Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

20 December 2017*

(Appeal — State aid — Digital television — Aid for the deployment of digital terrestrial television in remote and less urbanised areas — Subsidies granted to operators of digital terrestrial television platforms — Decision declaring the aid incompatible in part with the internal market — Concept of 'State aid' — Advantage — Service of general economic interest — Definition — Discretion of the Member States)

In Joined Cases C-66/16 P to C-69/16 P,

FOUR APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, brought on 5 February 2016,

Comunidad Autónoma del País Vasco,

Itelazpi SA, established in Zamudio (Spain) (C-66/16 P),

Comunidad Autónoma de Cataluña,

Centre de Telecomunicacions i Tecnologies de la Informació de la Generalitat de Catalunya (CTTI), established in Hospitalet de Llobregat (Spain) (C-67/16 P),

Navarra de Servicios y Tecnologías SA, established in Pamplona (Spain) (C-68/16 P),

Cellnex Telecom SA, formerly Abertis Telecom SA, established in Barcelona (Spain),

Retevisión I SA, established in Barcelona (Spain) (C-69/16 P),

represented by J. Buendía Sierra, A. Lamadrid de Pablo and M. Bolsa Ferruz, abogados,

appellants,

the other parties to the proceedings being:

European Commission, represented by P. Němečková, É. Gippini Fournier and B. Stromsky, acting as Agents,

defendant at first instance,

SES Astra SA, established in Betzdorf (Luxembourg), represented by F. González Díaz and V. Romero Algarra, abogados, and by F. Salerno, avocat,

intervener at first instance,

* Language of the case: Spanish.

THE COURT (Fourth Chamber),

composed of T. von Danwitz, President of the Chamber, C. Vajda, E. Juhász, K. Jürimäe (Rapporteur) and C. Lycourgos, Judges,

Advocate General: M. Wathelet,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 7 September 2017,

gives the following

Judgment

1 By their appeals, the Comunidad Autónoma del País Vasco (Autonomous Community of the Basque Country, Spain) and Itelazpi SA (Case C-66/16 P) ('the appellants in Case C-66/16 P'), the Comunidad Autónoma de Cataluña (Autonomous Community of Catalonia, Spain) and the Centre de Telecomunicacions i Tecnologies de la Informació de la Generalitat de Catalunya (CTTI) (Case C-67/16 P), Navarra de Servicios y Tecnologías SA (Case C-68/16 P) ('the appellant in Case C-68/16 P') as well as Cellnex Telecom SA and Retevisión I SA (Case C-69/16 P) ('the appellants') seek the annulment, respectively, of:

– in Case C-66/16 P, the judgment of the General Court of the European Union of 26 November 2015, *Comunidad Autónoma del País Vasco and Itelazpi* v *Commission* (T-462/13, 'the judgment in Case T-462/13', EU:T:2015:902);

– in Case C-67/16 P, the judgment of the General Court of the European Union of 26 November 2015, *Comunidad Autónoma de Cataluña and CTTI* v *Commission* (T-465/13, 'the judgment in Case T-465/13', not published, EU:T:2015:900);

– in Case C-68/16 P, the judgment of the General Court of the European Union of 26 November 2015, *Navarra de Servicios y Tecnologías* v *Commission* (T-487/13, 'the judgment in Case T-487/13', not published, EU:T:2015:899);

– in Case C-69/16 P, the judgment of the General Court of the European Union of 26 November 2015, *Abertis Telecom and Retevisión I* v *Commission* (T-541/13, 'the judgment in Case T-541/13', not published, EU:T:2015:898) (together, 'the judgments under appeal');

by which the General Court dismissed their actions for annulment of Commission Decision 2014/489/EU of 19 June 2013 on State aid SA.28599 ((C 23/2010) (ex NN 36/2010, ex CP 163/2009)) implemented by the Kingdom of Spain for the deployment of digital terrestrial television in remote and less urbanised areas (outside Castilla-La Mancha) (OJ 2014 L 217, p. 52; 'the decision at issue').

Background to the dispute and the decision at issue

2 The factual background to the dispute was set out by the General Court in paragraphs 1 to 22 of the judgments under appeal. For the purposes of the present proceedings, they may be summarised as follows.

3 The present cases concern a series of measures implemented by the Spanish authorities in relation to the switch-over from analogue broadcasting to digital broadcasting throughout Spain, apart from the Comunidad Autónoma de Castilla-La Mancha (Autonomous Community of Castilla-La Mancha, Spain) ('the measure at issue').

4 The Kingdom of Spain established a regulatory framework to promote the transition from analogue to digital broadcasting, by promulgating, in particular, Ley 10/2005 de Medidas Urgentes para el Impulso de la Televisión Digital Terrestre, de Liberalización de la Televisión por Cable y de Fomento del Pluralismo (Law No 10/2005 on urgent measures for the promotion of digital terrestrial television, liberalisation of cable television and support of pluralism) of 14 June 2005 (BOE No 142 of 15 June 2005, p. 20562), and Real Decreto 944/2005 por el que se aprueba el Plan técnico nacional de la televisión digital terrestre (Royal Decree 944/2005 approving the National Technical Plan for digital terrestrial television) of 29 July 2005 (BOE No 181 of 30 July 2005, p. 27006). Under that royal decree, national private and public broadcasters were required to ensure, respectively, that 96% and 98% of the population received digital terrestrial television (DTT).

5 In order to enable the switch-over from analogue television to DTT, the Spanish authorities divided the Spanish territory into three separate areas: 'Area I', 'Area II' and 'Area III'. Area II, the area at issue in the present proceedings, includes remote and less urbanised regions representing 2.5% of the Spanish population. In that area, due to a lack of commercial interest, broadcasters did not invest in digitisation, which led the Spanish authorities to put public funding in place.

6 In September 2007, the Consejo de Ministros (Council of Ministers, Spain) adopted the National Plan for the Transition to DTT, the objective of which was to achieve a rate of coverage of the Spanish population by DTT comparable to the rate of coverage of that population by analogue television in 2007, that is to say, more than 98% of that population and all or virtually all of the population in the Autonomous Communities of the Basque Country, Catalonia and Navarre (Spain).

7 In order to achieve the coverage objectives set out for DTT, the Spanish authorities made provision for the grant of public funding, in order inter alia to support the terrestrial digitisation process in Area II and, more particularly, within the regions of the Autonomous Communities in that area.

