

Newsletter

Amsterdam, 20 April 2021

Dear Participant,

Herewith please find our most recent newsletter which provides an overview of our progress to date.

The Diesel Emissions Justice Foundation currently has three separate proceedings, all of which have been brought before the Amsterdam District Court in the Netherlands.

These proceedings are aimed at obtaining financial compensation for duped car owners in Europe. Additionally, the Foundation takes the view that compensation should be paid by the car manufacturers concerning the damage caused to public health and the environment.

The Foundation is increasingly focusing on partnerships with relevant organisations outside the Netherlands to achieve these goals.

Volkswagen Group

3 March 2021: The Amsterdam District Court ruled on the procedural order of the handling of various subjects as a result of our case management hearing of January 18.

The court generally followed the proposal of the defendants (the car manufacturers) and determined that, for the first phase of the proceedings, the jurisdiction of the Dutch court must be addressed ("Does the Dutch court have the authority to decide on the case against foreign defendants, amongst others?") as well as whether the WAMCA procedure (in force since 1 January 2020) or the previous collective action law regime applies.

The Foundation follows the reasoning of the court but would have preferred that specific issues surrounding the collective nature of the case be dealt with first, such as the designation of the Foundation as the Exclusive Representative.

Defendants must submit their statement of defense on May 26.

The proceedings brought by the Foundation against Volkswagen in Belgium (before the Brussels court) and France (before the Soissons court) are pending and will follow the developments in the Dutch proceedings.

Daimler AG (Mercedes) and Fiat Chrysler

The procedural approach as established by the court for the Volkswagen case has turned out to be a blueprint for the other cases of the Foundation against Daimler and Fiat Chrysler. The cases run roughly parallel in terms of timing, which means that a statement of defense can be expected from Fiat-Chrysler on June 16, and from Daimler a little later, because, in this case, conclusions were exchanged on April 7 with regard to the sequence of subjects and the timeline involved.

22 March: Partnership between the Diesel Emissions Justice Foundation and the Portuguese Consumer Protection Association Ius Omnibus

In partnership with Diesel Emissions Justice Foundation, the Portuguese consumer protection association Ius Omnibus submitted an opt-out class action

before the District Court of Lisbon, aimed at restoring legality and compensating all consumers residing in Portugal. Ius Omnibus is seeking compensation for all consumers who own Mercedes-Benz vehicles, with diesel engines, in accordance with Euro 5 and Euro 6 (up to Euro 6c) – and for Daimler's use of illegal cheat devices.

If it succeeds, this action will cause Daimler/Mercedes-Benz to pay compensation estimated at a minimum amount of €4,200.00 per vehicle. The pursuit by Ius Omnibus of this action is being carried out in the scope of a multi-jurisdictional effort. Maria José Azar-Baud, Associate Professor at University of Paris-Saclay, serves as Board Member to the DEJF and she is a vice-president at Ius Omnibus.

The press release of Ius Omnibus, in English, can be found [here](#).

More detailed information about this popular action can be found [here](#).

For more information on Ius Omnibus, please go to: <https://iusomnibus.eu/>

General

February 15: New stricter EU emissions standards on the way

A heated debate is currently underway about the new European emissions standards, which are to be set for 2025. The real question behind this is whether the internal combustion engine still has a future in Europe.

In one of the proposals of the European Commission, emissions would be measured under “real driving” conditions rather than in laboratories. Car manufacturers and suppliers have growing fears about this option, and their vigorous lobby has deemed it “unfeasible”. On March 16, Audi took a pre-emptive step when the Volkswagen brand announced that, effective immediately, it would stop developing petrol and diesel cars.

<https://www.nrc.nl/nieuws/2021/02/15/nieuwe-emissienorm-nu-al-te-strenga4031893> (in Dutch)

February 23: The Netherlands files a criminal complaint and requests an investigation into fraudulent diesels manufactured by Fiat Chrysler.

On March 2, news came out that the Dutch Ministry of Infrastructure had filed a complaint against Fiat-Chrysler to the Netherlands Public Prosecution Service

on February 23.

