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Judgment Content indication	Section 22
Rv injunction. Findings	Rechtspraak.nl

Excerpt

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judgment

AMSTERDAM COURT

Private law department

Judgment of 19 February 2025

in the following joined cases

in the case with case number/role number: C/13/702519 / HA ZA 21-500 of

the foundation

EMISSION CLAIM FOUNDATION,

established in Amsterdam,

lawyer Mr C. Jelosc hek, e i

s e r e s,

at

1. the legal person under foreign law

RENAULT S.A.,

established in Boulogne-Billancourt (France), lawyer

Mr Y. Borrius,

2. the public limited company

RENAULT NETHERLANDS N.V.,

established at Schiphol-

Rijk, lawyer Mr Y. Borrius,

D e d a g ,

[Respondent 3 was discharge from authority].

and in the case with case number/role number C/13/710414 / HA ZA 21-1028 of

the foundation

CAR CLAIM FOUNDATION,

established in

Rotterdam, lawyer Mr

P. Haas,

e i s e r e s ,

against the defendants referred to above under 1 and 2 and against

4. the legal person under foreign law

RENAULT S.A.S.,

established in Boulogne-Billancourt (France), lawyer

Mr Y. Borrius,

5. the legal person under foreign law

AUTOMOBILE DACIA S.A.,

established in Bucharest/Mioveni (Romania),

lawyer Mr Y. Borrius,

6. the private limited liability company

RENAULT-NISSAN B.V.,

based in Amsterdam,

defaulted,

D e d a g ,

and in the case with case number/role number C/13/710434 HA ZA 21-1030 of

the foundation

DIESEL EMISSIONS JUSTICE FOUNDATION,

established in Amsterdam,

lawyer Mr J.D. Edixhoven, e i

s e r e s,

against the defendants named above in points 1, 2, 4 and 5.

Plaintiffs will hereinafter be referred to individually as SEC, SCC and SDEJ. Collectively, they will also be referred to as the Foundations. Renault S.A., Renault Nederland N.V., Renault S.A.S. and Automobile Dacia S.A. will hereinafter be collectively referred to as Renault et al.

The cases will hereinafter be referred to separately as the SEC case, the SCC case and the SDEJ case.

1 The procedure

In the SEC case, the SCC case and the SDEJ case

1.1. The conduct of the proceedings is evidenced by:

- the interlocutory judgment of 13 November 2024, ECLI:NL:RBAMS:2024:6874,
- The deed declaration revised order under Article 22 Rv of SEC, SCC and SDEJ jointly,
- Renault et al's reply deed under Article 22 Rv.

1.2. Finally, judgment was .

2 The review

In the three joined cases against Renault c.s.

2.1. After the court in the interlocutory order of 19 June 2024 granted Renault c.s. an injunction under the provisions of Section 22 Rv and Renault objected to it, the court in the interlocutory order of 13 November 2024 entered a proposed amended order and gave the parties an opportunity to respond to it.

The court will address the parties' response below, reaching the final determination of the Article 22 order.

Foundations' objections

2.2. SCC, SDEJ and SEC consider that Renault et al's response to the court's questions is necessary. They refer to the Opinion of Advocate General Rantos of 24 November 2024 in proceedings C-251/23 and C-308/231 between car owners and Mercedes before the CJEU. They refer to paragraph 79 of this opinion which reads as follows:

79. Moreover, according to the Court's case-law, in order to ensure respect for

the principle of effectiveness, use all procedural means available under national law, including the ordering of the necessary measures of inquiry, including the production of a document by one of the parties or a third party, where it establishes that the fact that the burden of proof lies on a party may make it impossible or excessively difficult for that party to adduce evidence, in particular because it relates to information which is not to that party.(33) Moreover, as the principle of effectiveness, that principle requires judicial protection to be ensured, which requirement is set out in Article 47 of the Charter and must be respected by the national court.(34) 2

According to the Foundations, this is particularly true when certain information is in the domain of the car manufacturer and is not or difficult to access for car owners, as it is for the Car Owners in the present proceedings.

2.3. According to the Foundations, not only were the two engine types mentioned in the interlocutory judgment used in the vehicles in question, but the full list of engine types used is as follows:

- The K9K engine;
- The R9M engine;
- The M9R engine;
- The M9T engine;
- The F9Q engine;
- The G9U engine,
- The engines with engine codes YD25 and ZD3O.

The Foundations ask the court to clarify the final order on this point.

2.4. The court considered as follows. The questions of the Section 22 Rv injunction are not limited to the two types of engines mentioned in the interlocutory order of 13 November 2024. Thus, the final order does not require clarification on this point.

2.5. The Foundations object to the limitation to emission classes up to and including 6c. The of Affected Vehicles in SCC's subpoena includes all Euro 5 and all Euro 6 vehicles on the Dutch market between 1 September 2009 and 1 September 2019, thus including the Euro 6d Temp and Euro 6d subcategories. Renault c.s. acknowledges that the Euro 6d Temp standard entered into force on 1 September 2017 and thus that it was able to place Affected Vehicles with a Euro 6d Temp classification on the Dutch market as early as 1 September 2017. In addition, Renault c.s. may have applied new emission standards voluntarily.