8 In February 2008, the Ministerio de Industria, Turismo y Comercio (the Ministry of Industry, Tourism and Trade, Spain; 'the MITT') adopted a decision aimed at improving the telecommunications infrastructures and establishing the criteria and distribution of the funding for the actions aimed at developing the information society under a plan called the 'Plan Avanza'. The budget approved under that decision was allocated in part to the digitisation of television in Area II.

9 That digitisation was carried out between July and November 2008. The MITT subsequently transferred funds to the Autonomous Communities, which undertook to fund the remaining costs of the operation from their own budgets.

10 In October 2008, the Council of Ministers decided to allocate additional funding in order to extend and complete DTT coverage within the context of the digital switch-over projects scheduled to be completed during the first half of 2009.

11 The Autonomous Communities subsequently began the process of extending DTT coverage. In order to do so, they organised calls for tenders or entrusted that extension to private undertakings. In some cases, the Autonomous Communities asked the municipal authorities to implement that extension.

12 On 18 May 2009 the European Commission received a complaint from SES Astra SA concerning a State aid scheme implemented by the Spanish authorities in relation to the switch-over from analogue television to DTT in Area II. According to SES Astra, that scheme constituted non-notified aid liable to distort competition between the terrestrial and satellite broadcasting platforms.

13 By letter of 29 September 2010 the Commission informed the Kingdom of Spain that it had decided to initiate the procedure laid down in Article 108(2) TFEU in respect of the aid scheme at issue for the whole territory of Spain, with the exception of the Autonomous Community of Castilla-La Mancha, for which a separate procedure was opened.

14 The Commission subsequently adopted the decision at issue, in which Article 1 of the operative part states that the State aid granted to the operators of the terrestrial television platform for the deployment, maintenance and operation of the DTT network in Area II was put into effect in breach of Article 108(3) TFEU, and that it is incompatible with the internal market, except for the aid which was granted in compliance with the principle of technological neutrality. Article 3 of the operative part of that decision orders the recovery of that incompatible aid from the DTT operators, whether they received the aid directly or indirectly.

15 In the grounds of the decision at issue, the Commission considered, in the first place, that the various acts adopted at the central level and the agreements concluded between the MITT and the Autonomous Communities constituted the basis of the aid scheme for the extension of DTT in Area II. In practice, the Autonomous Communities applied the Spanish Government's guidelines on the extension of DTT.

16 In the second place, the Commission found that the measure at issue had to be regarded as State aid within the meaning of Article 107(1) TFEU. In that respect, the Commission noted, in particular, that the Spanish authorities had put forward only the case of the Autonomous Community of the Basque Country in order to support their claim that the measure did not constitute State aid according to the conditions laid down by the Court of Justice in the judgment of 24 July 2003, *Altmark Trans and Regierungspräsidium Magdeburg* (C-280/00, '*Altmark*', EU:C:2003:415). However, the first condition laid down in that judgment ('the first *Altmark* condition'), according to which the recipient undertaking must actually be required to discharge public service obligations and those obligations must be clearly defined, was not satisfied, in the Commission's view. In addition, the failure to ensure the least costs to that Autonomous Community meant that the fourth condition laid down in that judgment ('the fourth *Altmark* condition') was not satisfied either.

17 In the third place, the Commission found that the measure at issue could not be regarded as State aid compatible with the internal market, pursuant to Article 107(3)(c) TFEU, notwithstanding the fact that that measure was intended to achieve a well-defined objective in the public interest and that there was a market failure on the market concerned. According to the Commission, since that measure did not respect the principle of technological neutrality, it was not proportionate and was not an appropriate instrument for ensuring that the residents of Area II received free-to-air channels.

18 In the fourth place, the Commission considered that, since the operation of a terrestrial platform had not been sufficiently clearly defined as a public service, the measure at issue could not be justified under Article 106(2) TFEU.

The procedure before the General Court and the judgments under appeal

19 By applications lodged at the Registry of the General Court on, respectively, 30 August 2013 (Cases T-462/13 and T-465/13), 6 September 2013 (Case T-487/13) and 9 October 2013 (Case T-541/13), the appellants brought actions for annulment of the decision at issue.

20 Among the pleas in law relied on in support of their respective actions, the appellants, inter alia, all raised a plea alleging infringement of Article 107(1) TFEU.

21 In the judgments under appeal, that plea was rejected by the General Court as unfounded.

22 In that respect, the General Court, inter alia, rejected the appellants' arguments that, in the absence of any economic advantage for the beneficiaries, the measure at issue could not be characterised as State aid within the meaning of Article 107(1) TFEU, since the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), were satisfied.

23 As regards the first *Altmark* condition, the General Court held, in the judgments under appeal, that the appellants had not demonstrated that the Commission had erred in considering that, in the absence of a clear definition of the operation of a terrestrial network as a public service, that condition was not satisfied.

24 In that respect, the General Court found that the operation of the DTT broadcasting network in Area II had not been defined by the Member State concerned as a service of general economic interest ('SGEI'), within the meaning of EU law, either at the national level or at the level of the Autonomous Community of the Basque Country in the interinstitutional conventions concluded with the latter.

25 As regards the Autonomous Communities other than the Basque Country, the General Court held that the Commission was entitled to find, in recital 114 of the decision at issue, that none of the Autonomous Communities in respect of which the Spanish authorities had invoked the existence of an SGEI had put forward arguments capable of supporting the claim that the operation of the terrestrial network was a public service.

26 However, in paragraph 78 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 79 of the judgment in Case T-465/13 (EU:T:2015:900) and paragraph 106 of the judgment in Case T-541/13 (EU:T:2015:898), the General Court held that, as the appellants had argued in the cases that gave rise to those judgments, the Commission erred in law in finding, as a secondary point, in recital 121 of the decision at issue, that the Spanish authorities had made a manifest error in defining a particular platform for the operation of broadcast networks.

27 Nevertheless, the General Court concluded that, although the Commission was wrong to consider that the definition of a particular platform for the operation of the broadcasting networks constituted a manifest error on the part of the Spanish authorities, the first *Altmark* condition was not satisfied in the absence of a clear and precise definition of the service at issue as a public service, as the Commission found in recitals 119 to 125 of the decision at issue.

