014 L 69, p. 3) ('Directive 2007/46'), states, in recitals 2, 3 and 14 thereof:

'(2) For the purposes of the establishment and operation of the internal market of the Community, it is appropriate to replace the Member States' approval systems with a Community approval procedure based on the principle of total harmonisation.

(3) The technical requirements applicable to systems, components, separate technical units and vehicles should be harmonised and specified in regulatory acts. Those regulatory acts should

primarily seek to ensure a high level of road safety, health protection, environmental protection, energy efficiency and protection against unauthorised use.

…

(14) The main objective of the legislation on the approval of vehicles is to ensure that new vehicles, components and separate technical units put on the market provide a high level of safety and environmental protection. This aim should not be impaired by the fitting of certain parts or equipment after vehicles have been placed on the market or have entered service. Thus, appropriate measures should be taken in order to make sure that parts or equipment which can be fitted to vehicles and which are capable of significantly impairing the functioning of systems that are essential in terms of safety or environmental protection, are subject to a prior control by an approval authority before they are offered for sale. These measures should consist of technical provisions concerning the requirements that those parts or equipment have to comply with.'

3 Article 1 of that directive, entitled 'Subject matter', provides as follows:

'This Directive establishes a harmonised framework containing the administrative provisions and general technical requirements for approval of all new vehicles within its scope and of the systems, components and separate technical units intended for those vehicles, with a view to facilitating their registration, sale and entry into service within the Community.

…

Specific technical requirements concerning the construction and functioning of vehicles shall be laid down in application of this Directive in regulatory acts, the exhaustive list of which is set out in Annex IV.'

4 Article 4 of that directive, entitled 'Obligations of Member States', provides in paragraphs 1 to 3:

'1. Member States shall ensure that manufacturers applying for approval comply with their obligations under this Directive.

2. Member States shall approve only such vehicles, systems, components or separate technical units as satisfy the requirements of this Directive.

3. Member States shall register or permit the sale or entry into service only of such vehicles, components and separate technical units as satisfy the requirements of this Directive.

They shall not prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles, components or separate technical units, on grounds related to aspects of their construction and functioning covered by this Directive, if they satisfy the requirements of the latter.'

5 Annex IV to that directive, entitled 'Requirements for the purpose of EC type-approval of vehicles', contains, in Part I, a list of 'Regulatory acts for EC type-approval of vehicles produced in unlimited series'. It follows from that list that the relevant regulatory act as regards emissions of light duty vehicles (Euro 5 and 6) is 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).

Regulation No 715/2007

6 Article 1 of Regulation No 715/2007, entitled 'Subject matter', provides in paragraph 1 thereof:

'This Regulation establishes common technical requirements for the type approval of motor vehicles (vehicles) and replacement parts, such as replacement pollution control devices, with regard to their emissions.'

7 Chapter II of that regulation, entitled 'Manufacturers' type-approval obligations', includes Article 4 thereof, itself entitled 'Manufacturers' obligations', paragraph 1 of which provides:

'Manufacturers shall demonstrate that all new vehicles sold, registered or put into service in the Community are type approved in accordance with this Regulation and its implementing measures. …

These obligations include meeting the emission limits set out in Annex I and the implementing measures referred to in Article 5.'

Directive 2008/50/EC

8 As is apparent from Article 1 thereof, entitled 'Subject matter', Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1) lays down measures aimed at, inter alia, to 'maintaining air quality where it is good and improving it in other cases'.

Regulation (EU) 2016/427

9 By 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), the Commission introduced a real driving emission test procedure (RDE) in order better to reflect the emissions measured on the road.

The regulation at issue

10 Recital 1 of the regulation at issue states as follows:

'Regulation [No 715/2007] is one of the separate regulatory acts under the type-approval procedure laid down by Directive [2007/46].'

11 Article 1 of that regulation provides:

'Regulation [No 692/2008] is amended as follows:

…

(6) Annex IIIA is amended as set out in Annex II to this Regulation.'

12 Annex II to that regulation provides, inter alia, for the insertion of points 2.1.1, 2.1.2 and 2.1.3 in Annex IIIA to Regulation No 692/2008.

13 Point 2.1.1 provides for a final conformity factor for the mass of oxides of nitrogen of 1 plus a margin of 0.5 and states that that margin 'is a parameter taking into account the additional measurement uncertainties introduced by the PEMS equipment, which are subject to an annual

review and shall be revised as a result of the improved quality of the PEMS procedure or technical progress'.

14 Point 2.1.2 provides that, by way of exception to the provisions of point 2.1.1, during a period of five years and four months following the dates specified in Article 10(4) and (5) of Regulation No 715/2007 and upon request of the manufacturer, a temporary conformity factor of 2.1 may be applied as regards the mass of oxides of nitrogen.

15 Point 2.1.3 relates to 'transfer functions'.

The procedure before the General Court and the judgment under appeal

16 By applications lodged at the Registry of the General Court on 26 June, 29 June and 19 July 2016 respectively, the ville de Paris (City of Paris) (Case T-339/16), the ville de Bruxelles (City of Brussels) (Case T-352/16) and the Ayuntamiento de Madrid (Municipality of Madrid) (Case T-391/16) each brought an action for annulment of the regulation at issue.

17 In support of their actions, they submitted, in particular, that the Commission could not, by that regulation, adopt NTE values for emissions of oxides of nitrogen above the limits laid down for the Euro 6 standard by Regulation No 715/2007.

