

Newsletter

Amsterdam, 31 January 2021

Dear Participant,

I would like to update you on the progress the Diesel Emissions Justice Foundation has made since our last newsletter sent 3 November 2020.

Our commitment is to achieve fair compensation for all car owners impacted by Dieselgate through legal proceedings before the Amsterdam District Court, among others.

The number of participants for the Foundation's Actions against Volkswagen Group, Daimler AG (Mercedes) and Fiat is steadily increasing, which is important. Only together, we will succeed in holding car manufacturers responsible for their behaviour causing serious harm to people and environment.

Volkswagen Group

17 December 2020 - Judgment of the Court of Justice

On December 17, the European Court of Justice ruled that the fraudulent ("cheating") software installed by Volkswagen in cars belonging to the Volkswagen Group is prohibited and in violation of European laws and regulations.

The decision of the European Court of Justice follows in response to so called prejudicial questions put by a French judge as part of a criminal investigation against Volkswagen. The Court of Justice rejected Volkswagen's defence that the software is necessary to protect the engine. The Court in doing so, largely followed the advice of Advocate General Sharpston who outlined in her earlier Opinion, that the definition of the term 'defeat device' must be interpreted broadly, and that there are only limited possibilities for successfully invoking the exceptions provided for by law.

This important judgment of the Court of Justice, binding for all Member States of Europe, establishes at the highest level, that the use of fraudulent software is illegal. This decision provides further ammunition for the cases that the Foundation has brought against Volkswagen when it comes to establishing liability and enforcing damages.

[Read the Press release of the Court of Justice](#)

[Read the full judgment \(in French\) of the Court of Justice](#)

18 January 2021 - Case Management Hearing before the Amsterdam District Court

After the start of the proceedings against Volkswagen and related parties such as Audi, Seat, Skoda, Porsche, Robert Bosch, importer(s) and dealers in the Netherlands and abroad, the first case management hearing in the Dutch proceedings was held on January 18, 2021 before the Amsterdam District Court.

The objective of this hearing was to exchange views from all parties involved about the desired sequence of subjects to be addressed in the initial phases of the WAMCA procedure we have started.

This includes subjects such as the admissibility of the Foundation, the appointment of an Exclusive Representative Party - which the Foundation has opted for - as well as determination whether the Dutch court has jurisdiction with regard to the claims brought and, if so, which (national) law would apply. The court has indicated that a decision on the order of handling of the above points can be expected on March 3.

The session took more than four hours during which - unsurprisingly - positions were taken on both sides that were diametrically opposed.

We expect the Foundation to be declared admissible because it meets the requirements outlined in the Dutch Claim Code 2019. We also expect to be appointed as the Exclusive Representative Party, acting on behalf of the group of injured parties as described in the writ of summons of March 13, 2020.

January 21, 2021 - Over one-hundred-million euro fine for Volkswagen for not meeting emissions standards.

The Volkswagen Group has not achieved the 2020 target for CO2 emissions as set by the European Union. For Volkswagen, the standard was about 99 grams per kilometre per car sold. The manufacturer is now facing a fine of at least €100million.

Every year, the EU sets increasingly stricter standards for the average emissions of all cars produced by a car manufacturer. The aim is to force manufacturers to produce cars that pollute less and to stimulate the transition to building electric vehicles.

Volkswagen is not the only car manufacturer that has not achieved the CO2 reduction target; the European Commission will soon publish the figures for all manufacturers and the extent of potential fines.

January 25, 2021 - Spanish court orders VW to pay damages of €3,000 per car

A Madrid court has found Volkswagen guilty of the use of manipulated software, or “cheating software”. In proceedings brought by a Spanish consumer association against Volkswagen on behalf of 5,400 affiliated consumers, the judge awarded damages totalling €16.3million for unfair commercial practices, amounting to an average of €3,000 per consumer. The judge used a pragmatic method to determine this amount; half to compensate for the depreciation of the affected cars and the inconvenience of use of having to have the cars repaired, and the other half for “moral damage” as breach of confidence due to the advertised “green” image of these cars, the environmental damages and the impact on society.

[Read the verdict of the Spanish court \(in Spanish\)](#)

Daimler AG (Mercedes) and Fiat Chrysler

For both cases there has been some correspondence with the court and defendants about procedural steps to be followed and the order of subjects to be dealt with. We are now waiting for further dates to be determined by the court, expected in Q2 2021.

Next Steps

We will inform you as soon as there is news about the progress of (one of) our cases. Please note, litigation is often a matter of patience, and despite the positive developments that are emerging around liability and the determination of damages, it is realistic to assume a longer lead time for these issues. We remain open to reaching an out of court solution with the aforementioned Car Manufacturers and hope they understand a quick settlement is preferable in the interest of all concerned.

If you have any questions about our Actions or about your individual participation, please send us an email at info@emissionsjustice.com.