28 As regards the fourth *Altmark* condition, in paragraph 88 of the judgment in Case T-462/13 (EU:T:2015:902) and in paragraph 123 of the judgment in Case T-487/13 (EU:T:2015:899), the General Court rejected the appellants' arguments in those cases alleging that the Commission erred in concluding, in the decision at issue, that that condition was not satisfied.

29 In paragraph 85 of the judgment in Case T-465/13 (EU:T:2015:900) and in paragraph 63 of the judgment in Case T-541/13 (EU:T:2015:898), the General Court nevertheless held, in the first of those judgments, that the Commission made an error of law and, in the second, that it breached its duty to state reasons by limiting its examination of whether the fourth *Altmark* condition had been satisfied solely to the case of the Autonomous Community of the Basque Country, even though it was aware that calls for tenders had been issued for the extension of DTT coverage in other Autonomous Communities. However, in view of the cumulative nature of the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), the General Court concluded that, since the first *Altmark* condition was not satisfied, it was not necessary to annul the decision at issue.

30 Since, moreover, none of the other pleas raised by the appellants were accepted, the General Court rejected all of the appellants' actions for annulment.

Forms of order sought by the parties

31 By their appeal, the appellants claim that the Court should:

– set aside the judgments under appeal;

– give a definitive ruling on their actions for annulment and annul the decision at issue; and

– order the Commission to pay the costs.

32 The Commission and SES Astra contend that the Court should dismiss the appeals and order the appellants to pay the costs.

33 By decision of the Court of 28 March 2017, Cases C-66/16 P to C-69/16 P were joined for the purposes of the oral procedure and the judgment.

The appeals

34 In support of their appeals, the appellants raise a single ground, which is worded similarly in each of those appeals.

35 That ground of appeal alleges an error of law in the interpretation of Article 14 TFEU, Article 107(1) TFEU, Article 106(2) TFEU, Protocol (No 26) on services of general economic interest and Protocol (No 29) on the system of public broadcasting in the Member States. The ground of appeal is divided into six parts.

36 The first part alleges that the General Court exceeded the bounds of its review of manifest error in examining the various documents defining and entrusting the SGEI tasks. The second part alleges an error of law in that the judgments under appeal limited the Member States' discretion to the means of providing the SGEI set out in the definition of the latter. The third part alleges that the General Court erred in law in its analysis of the relevant provisions of national law as regards the definition of the SGEI. The fourth part alleges that the General Court erred in law since it failed to recognise that defining and entrusting the SGEI tasks to one or more undertakings can be done by means of several documents. The fifth part alleges that the General Court erred in law since it did not hold that defining and entrusting the SGEI tasks do not require the use of a specific formula or expression. The sixth part alleges that the General Court erred in law since it rejected the applicability of Protocol (No 29) on the system of public broadcasting in the Member States.

Preliminary observations

The admissibility of the appeals

37 SES Astra submits that the appeals are inadmissible in their entirety since, by their single ground of appeal, the appellants either merely ask the Court to review the General Court's assessment of the facts and the evidence, without ever alleging that they were distorted, or fail to identify the contested parts of the judgments under appeal.

38 Without prejudice to the individual examination of the admissibility of the parts of the single ground relied on in those appeals, the Court considers that those appeals cannot be held to be inadmissible in their entirety.

39 At least some parts of the single ground relied on in those appeals raise questions of law, since they contest the General Court's interpretation of the first *Altmark* condition, as well as the scope of the judicial review carried out by General Court as regards that condition, and, moreover, they identify the criticised parts of the judgments under appeal with the requisite precision.

40 Consequently, SES Astra's arguments that the appeals are inadmissible in their entirety must be rejected.

The ineffectiveness of the single ground of appeal in Cases C-66/16 P and C-68/16 P

41 The Commission submits that the single ground of appeal in Cases C-66/16 P and C-68/16 P is ineffective in so far as it concerns the infringement of Article 107(1) TFEU. SES Astra maintains that that ground of appeal is also ineffective in so far as it concerns the infringement of Article 106(2) TFEU.

42 Those parties submit, in essence, that that ground of appeal is not capable of leading to the judgment in Case T-462/13 (EU:T:2015:902) or the judgment in Case T-487/13 (EU:T:2015:899) being set aside, since it concerns only the first *Altmark* condition. In view of the cumulative nature of the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), if the Court were to uphold the single ground of appeal, it would still be the case that the General Court confirmed the Commission's assessment that the fourth *Altmark* condition was not satisfied.

43 The appellants in Case C-66/16 P and the appellant in Case C-68/16 P contend that, even if the fourth *Altmark* condition were not satisfied, the single ground of appeal is capable of leading to the judgment in Case T-462/13 (EU:T:2015:902) and the judgment in Case T-487/13 (EU:T:2015:899) being set aside, since the General Court relied on the alleged lack of a clear definition of the SGEI in order to confirm the Commission's assessment that the aid was not compatible as regards Article 106(2) TFEU.

– *The single ground of appeal, in so far as it alleges an infringement of Article 107(1) TFEU*

44 It must be borne in mind that classification as 'State aid' requires all the conditions laid down in Article 107(1) TFEU to be satisfied. Thus, for the purpose of a classification as State aid, that provision presupposes in particular that there is an advantage conferred on an undertaking (see, to that effect, judgment of 22 October 2015, *EasyPay and Finance Engineering*, C-185/14, EU:C:2015:716, paragraphs 35 and 36 and the case-law cited).

45 In that regard, according to settled case-law of the Court, a State measure regarded as compensation for the services provided by the recipient undertakings in order to discharge public service obligations, so that those undertakings do not enjoy a real financial advantage and the measure thus does not have the effect of putting them in a more favourable competitive position than the undertakings competing with them is not caught by Article 107(1) TFEU (judgment of 22 October 2015, *EasyPay and Finance Engineering*, C-185/14, EU:C:2015:716, paragraph 45 and the case-law cited).

46 However, for such compensation to escape classification as State aid in a particular case, the conditions laid down in paragraphs 88 to 93 of the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), must be satisfied.

47 Thus, first, the recipient undertaking must actually be required to discharge public service obligations and those obligations must be clearly defined. Secondly, the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner. Thirdly, the compensation must not exceed what is necessary to cover all or part of the costs incurred in discharging the public service obligations. Fourthly, the level of compensation needed must be

determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations.