Previous suspicions about the application of unauthorized emissions strategies by Fiat Chrysler led to the decision to launch an official complaint. After its merger with PSA in January 2021, Fiat-Chrysler is now called Stellantis, and is headquartered in Amsterdam. This means that the Netherlands Vehicle Authority, RDW, will continue to have an important role after earlier investigations involving the type approval of Suzuki Vitara and the Jeep Grand Cherokee.

The RDW is currently also analysing the impact of the decision of the European Court of Justice of 17 December 2020 (see our previous newsletter) on (previous) issued type approvals. This will be done in consultation with other Member States of Europe to ensure that the same interpretation is given to the decision of the European Court. The ruling has further tightened the framework surrounding the use of defeat devices and will be decisive for both formerly issued and future type approvals.

Fiat Chrysler has already reached a settlement with the US Department of Justice and the state of California in 2019. The group paid out \$800 million to avoid further prosecution for the diesel fraud. <https://nos.nl//2370955> (in Dutch)

March 9: \$1.5 billion Daimler settlement approved

In the US, the \$1.5 billion settlement reached with Daimler was approved by the court. In September 2020, Daimler reached this settlement for the manipulation of emissions standards with the US Department of Justice and the EPA, the environmental regulator. In addition, Daimler had to compensate diesel vehicle owners for a total of \$700 million, which corresponds to an average amount of \$3,290 per affected vehicle.

In 2019, the Daimler group agreed to pay a fine of €870 million to the German authorities for violating diesel emissions regulations.

March 26: Volkswagen claims compensation from former CEO

Volkswagen recently announced that it will claim damages from former CEO Martin Winterkorn for the damages incurred “under his watch”. Volkswagen concluded amongst others that he failed to respond fully and swiftly to investigations of American authorities re Dieselgate. Former Audi CEO Rupert

Stadler can expect equal treatment. A criminal investigation against both men is underway in Germany, and other directors may also be prosecuted.

13 April: BGH: Volkswagen should also reimburse financing costs in damage assessment

The Federal Court of Justice in Karlsruhe, which is Germany's Highest Civil Court, issued a new, favorable ruling in an individual case of a German consumer against Volkswagen. The consumer bought a Volkswagen Golf, one of the cars that were discovered to be fitted with devices to cheat emissions tests, in 2013. The woman funded the car with a loan from Volkswagen Bank, a subsidiary of the car manufacturer.

The Court ruled that Volkswagen has to pay the woman, who returned her car after the diesel scandal emerged and claimed for damages, the amount of €3,300. Part of the compensation is the interest paid on the loan taken to be able to purchase the car. "The buyer should be put in the position as if the purchase had not happened", presiding Judge Stephan Seitters said.

The decision sets another important precedent towards full compensation of all affected VW-drivers throughout Europe.

<https://www.reuters.com/article/volkswagen-diesel/vw-must-repay-customers-who-took-loans-on-rigged-diesels-says-court-idUSL8N2M62NR>

To read the release (in German) click [here](#).

Next Steps

The Foundation continues to litigate as vigorously as possible. The anticipated designation of the Foundation as Exclusive Representative in all three cases is somewhat delayed by the procedural developments outlined above - but does not in any way affect our commitment to enforce compensation for impacted car owners in Europe.

Meanwhile, the Foundation continues to welcome as many duped car owners as possible to register with the Foundation as we are stronger together. As we all know, the car manufacturers involved have had to pay huge fines and damages, and the Foundation sees no reason why this should not also happen in Europe.

We will continue to keep you informed of any developments.

If you have a question about your individual registration or otherwise, you can send us an e-mail at info@emissionsjustice.com.

Kind regards,

A handwritten signature in dark ink, appearing to read 'F. Hendriks', with a horizontal line drawn underneath.

Femke Hendriks
Managing Director
Diesel Emissions Justice Foundation

- To ensure you receive our emails, please add support@emissionsjustice.com to your address book. -



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