18 By separate documents, the Commission raised objections of inadmissibility against those actions on the basis of Article 130(1) of the Rules of Procedure of the General Court, arguing that the regulation at issue was not of direct concern to the City of Paris, the City of Brussels and the Municipality of Madrid, within the meaning of the fourth paragraph of Article 263 TFEU, and asked the General Court to rule on those objections without going to the substance of the case. The General Court decided to reserve its decision on the pleas of inadmissibility until it ruled on the substance of the case.

19 Cases T-339/16, T-352/16 and T-391/16 were joined for the purposes of the oral part of the procedure and the decision closing the proceedings.

20 By the judgment under appeal, the General Court rejected the pleas of inadmissibility raised by the Commission, after finding, in paragraph 84 of that judgment, that 'it [was] established that the [legal situation of the applicants at first instance was] affected by the [regulation at issue] and that that regulation [was] therefore of direct concern to them, within the meaning of the fourth paragraph of Article 263 TFEU'. As to the substance, the General Court, first, annulled point 2 of Annex II to the regulation at issue, in so far as it sets, in points 2.1.1 and 2.1.2 of Annex IIIA to Regulation No 692/2008, the value of the final CF pollutant conformity factor and the value of the temporary CF pollutant conformity factor for the mass of the oxides of nitrogen and, secondly, ordered that the effects of the annulled provisions should be maintained pending the adoption, within a reasonable period, of new legislation replacing those provisions, which period could not exceed 12 months from the date on which that judgment took effect. The General Court dismissed the actions as to the remainder and dismissed the claim for damages made by the City of Paris.

Forms of order sought and procedure before the Court of Justice

21 By its appeal in Case C-177/19 P, the Federal Republic of Germany asks the Court to:

– set aside the judgment under appeal and dismiss the actions;

– in the alternative, amend point 3 of the operative part of the judgment under appeal so that the effects of the provisions annulled are maintained for a maximum period significantly longer than 12 months from the date on which that judgment took effect; and

– order the City of Paris, the City of Brussels and the Municipality of Madrid to pay the costs.

22 By decision of the President of the Court of 27 June 2019, the Slovak Republic was granted leave to intervene in support of the form of order sought by the Federal Republic of Germany.

23 By decision of the President of the Court of 19 July 2019, Romania was granted leave to intervene in support of the form of order sought by the Federal Republic of Germany at the hearing, if one were held.

24 The Commission asks the Court to:

– set aside the judgment under appeal and dismiss the actions;

– in the alternative, annul the operative part of the judgment under appeal in so far as it maintains the effects of the provisions annulled for a period not exceeding 12 months from the date on which that judgment took effect, and to maintain those provisions in force until the adoption of the new legislation replacing those provisions.

25 By its appeal in Case C-178/19 P, Hungary claims that the Court should:

– set aside the judgment under appeal and dismiss the actions;

– in the alternative, annul the operative part of the judgment under appeal in so far as it maintains the effects of the provisions annulled for a period not exceeding 12 months from the date on which that judgment took effect, and to maintain those provisions in force until the adoption of the new legislation replacing those provisions; and

– order the parties to the proceedings at first instance to pay the costs.

26 The Commission seeks the same form of order as that sought by Hungary, both as its principal claim and in the alternative.

27 By its appeal in Case C-179/19 P, the Commission claims that the Court should:

– set aside the judgment under appeal, dismiss the actions and order the City of Paris, the City of Brussels and the Municipality of Madrid to pay the costs; and

– in the alternative, set aside the judgment under appeal, refer the case back to the General Court for reconsideration and reserve the costs of both sets of proceedings.

28 By orders of the President of the Court of 1 October 2019, *Germany* v *Commission* (C-177/19 P, not published, EU:C:2019:837), *Hungary* v *Commission* (C-178/19 P, not published, EU:C:2019:835), and *Commission* v *Ville de Paris and Others* (C-179/19 P, not published, EU:C:2019:836), the European Automobile Manufacturers Association ('the ACEA') was granted leave to intervene in support of the form of order sought by the appellants.

29 In each of the cases concerning them, the City of Paris, the City of Brussels and the Municipality of Madrid contend that the Court should dismiss the appeals and order the appellants to pay the costs.

30 In the alternative, the Municipality of Madrid asks the Court to refer those cases back to the General Court so that it may rule on the pleas which were not examined at first instance. The City of Paris and the City of Brussels make the same alternative claim in Case C-179/19 P.

31 In accordance with Article 54(2) of the Rules of Procedure of the Court, the President of the Fifth Chamber decided, on 28 January 2021, after hearing the Advocate General and the parties, to join the present cases for the purposes of the Opinion and the judgment.

The appeals

32 In support of its appeal in Case C-177/19 P, the Federal Republic of Germany raises five grounds of appeal alleging, first, that the General Court erred in law in holding that the regulation at issue is of direct concern to the respondent cities, secondly, that the General Court failed to state reasons in that respect, thirdly, that the General Court infringed, inter alia, Article 5(3) of Regulation No 715/2007 in holding that the Commission did not have the power to adopt the regulation at issue, fourthly, that the General Court erred in law in partially annulling that regulation and, fifthly, that the effects of the annulled provisions should be maintained for a period longer than 12 months from the date on which the judgment under appeal took effect.

33 In support of its appeal in Case C-178/19 P, Hungary raises two grounds of appeal relating, first, to the admissibility of the actions at first instance and, secondly, to the period chosen by the General Court for which the effects of the annulled provisions of the regulation at issue should be maintained.

34 In support of its appeal in Case C-179/19 P, the Commission raises a single ground of appeal alleging that the General Court erred in law in holding that the regulation at issue amends an essential element of Regulation No 715/2007.

