



Elisabetta Tati
***European Cities´ Recent Legal Actions in EU Institutions: Towards
Stronger Urban Power?***
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In 2016, the cities of Madrid, Bruxelles and Paris brought actions before the General Court (art. 263, TFEU), asking for the annulment of Regulation No 2016/646, as regards emissions from light passenger and commercial vehicles (Euro 6). With the latter, the Commission defined the not-to-exceed emission ("NTE emission") limits for oxides of nitrogen during the new real driving emission tests ("RDE tests") both for approving new vehicle types and for supervising their performances. In particular, the cities submitted that the Commission was not entitled to adopt the oxides of nitrogen emission values selected and that these limits were less demanding than those set by the applicable Euro 6 standard. The Commission challenged the admissibility of the actions. Then, it re-affirmed its competence in adopting the regulation, on the base of the delegation ex art. 5, par. 3, Regulation No 715/2007 and on the "non-essential" nature of the correction factor *CFpollutant* in the formula that calculate the amount of emission in RDE tests.

With regard to the admissibility of the action, the General Court finds out, in 2018, that the conditions of art. 263, TFEU are met in this case. Thus, the three cities are legal persons directly affected by a non-legislative regulation. Then, the Court affirmed that the Commission did not have the power to specify new different limits for the emissions and that, in doing so, it also erred in supporting the use of the correction factor *CFpollutant*. For these reasons, the Court concludes for a partial annulment of Regulation No 2016/646. The Commission, Germany and Hungary have recently appealed to the European Court of Justice.

First of all, the case is an example of how cities can have an independent role in EU governance. Secondly, cities are fighting for a stronger protection of the environment and human health. Finally, the case shows how uncertainty can be hidden behind technicalities.

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