48 It follows that a State measure which does not comply with one or more of the conditions laid down in the foregoing paragraph may be regarded as State aid within the meaning of Article 107(1) TFEU (see, to that effect, judgment of 24 July 2003, *Altmark*, C-280/00, EU:C:2003:415, paragraph 94).

49 Accordingly, in view of the cumulative nature of the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), even if the General Court erred in considering that one of those conditions was not satisfied, that could not bring about the annulment of the judgment in Case T-462/13 (EU:T:2015:902) or the judgment in Case T-487/13 (EU:T:2015:899) if the General Court also held, without erring in law, that another of those conditions was not satisfied.

50 In this case, it must be noted that, in paragraphs 89 and 90 of the judgment in Case T-462/13 (EU:T:2015:902), the General Court rejected the first part of the first plea for annulment, alleging that there was no economic advantage, for the purpose of Article 107(1) TFEU, on the ground that all the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), were not satisfied cumulatively at any time. In that respect, it relied on an analysis of the first and fourth *Altmark* conditions, following which it confirmed, in paragraphs 79 and 88 of the judgment in Case T-462/13 (EU:T:2015:902) respectively, the Commission's assessment that those conditions were not satisfied.

51 Similarly, in the judgment in Case T-487/13 (EU:T:2015:899), the General Court assessed the first and fourth *Altmark* conditions in its analysis of the second plea for annulment raised by the applicant at first instance, alleging an infringement of Article 106(2) TFEU. After rejecting the appellants' arguments that those two conditions were satisfied, the General Court held, in paragraph 126 of the judgment in Case T-487/13 (EU:T:2015:899), that, since the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), were cumulative, the Commission had not erred in law in finding, first, that there was State aid, within the meaning of Article 107(1) TFEU and, secondly, that that aid was not compatible with the internal market, pursuant to Article 106(2) TFEU.

52 Since the single ground of appeal is intended only to contest the General Court's assessment as regards the first *Altmark* condition, and does not criticise its assessment as regards the fourth *Altmark* condition, it must be held that that ground of appeal is not, by itself, such as to invalidate the judgment in Case T-462/13 (EU:T:2015:902) or the judgment in Case T-487/13 (EU:T:2015:899) as regards the existence of an economic advantage within the meaning of Article 107(1) TFEU and, accordingly, to result in those judgments being set aside.

53 Consequently, the single ground of appeal in Cases C-66/16 P and C-68/16 P must be regarded as ineffective in so far as it alleges an infringement of Article 107(1) TFEU.

– The single ground of appeal, in so far as it alleges an infringement of Article 106(2) TFEU

54 Article 106(2) TFEU provides that undertakings entrusted with the operation of services of general economic interest are to be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them and that the development of trade must not be affected to such an extent as would be contrary to the interests of the Union.

55 As regards the relationship between the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415) and the examination of an aid measure under Article 106(2) TFEU, it follows from the Court's case-law that verification of the conditions laid down in that case-law occurs

upstream, that is to say in the examination of the issue of whether the measure at issue must be characterised as State aid. That issue must be resolved before the one which consists in examining, where necessary, if incompatible aid is nevertheless necessary to the performance of the tasks assigned to the recipient of the measure at issue, under Article 106(2) TFEU (see, to that effect, judgment of 8 March 2017, *Viasat Broadcasting UK* v *Commission*, C-660/15 P, EU:C:2017:178, paragraph 34).

56 Since the conditions laid down in the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), and those necessary for the application of Article 106(2) TFEU thus generally pursue different objectives, the Court held that, in order to assess an aid measure under Article 106(2) TFEU, the Commission is not required to examine whether the second and third conditions laid down by the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), are satisfied (see, to that effect, judgment of 8 March 2017, *Viasat Broadcasting UK* v *Commission*, C-660/15 P, EU:C:2017:178, paragraph 33). It is nevertheless the case that, as the Advocate General emphasised in point 97 of his Opinion, the first *Altmark* condition, according to which the recipient undertaking must actually be required to discharge public service obligations which must be clearly defined, also applies where the derogation laid down in Article 106(2) TFEU has been invoked (see, to that effect, judgments of 21 March 1974, *BRT and Société belge des auteurs, compositeurs et éditeurs*, 127/73, EU:C:1974:25, paragraph 22, and of 11 April 1989, *Saeed Flugreisen and Silver Line Reisebüro*, 66/86, EU:C:1989:140, paragraph 56).

57 In the present case, it can be seen from paragraph 99 of the judgment in Case T-462/13 (EU:T:2015:902) that the General Court referred to paragraphs 42 to 79 of that judgment, relating to the first *Altmark* condition, in finding that the Commission was entitled to take the view that, as regards the Autonomous Community of the Basque Country, the terrestrial network operators were not entrusted with performing a clearly defined SGEI. The General Court therefore concluded that the Commission had not erred in law in finding, in recital 172 of the decision at issue, that the exception referred to in Article 106(2) TFEU could not be invoked.

58 Analogously, in paragraph 126 of the judgment in Case T-487/13 (EU:T:2015:899), the General Court inferred from the lack of a valid definition of an SGEI that the Commission had not erred in considering that the measure at issue was not compatible with the internal market, pursuant to Article 106(2) TFEU.

59 It follows that, in the judgment in Case T-462/13 (EU:T:2015:902) and the judgment in Case T-487/13 (EU:T:2015:899), the General Court based its assessment of Article 106(2) TFEU on the first *Altmark* condition.

60 Accordingly, it must be found that the single ground of appeal in Cases C-66/16 P and C-68/16 P, in so far as it relates to the first *Altmark* condition, is capable of leading to the judgment in Case T-462/13 (EU:T:2015:902) and the judgment in Case T-487/13 (EU:T:2015:899) being set aside, inasmuch as it alleges an infringement of Article 106(2) TFEU.

61 In those circumstances, notwithstanding the ineffective nature of the single ground of appeal in Cases C-66/16 P and C-68/16 P in so far as it alleges an infringement of Article 107(1) TFEU, the various parts of that ground of appeal must be examined inasmuch as they relate to the issue of the definition of the SGEI, within the meaning of Article 106(2) TFEU.