The second ground of appeal in Case C-177/19 P

Arguments of the parties

35 By its second ground of appeal in Case C-177/19 P, which it is appropriate to examine first, the Federal Republic of Germany, supported by the ACEA and the Slovak Republic, submits that, according to settled case-law of the Court of Justice, the statement of the reasons on which a judgment is based must clearly and unequivocally disclose the General Court's reasoning. However, according to the Federal Republic of Germany, in the judgment under appeal, the General Court failed adequately to explain why it considered that the regulation at issue was of direct concern to the respondent cities, within the meaning of the fourth paragraph of Article 263 TFEU, since it merely referred to the fact that the second subparagraph of Article 4(3) of Directive 2007/46 prohibits those cities from restricting the circulation of vehicles which comply with the Euro 6 standard.

36 The City of Brussels and the Municipality of Madrid submit that the second ground of appeal in Case C-177/19 P is unfounded.

Findings of the Court

37 According to settled case-law, the statement of the reasons on which a judgment is based must clearly and unequivocally disclose the General Court's reasoning, so that the persons concerned can ascertain the reasons for the decision taken and the Court of Justice can exercise its power of review

(judgment of 13 December 2018, *European Union* v *Kendrion*, C-150/17 P, EU:C:2018:1014, paragraph 80 and the case-law cited).

38 In the present case, it is true that, as is apparent from the grounds of the judgment under appeal, in particular paragraphs 50 to 84 thereof, the General Court essentially focused, in determining whether the regulation at issue is of direct concern to the respondent cities, on interpreting not that regulation but Directive 2007/46, in particular the second subparagraph of Article 4(3) thereof. Under that provision, the Member States are not to 'prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles … on grounds related to aspects of their construction and functioning covered by this Directive, if they satisfy the requirements of the latter'.

39 However, the General Court set out with sufficient clarity and precision, in particular in paragraphs 50 to 54, 56, 59, 67, 74, 76 and 77 of the judgment under appeal, the reasons why it considered that the second subparagraph of Article 4(3) of Directive 2007/46 is relevant for determining whether the regulation at issue is of direct concern to the respondent cities, even though that provision appears in an act of secondary EU legislation distinct from that regulation.

40 In particular, in paragraph 76 of the judgment under appeal, the General Court found that the literal, teleological and contextual interpretations of Directive 2007/46, and more specifically of the second subparagraph of Article 4(3) thereof, lead to the conclusion that that directive actually prevents the public authorities of the Member States from prohibiting, restricting or impeding the circulation on the road of vehicles on grounds related to aspects of their construction and functioning covered by that directive if they satisfy the requirements of the latter. In essence, in paragraphs 3, 4, 52, 74 and 76 of the judgment under appeal, after noting that those requirements are those laid down by the 'regulatory acts' of that directive and the secondary acts of those acts, the General Court found that Regulation No 715/2007 is the 'regulatory act' applicable under the type-approval procedure laid down by Directive 2007/46 for pollutant emissions from light passenger and commercial vehicles, since those emissions constitute one of the aspects of the construction and functioning of those vehicles covered by Directive 2007/46, within the meaning of the second subparagraph of Article 4(3) thereof. Moreover, as can be seen, in particular, from the summary of the legal context of the cases set out in paragraphs 2 to 16 of the judgment under appeal, Regulation No 692/2008, Regulation 2016/427 and the regulation at issue are 'secondary acts' of Regulation No 715/2007, since the latter is their legal basis and they are intended to implement it.

41 Furthermore, it is apparent from paragraphs 59, 74 and 76 of the judgment under appeal that, according to the General Court, in so far as the regulation at issue introduces a conformity factor which applies to the values laid down in Regulation No 715/2007, in order to define the values of pollutant emissions of oxides of nitrogen which cannot be exceeded (NTE) during the RDE tests established by Regulation 2016/427, the second subparagraph of Article 4(3) of Directive 2007/46 applies equally to those NTE values, with the result that, on account of the adoption of the regulation at issue, the public authorities could no longer impose restrictions on circulation based on the pollutant emission levels of vehicles which fall into the category covered by Regulation No 715/2007 and which comply with those NTE values. In view of its finding that the regulation at issue thus affects the respondent cities' own legislative powers in relation to the regulation of the circulation of motor vehicles, the General Court concluded, in particular in paragraphs 50, 76, 80 and 84 of that judgment, that that regulation was of direct concern to them.

42 Thus, a reading of the judgment under appeal as a whole enables the persons concerned to ascertain the reasons why the General Court considered that it followed from its interpretation of the second subparagraph of Article 4(3) of Directive 2007/46 that the regulation at issue is of direct concern to the respondent cities.

43 Accordingly, the statement of reasons given by the General Court in support of its conclusion that the regulation at issue is of direct concern to the respondent cities, within the meaning of the fourth paragraph of Article 263 TFEU, is sufficient to satisfy the requirements set out in paragraph 37 of the present judgment, without prejudice as to the merits of that reasoning, which is the subject of the first ground of appeal in Case C-177/19 P and the second part of the first ground of appeal in Case C-178/19 P.

44 The second ground of appeal in Case C-177/19 P must therefore be rejected as unfounded.

The first ground of appeal in Case C-177/19 P and the second part of the first ground of appeal in Case C-178/19 P

Arguments of the parties

45 By the first ground of appeal in Case C-177/19 P and the second part of the first ground of appeal in Case C-178/19 P, the Federal Republic of Germany and Hungary, respectively, submit that the General Court erred in law in holding that the respondent cities are directly concerned by the regulation at issue.

46 In particular, the Federal Republic of Germany, supported by the ACEA, Romania and the Slovak Republic, submits, in the first place, that the restrictions on the municipalities' freedom of action stem not from the regulation at issue but from other requirements and that, in particular, the possibility for a local authority to create zones in which traffic is prohibited does not depend on that regulation. Even if the creation of zones in which traffic is prohibited were unlawful, that would follow from the general requirements of EU law in the field of fundamental freedoms and fundamental rights.

47 For example, Directive 2008/50 provides that the Member States are to take 'appropriate measures' to ensure that, where the limit values are exceeded, the exceedance period is as short as possible. Furthermore, as is apparent from the Court's case-law resulting from the judgment of 4 June 2009, *Mickelsson and Roos* (C-142/05, EU:C:2009:336), and from paragraph 53 of the judgment under appeal, rules such as those relating to the free movement of goods and the right to property, protected by EU law under Article 17 of the Charter of Fundamental Rights of the European Union, are liable to render restrictions on the use of newly registered vehicles with low pollutant emissions disproportionate. The partial annulment of the regulation at issue would have no effect on that legal situation, with the result that there is no link between the 'regulatory powers' of infra-State bodies in that field and the regulation at issue.

48 In the second place, the Federal Republic of Germany submits that, taken as a whole, the rules on registration do not concern the detailed rules on the use of roads, such as those relating to the creation of zones in which traffic is prohibited. The mere fact that municipalities may, inter alia, be responsible for achieving an environmental objective does not mean that they are entitled to challenge any act liable to have effects on the environment by bringing an action under the fourth paragraph of Article 263 TFEU. That would amount to granting them a right to bring an action for annulment such as that enjoyed by the privileged applicants referred to in the first and second paragraphs of Article 263 TFEU.

49 Since the measure which the respondent cities seek to adopt in the present case is intended to improve air quality, Directive 2008/50 is the more specific directive and therefore takes priority over Directive 2007/46. The General Court's arguments to the contrary in paragraph 74 of the judgment under appeal are not convincing.

50 Similarly, the distinction made by the General Court in paragraphs 52 to 54 of the judgment under appeal between, on the one hand, the general rules governing traffic ('car-free days', general requirements of the Highway Code) and, on the other hand, the rules on circulation adopted by public authorities of the Member States imposing restrictions on circulation based on the level of pollutant emissions on vehicles in the category covered by Regulation No 715/2007 and which satisfy the Euro 6 standard or, during the RDE tests, the NTE values, are unfounded. Following the logic of the General Court, it should not in principle be possible to adopt measures of general application designed to reduce the level of emissions which also apply to vehicles that comply with the Euro 6 standard.

51 Hungary, supported by the ACEA, submits, inter alia, first, that the regulation at issue directly concerns only manufacturers required to comply with the limits laid down in that regulation and the authorities charged with monitoring compliance with those limits and authorising type approvals and registration, since those entities are those which implement and apply that regulation, and in respect of which that regulation lays down mandatory provisions.

52 Secondly, like the Federal Republic of Germany, Hungary takes the view that the General Court erroneously interpreted the second subparagraph of Article 4(3) of Directive 2007/46. That provision neither precludes nor limits the adoption by the respondent cities of measures intended to restrict the circulation on roads of vehicles which satisfy that directive and Regulation No 715/2007 on grounds relating to the level of pollutant emissions. The sole purpose of that provision is to ensure that new vehicles which comply with the requirements of that directive and other related EU legislation can be placed on the market without any impediment in the internal market.

53 The City of Brussels submits that the General Court was right to hold that it is directly concerned by the regulation at issue. As is apparent, in particular, from paragraphs 52, 54 and 76 of the judgment under appeal, that regulation effectively prevents it from exercising its powers as it sees fit, since it has a legal obligation to tolerate the presence of vehicles which, although not compliant with the Euro 6 standard initially adopted, comply with the Euro 6 standard as redefined by that regulation, the NTE values for emissions of oxides of nitrogen defined in the regulation at issue being higher than the values initially laid down by Regulation No 715/2007. As the General Court found, traffic legislation adopted by public authorities of the Member States which impose restrictions on circulation, based on the level of pollutant emissions, on vehicles in the category covered by that regulation and which comply with the Euro 6 standard or, during the RDE tests, the NTE values, are affected by the regulation at issue.

54 The City of Brussels adds that, in the present case, the regulation at issue produces not only legal effects, but also factual effects, in particular in terms of the reduction of air quality in its territory, effects which it is required to combat if it is not to incur liability or if the Kingdom of Belgium is not to be the subject of an action for failure to fulfil obligations on the basis of Articles 258 and 259 TFEU. Thus, according to the City of Brussels, the General Court was right, in the judgment under appeal, to take account of that effect on its factual and legal situation in concluding that the action was admissible.

55 Furthermore, the City of Brussels states that, if it were to adopt legislation prohibiting the circulation in its territory of vehicles which do not comply with the Euro 6 standard following laboratory tests only or which do not comply with the Euro 6 standard, without applying the conformity factor, at the end of the RDE tests, the Commission or another Member State could bring an action for failure to fulfil obligations against the Kingdom of Belgium on the basis of Article 258 or Article 259 TFEU. That is an effect that flows directly from the regulation at issue, and that effect alone demonstrates that that regulation is of direct concern to the respondent cities, within the

meaning of the fourth paragraph of Article 263 TFEU.

56 The City of Brussels disputes that the General Court confused Directive 2007/46 with Directive 2008/50. In any event, it is not contested that the measures adopted by the respondent cities must comply with EU law, whether it be Directive 2008/50 or the principle of free movement of goods. Those considerations are, however, insufficient to support the conclusion that the regulation at issue does not prevent those cities from exercising their own powers as they see fit.