The single ground of appeal

The first part

– *Arguments of the parties*

62 By the first part of their single ground of appeal, the appellants argue that the General Court misapplied the case-law of the Court of Justice and the General Court, according to which the definition of SGEIs by a Member State can be called into question by the Commission only in the event of manifest error.

63 The appellants submit that, in order to endorse the Commission's assessment as regards the first *Altmark* condition, the General Court solely relied — in paragraph 79 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 80 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 101 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 110 of the judgment in Case T-541/13 (EU:T:2015:898) — on the finding that the Spanish authorities' definition of the SGEI at issue was not sufficiently 'clear and precise', without also holding that that definition constituted a 'manifest error'. On the contrary, the General Court itself acknowledged that there was a market failure on the market in question and that the service at issue concerned an activity that could be characterised as an SGEI.

64 In doing so, the General Court manifestly exceeded the bounds of the review of manifest error set out in Article 14 TFEU, Article 106(2) TFEU, Article 107(1) TFEU and Protocol (No 26) on services of general economic interest.

65 The Commission contends that the first part of the single ground of appeal is ineffective or, in any event, unfounded.

66 SES Astra submits that the first part of the single ground of appeal is inadmissible and, in any event, unfounded.

– *Findings of the Court*

67 By the first part of their single ground of appeal, the appellants submit, in essence, that the General Court erred in law in holding that the first *Altmark* condition was not satisfied in the absence of a clear and precise definition of the service at issue as an SGEI, without verifying whether the definition of that SGEI was manifestly erroneous. In doing so, the General Court disregarded the Member States' discretion in determining SGEIs, which may be limited only in the event of a manifest error.

68 In the first place, in so far as this part of the single ground of appeal is aimed at determining whether the General Court exercised appropriate judicial review over the Commission's finding in relation to the first *Altmark* condition, it must be noted that the appellants raise a question of law which the Court of Justice has jurisdiction to examine in an appeal. SES Astra's argument alleging that this part of the single ground of appeal is inadmissible must therefore be rejected.

69 In the second place, as regards the substance, it should be borne in mind that the Member States are entitled, while complying with EU law, to define the scope and the organisation of their SGEIs, and may take into account, in particular, objectives pertaining to their national policy (see, to that effect, judgment of 21 December 2011, *ENEL*, C-242/10, EU:C:2011:861, paragraph 50 and the case-law cited).

70 In that respect, the Member States enjoy a wide discretion (see, to that effect, judgment of 8 May 2013, *Libert and Others*, C-197/11 and C-203/11, EU:C:2013:288, paragraph 88), which may be called into question by the Commission only in the event of a manifest error (see, to that effect, judgment of 18 February 2016, *Germany* v *Commission*, C-446/14 P, not published, EU:C:2016:97, paragraph 44).

71 However, as the General Court correctly held — in paragraph 51 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 51 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 98 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 80 of the judgment in Case T-541/13 (EU:T:2015:898) — the Member States' power to define SGEIs is not unlimited.

72 It follows from paragraph 89 of the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415), that, in that respect, the first *Altmark* condition is essentially intended to determine whether, first, the recipient undertaking actually has public service obligations to discharge and, secondly, whether those obligations are clearly defined in national law.

73 As the Advocate General pointed out, in essence, in points 112 and 114 to 117 of his Opinion, that condition is designed to ensure transparency and legal certainty, and thus requires that minimum criteria be met in relation to the existence of one or more acts of public authority defining, in a sufficiently precise manner, at least the nature, duration and scope of the public service obligations imposed on the undertakings entrusted with the performance of those obligations. In the absence of a clear definition of such objective criteria, it is not possible to verify whether a particular activity may be covered by the concept of an SGEI.

74 It follows that, contrary to the appellants' assertions, the General Court did not misconstrue the scope of the review it had to carry out as regards the definition of a service as an SGEI by a Member State, since it held that, in the absence of a clear definition of the service at issue as an SGEI in national law, the first *Altmark* condition was not satisfied.

75 That conclusion is not called into question by the appellants' argument that it is common ground that there is a market failure on the market concerned and that the service at issue is an activity that could be characterised as an SGEI. As the Advocate General noted in point 122 of his Opinion, those circumstances are not relevant for the purposes of determining whether the undertakings concerned were actually entrusted with discharging public service obligations by a public act and whether those obligations were clearly defined in that act.

76 In those circumstances, the first part of the single ground of appeal must be rejected as unfounded.

The second part

– *Arguments of the parties*

77 By the second part of their single ground of appeal, the appellants submit that the General Court erred in law in holding that the definition of a service as an SGEI must necessarily include the technology via which that service is provided if that technology is to be regarded as falling within the scope of the Member States' wide discretion.

78 According to the appellants, the Member States not only have a discretion to 'define' the SGEI, but also to 'provide, commission and organise' it, which necessarily includes the choice of a specific technology for the provision of the service. That power is apparent from Protocol (No 26) on services of general economic interest and Protocol (No 29) on the system of public broadcasting in the Member States, as well as from the case-law of the Court of Justice and of the General Court.

79 In addition, the appellants in Cases C-66/16 P, C-67/16 P and C-69/16 P submit that the judgment in Case T-462/13 (EU:T:2015:902), the judgment in Case T-465/13 (EU:T:2015:900) and the judgment in Case T-541/13 (EU:T:2015:898) are vitiated by an inconsistency, in that the General Court also held, in those judgments, that, in defining the service of operating the DTT network as an SGEI, the Spanish authorities were not entitled to discriminate against the other platforms.

80 The Commission and SES Astra submit that the second part of the single ground of appeal is ineffective.

– *Findings of the Court*

81 By the second part of their single ground of appeal, the appellants essentially argue that, in the judgments under appeal, the General Court limited the Member States' discretion solely to the definition of SGEIs, thus disregarding the existence of such a discretion as regards the choice of the specific means of providing those SGEIs.

82 That argument is based on a misreading of the judgments under appeal.

83 In the first place, the appellants themselves acknowledge that — in paragraph 50 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 50 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 97 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 79 of the judgment in Case T-541/13 (EU:T:2015:898) — the General Court expressly acknowledged, referring to the first indent of Article 1 of Protocol (No 26) on services of general economic interest, that national, regional and local authorities have a wide discretion in providing, commissioning and organising SGEIs as closely as possible to the needs of the users.