57 Furthermore, the argument that the regulation at issue is a distinct and entirely separate act from Directive 2007/46 is incorrect, given that that regulation forms part of the framework laid down by that directive.

58 Moreover, the effect of the regulation at issue on the respondent cities' situation is not purely hypothetical. In particular, it is not established that those cities may rely on the case-law of the Court concerning derogations from the prohibition in principle of measures having an effect equivalent to restrictions on imports in order to derogate from the framework laid down by Directive 2007/46 and its regulatory acts. Moreover, although those cities have no power as regards the type approval of the vehicles concerned, they nevertheless have the power to adopt regulatory measures concerning the circulation of motor vehicles and that power would be directly affected by the regulation at issue in the event that they wished to use the Euro 6 standard to regulate that circulation.

59 Finally, the City of Brussels submits that measures concerning the level of emissions are necessarily adopted on grounds relating to aspects of the construction and functioning of vehicles, even if other objectives are also pursued.

60 The Municipality of Madrid submits that the regulation at issue falls within the scope of Directive 2007/46 from both a substantive and a temporal perspective. Moreover, that regulation refers to that directive from recital 1 thereof.

61 From a substantive perspective, any legal decision imposing a restriction on the use of land motor vehicles on the basis of technical criteria laid down by Directive 2007/46 and the regulation at issue is directly and necessarily faced with the prohibition laid down in Article 4 of that directive. By contrast, a similar prohibition based on considerations unrelated to the technical requirements laid down by those two provisions is immaterial in that regard.

62 From a temporal point of view, as is apparent from paragraph 53 of the judgment under appeal, the General Court assessed the admissibility of the actions at first instance in the light of Directive 2007/46. It follows from the literal interpretation of the provisions of that directive, made by the General Court in paragraph 59 of the judgment under appeal, that the respondent cities, whose legal powers as regards environmental policing are not disputed, are directly concerned by the regulation at issue.

63 Thus, the Municipality of Madrid submits that it entirely agrees with the reasoning of the General Court when it found, in paragraphs 81 and 82 of the judgment under appeal, that the limitation of powers resulting from the regulation at issue, read in conjunction with Directive 2007/46, was genuine and concluded that its action was admissible.

64 Moreover, the position adopted by the Federal Republic of Germany and Hungary is contradictory. On the one hand, those Member States argue that the respondent cities are not affected by the regulation at issue, since they remain free to prohibit, impede or restrict the circulation on roads of land motor vehicles, inter alia in order to combat air pollution, on the basis of other legal texts such as Directive 2008/50. However, on the other hand, those same Member States submit that those

cities are not directly concerned by a text which modifies the Euro 6 standard.

65 Furthermore, after observing that cities play a major role in EU law, the Municipality of Madrid notes the objective of opening up the conditions for bringing direct actions and the fact that the development of the approach taken as regards the admissibility of actions brought by infra-State entities, especially in matters relating to environmental law, may be seen as a corollary to the principle of sincere cooperation laid down in Article 4(3) TEU and referred to by the General Court in paragraph 79 of the judgment under appeal. Thus, it might be accepted that infra-State bodies, such as the respondent cities, which by their actions incur the liability of the States to which they belong with regard to the European Union, enjoy a presumption of admissibility, the onus being on the author of the contested act to demonstrate that they are not affected by the contested provisions.

66 Lastly, the City of Paris and the Municipality of Madrid submit that the possibility, referred to by the General Court in paragraph 79 of the judgment under appeal, that an action for failure to fulfil obligations may be brought against the Member State concerned constitutes an effect flowing from the regulation at issue and confirms the fact that the respondent cities are directly concerned by that regulation. By way of example, if a city were to prohibit the circulation of all vehicles which comply with that regulation, it would infringe EU law, having regard to the prohibition laid down in Article 4(3) of Directive 2007/46.

67 The Commission submits, first, that the Federal Republic of Germany appears to adopt too broad a reading of the judgment under appeal. The appeal refers on several occasions to ‘zones in which traffic is prohibited’. However, it follows from paragraph 52 of the judgment under appeal that measures restricting circulation which cover all vehicles are not affected by the EU legislation on the type approval of motor vehicles.

68 Secondly, the Commission has doubts as to the Federal Republic of Germany’s reasoning concerning the fundamental freedoms guaranteed by the Treaties and the principle of proportionality. Primary law does not preclude that secondary legislation may be of direct concern to legal subjects, within the meaning of the fourth paragraph of Article 263 TFEU. In particular, the fact that municipalities must comply with the principle of proportionality does not, a priori, preclude them from being directly concerned if they can show that there has been a change in their legal position as a result of the EU legislation on type approval of motor vehicles.

Findings of the Court

69 It should be noted at the outset that an action brought by a local or regional entity cannot be treated in the same way as an action brought by a Member State, the term Member State within the meaning of Article 236 TFEU referring only to government authorities of the Member States. A local or regional entity may, to the extent that it has legal personality under national law, bring an action 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 (see, to that effect, judgments of 11 July 1984, *Commune de Differdange and Others* v *Commission*, 222/83, EU:C:1984:266, paragraphs 9 to 13, and of 2 May 2006, *Regione Siciliana* v *Commission*, C-417/04 P, EU:C:2006:282, paragraphs 21 and 24 and the case-law cited).

70 Thus, given that such entities are, like any natural or legal person referred to in the fourth paragraph of Article 263 TFEU, subject to the specific conditions laid down by that provision, it is necessary to reject as unfounded the argument of the Municipality of Madrid, set out in paragraph 65 of the present judgment, that infra-State bodies, such as the respondent cities, should enjoy a presumption of admissibility when they bring an action for annulment of an act of EU law under that provision.

71 In the present case, in its examination of the pleas of inadmissibility raised by the Commission against the actions for annulment brought before it, the General Court held, in paragraphs 36 to 40 of the judgment under appeal, that the regulation at issue is a regulatory act which does not entail implementing measures, and then held, following the reasoning set out in paragraphs 41 to 84 of that judgment, that that regulation was of direct concern to the respondent cities, within the meaning of the fourth paragraph of Article 263 TFEU.

72 As regards the condition that a natural or legal person must be directly concerned, that condition requires, according to settled case-law, two cumulative criteria to be met, namely, first, the contested measure must directly affect the legal situation of the applicant and, secondly, it must leave no discretion to its addressees who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from the EU rules alone without the application of other intermediate rules (judgments of 27 February 2014, *Stichting Woonlinie and Others* v *Commission*, C-133/12 P, EU:C:2014:105, paragraph 55, and of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission*, *Commission* v *Scuola Elementare Maria Montessori* and *Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 42 and the case-law cited).

73 In particular, as the General Court rightly pointed out in paragraph 50 of the judgment under appeal, an act of EU law that prevents a public legal person from exercising its own powers as it sees fit has a direct effect on the legal position of that legal person, with the result that the act in question must be regarded as being of direct concern to that legal person, within the meaning of the fourth paragraph of Article 263 TFEU (see, to that effect, judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 69).

74 Consequently, it is necessary to examine whether the General Court did not err in law in holding that the second subparagraph of Article 4(3) of Directive 2007/46 actually prevents the respondent cities from exercising their powers to regulate the circulation of passenger vehicles as they see fit in order to reduce pollution and, accordingly, that, having regard to the relationship between that provision and the regulation at issue, those cities must be regarded as being directly concerned by that regulation.

75 The second subparagraph of Article 4(3) of Directive 2007/46 provides that the Member States are not to 'prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles … on grounds related to aspects of their construction and functioning covered by this Directive, if they satisfy the requirements of the latter'.

76 In the present case, the General Court held, in paragraphs 51 to 53 of the judgment under appeal, that legislation adopted by public authorities of Member States, which covers all vehicles or a category of vehicles defined in relation to criteria other than those covered by the provisions of Directive 2007/46, its 'regulatory acts' and the secondary acts thereof, cannot conflict with the second subparagraph of Article 4(3) of that directive. In particular, the General Court stated that most legislation pertaining to the 'Highway Code' and measures restricting circulation such as those which establish pedestrian zones, 'car-free days' or alternating traffic arrangements in the event of a peak in pollution could not be affected by such acts of the European Union. Similarly, the General Court considered that a public authority of a Member State could currently, without infringing the second subparagraph of Article 4(3) of Directive 2007/46, impose restrictions on circulation based on the level of pollutant emissions in respect of vehicles falling into the category covered by Regulation No 715/2007 and which, at best, comply only with the Euro 5 standard, since that standard and the previous Euro standards are no longer in force for the purposes of the application of that directive, the Euro 6 standard being now applicable.

77 However, as can be seen, in essence, from paragraphs 54 to 76 of the judgment under appeal, the General Court held that the inclusion of a reference to 'circulation on the road' in the second subparagraph of Article 4(3) of Directive 2007/46 has the effect of preventing a public authority of a Member State from imposing restrictions on circulation based on the level of pollutant emissions from vehicles which are covered by Regulation No 715/2007 and which comply with the NTE values during the RDE tests, since those values are in force as a result of the adoption of the regulation at issue and, consequently, such vehicles meet the requirements flowing from that directive.

78 In paragraph 76 of the judgment under appeal, to which paragraphs 77, 79 and 80 of that judgment refer, the General Court cited, by way of example of a measure restricting circulation which could thus no longer, in its view, be introduced by the respondent cities on account of the adoption of the regulation at issue, a measure that, on the basis of the levels of pollutant emissions from vehicles, would limit the circulation of those which, during the RDE tests, do not comply with the emission limits for oxides of nitrogen laid down in the Euro 6 standard, but which nevertheless comply with the NTE values for emissions of oxides of nitrogen defined in that regulation, which are higher.

79 As is apparent from paragraph 81 of the judgment under appeal, the respondent cities proved, before the General Court, without this having been challenged at first instance or in the present appeals, that they have, under national law, powers to protect the environment and health, in particular to combat air pollution, including the power to restrict the circulation of motor vehicles to that end.

80 It is therefore necessary to examine whether the General Court was entitled to interpret the second subparagraph of Article 4(3) of Directive 2007/46 as limiting the exercise of those powers in the manner set out in paragraphs 77 and 78 above.

81 In that regard, it should be noted at the outset that, even though restrictions on the respondent cities' power to regulate circulation could result from the fundamental freedoms and rights guaranteed under EU law, that does not, in itself, prevent those cities from being directly concerned by a measure of EU secondary legislation on the type approval of motor vehicles.

82 As regards the merits of the General Court's interpretation of the expression 'circulation on the road' in the second subparagraph of Article 4(3) of Directive 2007/46, it must be borne in mind that, in accordance with settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part. The origins of a provision of EU law may also provide information relevant to its interpretation (judgment of 2 September 2021, *CRCAM*, C-337/20, EU:C:2021:671, paragraph 31 and the case-law cited).

83 In the first place, as regards the wording of the second subparagraph of Article 4(3) of Directive 2007/46, it should be noted that, although, in the light of its usual meaning, the expression 'circulation on the road' appears to refer to the circulation of vehicles in the territory of a Member State, it is not the only activity which, under that provision, cannot be prohibited by the Member States, since that provision also mentions other activities which also cannot be prohibited, such as the 'registration', 'sale', and 'entry into service' of vehicles.