84 In the second place, contrary to the appellants' assertions, it in no way follows from the judgments under appeal that the General Court held that the classification of a service as an SGEI must necessarily include the technology by means of which that service will be provided.

85 As can be seen from the examination of the first part of the single ground of appeal, the General Court merely assessed whether the first *Altmark* condition was satisfied, in this case, as regards the service of operating the DTT network. In that respect, the General Court examined whether that service met the requirement that the SGEI must be clearly defined, by examining inter alia whether the minimum criteria referred to in paragraph 73 above were satisfied. In doing so, it did not rule on the manner in which the service at issue should have been specifically defined in national law in order to satisfy the first *Altmark* condition.

86 In those circumstances, in Cases C-66/16 P, C-67/16 P and C-69/16 P, the appellants also cannot maintain that there is any inconsistency vitiating the judgments in Case T-462/13 (EU:T:2015:902), Case T-465/13 (EU:T:2015:900), and Case T-541/13 (EU:T:2015:898).

87 Consequently, the second part of the single ground of appeal must be rejected as unfounded.

The third part

– *Arguments of the parties*

88 By the third part of their single ground of appeal, the appellants submit that the General Court distorted the wording of the relevant national provisions and the case-law concerning them and, consequently, made findings that were manifestly at odds with the content of those provisions and attached unwarranted significance to certain elements.

89 In the first place, the appellants submit that the General Court manifestly distorted the wording of the national provisions and, moreover, referred to those provisions selectively. In particular, Ley 32/2003, General de Telecomunicaciones (General Law 32/2003 on Telecommunications) of 3 November 2003 (BOE No 264, of 4 November 2003, p. 38890, 'Law 32/2003') expressly classifies the operation of radio and television networks as a 'service of general interest'. In that respect, contrary to the General Court's assertions in paragraph 57 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 57 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 104 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 86 of the judgment in Case T-541/13 (EU:T:2015:898), it is possible to entrust SGEI obligations to all of the operators in a sector, in particular to ensure universal access to that service. Indeed, that is the aim pursued by the Spanish legislation on broadcasting, by imposing minimum coverage obligations on the entire sector concerned. In addition, contrary to the General Court's interpretation, various legislative acts adopted by the Spanish authorities expressly refer to terrestrial technology.

90 In the second place, the appellants submit that the judgments under appeal contain assertions that are manifestly at odds with the documents submitted to the General Court. The General Court erroneously stated that the appellants were not at any time able to determine what public service obligations were entrusted to DTT network operators, either by Spanish law or by the operating conventions, let alone adduce evidence to that effect (paragraph 72 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 73 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 115 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 103 of the judgment in Case T-541/13 (EU:T:2015:898)). The appellants refer, in that respect, to the conventions that the Basque authorities concluded with Itelazpi (Case C-66/16 P), the public contract concluded between the Catalan authorities and Retevisión, as well as the relevant specifications document (Case C-67/16 P), the agreements and conventions adopted by the Government of Navarre (Case C-68/16 P), as well as the contract and the specifications document relating to the call for tenders launched by the Comunidad Autónoma de La Rioja (Autonomous Community of La Rioja, Spain) (Case C-69/16 P).

91 According to the appellants, those acts suffice to justify the conclusion that there is a correctly defined and entrusted SGEI, for the purpose of the case-law of the Court of Justice and Article 4 of Commission Decision 2005/842/EC of 28 November 2005 on the application of Article [106(2) TFEU] to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ 2005 L 312, p. 67). Those acts were mentioned at the administrative stage as well as during the proceedings before the General Court.

92 In addition, as regards the Autonomous Communities other than that of the Basque Country, the General Court incorrectly stated — in paragraph 62 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 113 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 92 of the judgment in Case T-541/13 (EU:T:2015:898) — that those acts had not been adduced during the administrative stage and that the Commission was not required to examine them in its analysis of whether the first *Altmark* condition was satisfied, since it was aware of the calls for tenders organised in those Autonomous Communities, had the relevant specifications documents and was aware of the identity of the successful tenderers. According to the appellants, the General Court should have faulted the Commission for failing to take those calls for tenders into consideration, as it did in paragraph 85 of the judgment in Case T-465/13 (EU:T:2015:900) and paragraph 60 of the judgment in Case T-541/13 (EU:T:2015:898), in relation to the fourth *Altmark* condition.

93 The appellants also submit that the finding — set out in paragraph 58 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 58 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 105 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 87 of the judgment in Case T-541/13 (EU:T:2015:898) — that the acts in question could not have validly classified the operation of the DTT network as an SGEI, because Law 32/2003 requires that the principle of technological neutrality be complied with, distorts the content of that law, since that law lays down that principle as a mere guiding principle and not as a rule limiting the power of public authorities.

94 In the third place, the appellants submit that the General Court came to an erroneous conclusion as regards the existence of an SGEI by confining its analysis to Law 32/2003, even though there were other elements of national law which clarified that law and which were discussed before the General Court. Thus, the General Court should have taken into account the case-law of the Tribunal Supremo (Supreme Court, Spain) relating to the measure at issue and the relevant Spanish legislation. In addition, in paragraph 71 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 72 of the judgment in Case T-465/13 (EU:T:2015:900) and paragraph 102 of the judgment in Case T-541/13 (EU:T:2015:898), the General Court incorrectly rejected Ley 31/1987 de Ordenación de las Telecomunicaciones (Law 31/1987 on the organisation of broadcasting) of 18 December 1987 (BOE No 303, of 19 December 1987, p. 37409), which specifically classifies the terrestrial technology as a public service, on the ground that it had not been adduced before the General Court.

95 The Commission and SES Astra submit that the third part of the single ground of appeal is manifestly inadmissible.

– *Findings of the Court*

96 By the third part of their single ground of appeal, the appellants submit that the General Court made several errors of law in the assessment of the provisions of national law which, in its view, clearly defined the service at issue as an SGEI.

97 It should be noted, first of all, that the Court of Justice has consistently held that where the General Court has established or assessed the facts, the Court of Justice has jurisdiction, under Article 256 TFEU, solely to review the legal characterisation of those facts and the conclusions in law drawn from them. The appraisal of the facts by the General Court does not therefore constitute, save where the clear sense of the evidence produced before it is distorted, a question of law which is subject, as such, to review by the Court of Justice (see, inter alia, judgment of 10 November 2016, *DTS Distribuidora de Televisión Digital* v *Commission*, C-449/14 P, EU:C:2016:848, paragraph 43 and the case-law cited).