84 As the Commission submits, in essence, a prohibition on sales or entry into service entails a general barrier to access to the market for the vehicles concerned. That may also be the case as regards a prohibition on registration. Thus, all those prohibitions refer to obstacles to access to the vehicle market.

85 In the second place, as regards the context of which the second subparagraph of Article 4(3) of Directive 2007/46 forms part, it should be noted, first of all, that it is apparent from the very title of that directive that its purpose is to establish a framework for the approval of motor vehicles, which tends to suggest that the obligations imposed on Member States under the provisions of that directive, which include those set out in Article 4, concern the placing on the market of those vehicles and not their subsequent use.

86 Next, as the Advocate General observed in point 52 of his Opinion, it should be noted that the wording of the first and second subparagraphs of Article 4(3) of Directive 2007/46 is complementary. Those two subparagraphs relate, respectively, to a positive obligation enabling Member States to register and authorise the sale and entry into service of, inter alia, vehicles which comply with the requirements of that directive, and a negative obligation preventing Member States from prohibiting, restricting or impeding the registration, sale, entry into service or circulation on the road of those vehicles. The General Court's interpretation would have the effect of considerably widening the scope of the second subparagraph, which would therefore be much wider than that of the first, which seems difficult to justify.

87 Lastly, although, as is apparent from Article 4 of Directive 2007/46, manufacturers of motor vehicles and the national type-approval authorities are specifically concerned by the obligations laid down in that article, it is common ground that the respondent cities do not have powers as regards the approval of those vehicles.

88 In the third place, as regards the objective pursued by Directive 2007/46, it follows from Article 1 of that directive, read in conjunction with recitals 2, 3 and 14 thereof, that that directive establishes a uniform type-approval procedure for new vehicles, based on the principle of total harmonisation as regards their technical characteristics, the specific technical requirements concerning the construction and functioning of vehicles being prescribed by the separate directives listed in Annex IV to that directive. It follows from the abovementioned provisions that the aim of that harmonised framework is 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 (judgment of 20 March 2014, *Commission* v *Poland*, C-639/11, EU:C:2014:173, paragraphs 34 and 35).

89 The considerations set out in paragraphs 83 to 88 above militate against an interpretation of the second subparagraph of Article 4(3) of Directive 2007/46, such as that adopted by the General Court, which amounts to giving a broad scope to an isolated expression in that directive in order to support the conclusion that that provision precludes certain local restrictions on circulation which are intended, inter alia, to protect the environment.

90 Nor is the General Court's interpretation of the second subparagraph of Article 4(3) of Directive 2007/46 confirmed by the legislative history of that provision. The Proposal for a Directive of the European Parliament and of the Council of 14 July 2003 on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (COM(2003) 418 final) contained no reference to 'circulation on the road', and it was only in the amended proposal for a European Parliament and Council Directive of 29 October 2004 on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Recast version) (COM(2004) 738 final) that that expression was introduced.

91 First, according to point 5 of that amended proposal, that reference must be understood as a 'free circulation clause'. Secondly, as is apparent from the very title of that point 5, the amendments thus

made to that amended proposal were intended solely to clarify the Member States' obligations with regard to the free movement of approved vehicles, components and separate technical units, and not to extend the scope of those obligations.

92 Accordingly, it must be held that the addition of a reference to 'circulation on the road' was intended not to extend the scope of the legislation on the type approval of vehicles, but only to prevent the circumvention, by the Member States, of the prohibition on preventing access to the market for vehicles which fall within the scope of Directive 2007/46 and which comply with the requirements of that directive, its regulatory acts and the secondary acts thereof at the time of registration, placing on the market or entry into service of those vehicles.

93 Thus, the General Court interpreted the expression 'circulation on the road' in the second subparagraph of Article 4(3) of Directive 2007/46 in isolation, and 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.

94 In those circumstances, as the Advocate General observed in point 72 of his Opinion, the General Court erred in law by holding, in paragraph 84 of the judgment under appeal, that, in view, first, of the fact that the second subparagraph of Article 4(3) of Directive 2007/46 limits the exercise of the powers of the respondent cities in relation to the protection of air quality and the use which they make of those powers and, secondly, the relationship between the regulation at issue and that provision, those cities are directly affected by that regulation and that, consequently, that regulation is of direct concern to them, within the meaning of the fourth paragraph of Article 263 TFEU.

95 Moreover, no other ground put forward by the respondent cities nor any of the findings made by the General Court in the judgment under appeal supports its conclusion that the regulation at issue is of direct concern to the respondent cities.

96 In particular, first, in so far as the respondent cities refer to the possibility – in the event that they adopt, as regards circulation, legislation contrary to the regulation at issue, read in conjunction with Article 4(3) of Directive 2007/46 – that an action for failure to fulfil obligations may be brought against one of the Member States to which they belong and if they submit that that possibility constitutes an effect flowing directly from that regulation, which means that they must be regarded as being directly concerned by that regulation, within the meaning of the fourth paragraph of Article 263 TFEU, their line of argument cannot be accepted.

97 That line of argument, like the assessment set out in paragraph 79 of the judgment under appeal by which the General Court acknowledged the existence of such a possibility, is based on the premiss that the adoption by the respondent cities of legislation limiting the local circulation of certain vehicles for the purposes of protecting the environment is liable to infringe the prohibition laid down in Article 4(3) of Directive 2007/46, read in conjunction with the regulation at issue. However, as can be seen from the considerations set out in paragraphs 80 to 93 of the present judgment, that premiss is erroneous.