98 Thus, with respect to the assessment, in the context of an appeal, of the General Court's determinations on national law, the Court of Justice has jurisdiction only to determine whether that law was distorted (judgment of 10 November 2016, *DTS Distribuidora de Televisión Digital* v *Commission*, C-449/14 P, EU:C:2016:848, paragraph 44 and the case-law cited).

99 In that respect, a distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and the evidence (see, inter alia, order of 9 March 2017, *Simet* v *Commission*, C-232/16 P, not published, EU:C:2017:200, paragraph 58 and the case-law cited).

100 As regards, first, the assessment of Law 32/2003, the General Court noted — in paragraph 57 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 57 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 104 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 86 of the judgment in Case T-541/13 (EU:T:2015:898) — that the classification as a service of general interest in that law applied to all telecommunications services, including the radio and television broadcasting networks. It held that the mere fact that a service is designated in national law as being of general interest does not mean that any operator providing that service is entrusted with performing clearly defined public service obligations within the meaning of the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415). It also noted that it did not follow from Law 32/2003 that all telecommunications services in Spain were in the nature of SGEIs within the meaning of that judgment and, moreover, that that law expressly provided that services of general interest within the meaning of that law had to be supplied in the context of a framework of free competition.

101 It must be held that it is not obvious from any of the elements adduced by the appellants that the General Court thereby distorted the content of Law 32/2003.

102 In addition, in so far as the appellants criticise the General Court's conclusion concerning the general nature of that law — namely that it could not be concluded from that law that undertakings operating a terrestrial network had been entrusted with clearly defined public service obligations, in accordance with the first *Altmark* condition — it must be held that, in the light of the ambiguous aspects of that law referred to in paragraph 100 above, that conclusion is not vitiated by any error of law.

103 As regards, secondly, the appellants' argument that the General Court made findings which were manifestly at odds with the legal acts adopted by the Spanish authorities which expressly referred to terrestrial technology, it is necessary to distinguish between, on the one hand, the case of the Basque Country and, on the other, that of the other Autonomous Communities.

104 As regards, first of all, the Basque Country, the appellants submit that the conventions concluded in that Autonomous Community specify, to the requisite legal standard, the public service obligations of the beneficiary, Itelazpi, by defining inter alia the nature and the duration of the public service obligations, the undertaking concerned, the territory concerned, the nature of the exclusive rights and the universal character of the tasks.

105 In that respect, it is apparent from paragraphs 62 and 63 of the judgment in Case T-462/13 (EU:T:2015:902) that the General Court assessed those conventions. It held, however, in its unappealable assessment of the facts of the case, that no provision of those conventions indicated that the operation of the terrestrial network is considered to be a public service.

106 In that respect, the General Court's assessment of the conventions in question does not show any distortion of their content. In particular, the line of argument set out in support of the present part of the single ground of appeal does not bring to light any manifest substantive inaccuracy in the General Court's reading of those conventions.

107 Next, as regards the Autonomous Communities other than that of the Basque Country, the appellants in Cases C-67/16 P, C-68/16 P and C-69/16 P submit that, in the judgments in Cases T-465/13 (EU:T:2015:900), T-487/13 (EU:T:2015:899) and T-541/13 (EU:T:2015:898), the General Court disregarded the existence of the official acts referred to in paragraph 90 above, defining the service at issue as an SGEI.

108 That line of argument is ineffective. It can be seen from paragraphs 62 and 63 of the judgment in Case T-465/13 (EU:T:2015:900), paragraphs 113 and 114 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraphs 92 and 93 of the judgment in Case T-541/13 (EU:T:2015:898) that the General Court did not merely reject the appellants' arguments relating to those acts on the ground that they had not been adduced by the Spanish authorities during the administrative stage as examples of acts entrusting public service tasks; rather, it examined, as a secondary point, the content of the documents invoked by the appellants and held that nothing in those documents supported the conclusion that the service at issue was an SGEI within the meaning of the judgment of 24 July 2003, *Altmark* (C-280/00, EU:C:2003:415). The appellants have neither disputed the General Court's legal assessment in those paragraphs nor, a fortiori, adduced evidence showing that, by carrying out that assessment, the General Court distorted the content of those documents.

109 Thirdly, the appellants' arguments that the General Court disregarded certain elements of national law, adduced as evidence during the proceedings before the General Court, with the result that it misinterpreted the scope of Law 32/2003, must be rejected.

110 It must be borne in mind that it is for the General Court alone to assess the evidence adduced before it. Although it must observe the general principles and the rules of procedure relating to the burden of proof and the taking of evidence and not distort the clear sense of the evidence, the General Court cannot be required to give express reasons for its assessment of the value of each piece of evidence presented to it, in particular where it considers that that evidence is unimportant or irrelevant to the outcome of the dispute (see, to that effect, judgment of 15 June 2000, *Dorsch Consult* v *Council and Commission*, C-237/98 P, EU:C:2000:321, paragraphs 50 and 51).

111 In that respect, the appellants have not alleged that the General Court in any way infringed the rules of procedure concerning the burden of proof and the taking of evidence. Moreover, it is not apparent from the elements invoked by the appellants that the acts in question were relevant to the assessment of the service of operating terrestrial networks as an SGEI.

112 It must also be pointed out that the appellants' argument alleging that the General Court disregarded Law 31/1987 is ineffective. It can be seen from paragraph 71 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 72 of the judgment in Case T-465/13 (EU:T:2015:900) and paragraph 102 of the judgment in Case T-541/13 (EU:T:2015:898) that the General Court did not merely reject the appellants' argument relating to that law on the ground that it had not been adduced before it; rather, it ruled on the relevance of that law, as a secondary point. It held, in that respect, that the fact that, under Law 31/1987, sound and television broadcasting services by terrestrial waves are public services did not in any event permit the conclusion that that law also defined the service at issue as a public service. In the present appeals, the appellants do not allege that the General Court distorted the content of Law 31/1987 in any way.

113 Consequently, the third part of the single ground of appeal must be rejected as, in part, inadmissible, in part, unfounded and, in part, ineffective.

The fourth part

– *Arguments of the parties*

114 By the fourth part of their single ground of appeal, the appellants submit that the General Court erred in law by rejecting — in paragraph 57 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 57 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 104 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 86 of the judgment in Case T-541/13 (EU:T:2015:898) — the definition of the SGEI set out in Law 32/2003 on the ground that that law did not entrust a public service.

115 The General Court thereby confused the concepts of acts 'defining' and 'entrusting' SGEIs, which, contrary to the General Court's findings, may be two separate acts depending on the division of powers in the Member State concerned.

116 The Commission and SES Astra submit that the fourth part of the single ground of appeal is inadmissible.

– *Findings of the Court*

117 In so far as, by the fourth part of their single ground of appeal, the appellants submit that the General Court required that the act defining the SGEI at issue also be an act entrusting that SGEI to one or more undertakings, it must be noted that that part concerns the validity of the General Court's interpretation of the first *Altmark* condition, which constitutes a question of law. Thus, the argument of the Commission and of SES Astra alleging that that part is inadmissible must be rejected.

118 As to the substance, the argument on which the appellants base the fourth part of the single ground of appeal arises from a manifestly incorrect reading of the judgments under appeal. Contrary to the appellants' assertions, the General Court did not rule out the use of separate acts to, on the one hand, define the SGEI and, on the other hand, attribute tasks relating to that SGEI.

119 In paragraph 52 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 52 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 99 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 81 of the judgment in Case T-541/13 (EU:T:2015:898), the General Court expressly acknowledged that the responsibility for the operation of an SGEI may be entrusted to the undertaking concerned by way of one or more official acts, the form of which may be determined by each Member State, those acts being required to specify, in particular, the nature and the duration of the public service obligations as well as the undertakings and the territory concerned.

120 As noted in paragraph 100 above, the General Court then held, first, that the mere fact that Law 32/2003 designates a service as being of general interest does not mean that any operator providing that service is entrusted with performing clearly defined public service obligations within the meaning of the first *Altmark* condition.

121 Secondly, as noted in paragraphs 103 to 108 above, the General Court examined whether there were acts other than Law 32/2003 by which the operators concerned by the measure at issue were actually entrusted with clearly defined public service obligations. It concluded, however, that the Spanish authorities had not demonstrated that that was the case as regards the service at issue.

122 Consequently, the fourth part of the single ground of appeal must be rejected as manifestly unfounded.

The fifth part

– *Arguments of the parties*

123 By the fifth part of their single ground of appeal, the appellants submit that the General Court wrongly rejected their line of argument alleging that the first *Altmark* condition was satisfied, essentially on the ground that no provision in the acts defining and entrusting the SGEI at issue formally contained the term 'public service'. According to the appellants, it is apparent from paragraph 63 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 58 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 91 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 93 of the judgment in Case T-541/13 (EU:T:2015:898), that the General Court required that the definition of the SGEI in national law must expressly refer to the term 'public service' in order to be considered sufficiently clear and precise.

124 The Commission, without drawing any specific conclusions as to how the fifth part of the single ground of appeal should be dealt with, emphasises that the General Court did not require, in the judgments under appeal, the use of a particular formula in defining the SGEI, but rather verified whether, in the national law, the provision of the network service was defined as an SGEI.

125 SES Astra submits that the fifth part of the single ground of appeal is manifestly inadmissible.

– *Findings of the Court*

126 By the fifth part of their single ground of appeal, the appellants essentially argue that the General Court wrongly adopted a formalist approach by requiring that, in order to meet the first *Altmark* condition, the provisions of national law defining and entrusting the SGEI tasks at issue must contain the term 'public service'.

127 That argument is based on a misreading of the judgments under appeal. It in no way follows from paragraph 63 of the judgment in Case T-462/13 (EU:T:2015:902), paragraph 58 of the judgment in Case T-465/13 (EU:T:2015:900), paragraph 91 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraph 93 of the judgment in Case T-541/13 (EU:T:2015:898), that the General Court set out a requirement that the term 'public service' must be used in order to satisfy the first *Altmark* condition.

128 In these circumstances, the fifth part of the single ground of appeal must be rejected as unfounded.

Sixth part

– *Arguments of the parties*

129 By the sixth part of their single ground of appeal, the appellants argue that the General Court erred in law in holding, in paragraphs 69 and 70 of the judgment in Case T-462/13 (EU:T:2015:902), paragraphs 70 and 71 of the judgment in Case T-465/13 (EU:T:2015:900), paragraphs 110 and 111 of the judgment in Case T-487/13 (EU:T:2015:899) and paragraphs 100 and 101 of the judgment in Case T-541/13 (EU:T:2015:898), that Protocol (No 29) on the system of public broadcasting in the Member States does not cover the financing of the signal emission platform operators at issue because that protocol refers only to public broadcasters.

130 The Commission contends that this part is ineffective and, in any event, unfounded.

131 SES Astra submits that the sixth part of the single ground of appeal is manifestly inadmissible and, in any event, unfounded.

– *Findings of the Court*

132 By the sixth part of their single ground of appeal, the appellants argue, in essence, that the General Court made several errors of law in holding that Protocol (No 29) on the system of public broadcasting in the Member States is not applicable in the present case.

133 That part must be rejected as ineffective. As the Commission submits, the appellants have not indicated how the application of Protocol (No 29) on the system of public broadcasting in the Member States would support the conclusion that the beneficiaries of the measure at issue were actually required to discharge public service obligations and that those obligations had been clearly defined in national law.

134 Since none of the six parts of the single ground of appeal raised by the appellants in support of their appeals has been upheld, those appeals must be dismissed in their entirety.

Costs

135 Under Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court is to make a decision as to the costs. Under Article 138(1) of those rules, applicable to appeal proceedings 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.

136 Since the Commission and SES Astra have applied for costs and the appellants have been unsuccessful, the appellants must be ordered to pay the costs.

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

1. **Dismiss the appeals;**

2. **Orders the Comunidad Autónoma del País Vasco, Itelazpi SA, the Comunidad Autónoma de Cataluña, the Centre de Telecomunicacions i Tecnologies de la Informació de la Generalitat de Catalunya (CTTI), Navarra de Servicios y Tecnologías SA, Cellnex Telecom SA and Retevisión I SA to pay the costs.**

[Signatures]