98 The same applies to the considerations set out by the General Court in paragraphs 77 and 78 of the judgment under appeal, according to which, in essence, the national courts of the Member States would be led to annul – on the ground of incompatibility with the regulation at issue, read in conjunction with Article 4(3) of Directive 2007/46 – an act adopted by a city restricting the circulation on the road of vehicles on grounds connected with their level of emissions, even though those vehicles satisfy the requirements laid down by the regulation at issue. Those considerations are also based on the erroneous premiss referred to in the preceding paragraph, with the result that

they also cannot establish that the respondent cities are directly concerned by that regulation.

99 Secondly, as regards the line of argument put forward by the City of Brussels, as set out in paragraph 54 of the present judgment, it is sufficient to note that, contrary to what the General Court appears to have held in paragraph 83 of the judgment under appeal, the fact that the Commission initiated infringement proceedings against the Kingdom of Belgium, the Kingdom of Spain or the French Republic on account of an alleged insufficient air quality in their respective territories in the light of the requirements of Directive 2008/50, including as regards the level of oxides of nitrogen, cannot be regarded as flowing directly from the regulation at issue. Given that, as follows from paragraph 94 of the present judgment, that regulation does not prevent the respondent cities from exercising their powers to regulate circulation as they see fit for the purposes, in particular, of protecting the environment, that regulation cannot be regarded as having a direct impact on the possibility that the Member States to which those cities belong might be sued before the Court, or indeed be found to have failed to fulfil their environmental obligations, in the context of infringement proceedings for failure to fulfil those obligations.

100 Thirdly, the examples, mentioned by the General Court in paragraph 82 of the judgment under appeal, of measures restricting circulation already adopted by the respondent cities, such as that implemented by the City of Paris in order to restrict the circulation in its territory of vehicles which do not comply with a specific Euro standard, do not call into question the considerations set out in paragraph 94 above, since the issue of whether those towns actually adopted legislation considered by the General Court to fall within the scope of the prohibition laid down in Article 4(3) of Directive 2007/46, as a result of the adoption of the regulation at issue, does not change the incorrect nature of the General Court's interpretation of that provision in assessing the admissibility of the actions brought before it, for the purposes of the fourth paragraph of Article 263 TFEU.

101 It follows that the first ground of appeal in Case C-177/19 P and the second part of the first ground of appeal in Case C-178/19 P must be upheld.

102 It follows from the very wording of the fourth paragraph of Article 263 TFEU that the admissibility of an action for annulment brought, under that provision, by a natural or legal person who is not an addressee of the contested act is subject to the condition that that act must be of direct concern to that person.

103 In those circumstances, the judgment under appeal must be set aside in so far as the General Court rejected the pleas of inadmissibility raised by the Commission and held that the actions at first instance were admissible.

The actions at first instance

104 In accordance with the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, the Court of Justice may, if the decision of the General Court is set aside, itself give final judgment in the matter where the state of the proceedings so permits. In the present case, the Court considers that the state of the proceedings so permits and that, in particular, it is appropriate to give final judgment on the admissibility of the actions for annulment.

105 As regards the objections of inadmissibility raised by the Commission, it should be noted that, for the reasons set out in paragraphs 82 to 101 above, the applicants at first instance, contrary to what they claim, cannot be regarded as being directly concerned by the regulation at issue.

106 Given that, as can be seen from paragraph 102 above, the admissibility of an action for annulment brought, under that provision, by a natural or legal person who is not an addressee of the contested act is subject to the condition that that act must be of direct concern to that person, the objections of inadmissibility raised by the Commission must be upheld.

107 Consequently, the actions for annulment brought by the City of Paris, the City of Brussels and the Municipality of Madrid must be dismissed as inadmissible.

Costs

108 Under Article 184(2) of the Rules of Procedure of the Court of Justice, where an appeal is well founded and the Court of Justice itself gives final judgment in the case, it is to make a decision as to costs.

109 Under Article 138(1) of those rules, applicable to the procedure on an appeal by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

110 In addition, Article 184(3) of those rules provides that, where an appeal brought by a Member State which did not intervene in the proceedings before the General Court is well founded, the Court may order that the parties share the costs or that the successful appellant pay the costs which the appeal has caused an unsuccessful party to incur. In the present case, it must be held that each party should bear its own costs relating to the appeals.

111 Next, having regard to the setting aside of the judgment under appeal and the inadmissibility of the actions at first instance, the City of Brussels, the City of Paris and the Municipality of Madrid must be ordered to bear, in addition to their own costs relating to the proceedings at first instance and to the appeals, those incurred by the Commission relating to the proceedings at first instance, in accordance with the forms of order sought by the Commission.

On those grounds, the Court (Fifth Chamber) hereby:

1. Sets aside the judgment of the General Court of the European Union of 13 December 2018, *Ville de Paris, Ville de Bruxelles and Ayuntamiento de Madrid* v *Commission* (T-339/16, T-352/16 and T-391/16, EU:T:2018:927);

2. Dismisses as inadmissible the actions for annulment in Joined Cases T-339/16, T-352/16 and T-391/16, brought, respectively, by the ville de Paris, the ville de Bruxelles and the ayuntamiento de Madrid;

3. Orders each party to bear its own costs relating to the appeals;

4. Orders the ville de Paris, the ville de Bruxelles and the ayuntamiento de Madrid to pay, in addition to their own costs relating to the proceedings at first instance and the appeals, the costs incurred by the European Commission in relation to proceedings at first instance.

[Signatures]

* Languages of the case: Spanish and French.