2.6. The court will amend the Section 22 Rv injunction on this point. The order will also cover the Euro 6d Temp and Euro 6d subcategories. This is because the of Affected Vehicles includes all Euro 5 and Euro 6 vehicles introduced on the Dutch market between 1 September 2009 and 1 September 2019. also includes the Euro 6d-Temp and Euro 6d subcategories.

2.7. The Foundations ask the Court to include in the final injunction that Renault et al. must provide its answers with relevant accompanying documentation. The documentation to be brought into the proceedings by Renault et al as part of the injunction will be able to provide the Foundations with clues to provide any rebuttal evidence against positions taken by Renault et al.

Renault et al have an obligation under Regulation (EU) 2016/646 to provide detailed information to the type-approval authorities on the Base Emission Strategy (BES) and Auxiliary Emission (AES) for Affected Vehicles from emission class 6c.21 onwards. The Foundations ask the court to order Renault c.s. in the final order to instruct them (in addition to all others for answering the questions

relevant documentation) also bring into play the AES and BES documentation relating to the Affected Vehicles.

2.8. The court will order Renault c.s., if there is a manipulation device, i.e. if it has answered in relation to (part) an engine that there is a manipulation device, that it must then bring the above-mentioned documentation into the proceedings.

2.9. In case Renault c.s. intends not to answer certain questions of the revised order, the court ordered Renault c.s. in the interlocutory judgment of 13 November 2024 to this already in its deed. If (part) the revised order would not enforceable or would be very difficult to enforce, the court additionally gave Renault c.s. the opportunity to propose an alternative course of action, provided that it will provide the same information as envisaged in the revised order.

If Renault c.s. will make it known in its deed that it will not answer certain questions or will only answer them under certain conditions, or that the categorisation proposed by the court would be difficult for it to implement, then those statements by Renault c.s. (and any underlying substantiation) will be new statements on which the Foundations have not yet had an opportunity to comment. Good procedural order, in particular the principle of hearing both sides of the argument, requires that the Foundations be given the opportunity to do so. They therefore respectfully request the Court to grant them a period of two weeks to file a response deed, in which they can (exclusively) comment on these new statements by Renault et al. before the Court decides on them.

2.10. The court this request. Should Renault c.s. make it known in a deed that it will not answer certain questions or will only answer them under certain conditions, or that the categorisation proposed by the Court would be objectionable to it, the sees no reason to give the Foundations the opportunity to a reply deed in that case. This is a measure of instruction by the court, which Renault et al do not comply with or partly comply with in that case, and not contentions by the parties regarding the claims to which response by the Foundations is required in the context of adversarial proceedings.

The objections of Renault et al.

- technical

2.11. Renault c.s. pointed out technical objections to the Section 22 Rv injunction. Renault c.s. cites as relevant factors in vehicle development: the physical functioning of diesel engines, safety standards and applicable emissions regulations. The design process is complex. It requires a holistic approach to the operation of diesel engines, with associated physical and technical limitations, and with (in the relevant time period) available technologies and strategies to address these limitations and produce well-functioning, safe vehicles.

This case is not comparable to the Volkswagen case, because there it had already been established and acknowledged by Volkswagen that one type of engine was equipped with a prohibited manipulation device, namely test recognition. Renault c.s. did not use and does not use test recognition in its vehicles, nor is it subject to a mandatory recall related to the design of its emission control systems.

The isolated retrieval of information based solely on data on functionalities, parameters and strategies (ignoring the complex relationship outlined above) serves no purpose, according to Renault et al.

2.12. The court sees this differently. To the extent that the allegations made by Renault c.s. were correct, it is still true that this apparently did not prevent the EU legislator from including in the Emissions Regulation

to include a general prohibition on the use of manipulation devices. This implies that the complexity of a vehicle's design and development process does not assessing whether or not a manipulation device is involved.

2.13. Renault c.s. also pointed out the following. The way the emission control systems of Renault's vehicles work depends on several interrelated factors and requires a proper understanding (knowledge and insight) into fundamental physical, chemical as well as technical facets of and surrounding diesel engines. These include:

- a. conditions in the engine's combustion chamber;
- b. the 's environmental factors;
- c. the driving conditions of (the driver of) the vehicle;
- d. The (configuration) hardware to reduce NOx emissions;
- e. the safe and reliable operation of the hardware and the engine in ;
- f. emissions of other types of emissions (including CO2).

2.14. Among other things, combustion chamber conditions, vehicle performance data and hardware operation are controlled by certain software. This software monitors (very) (i) a range of parameters in the vehicle, including those related to emission control, and (ii) aspects of the hardware of the emission control systems.

- Re i): monitoring all possible parameters, including (but not limited to) intake air temperature, coolant temperature, engine torque or even air pressure, requires calibration of the software. A calibration refers to settings of the software that determine at which values of which quantities (parameters) the system performs a certain function, and in to what .

- Re (ii): the hardware concerns, for example, the diesel particulate filter, the EGR system or the NOx trap.

Software calibration, like hardware configuration, will usually vary from one Renault vehicle to another.

2.15. Renault c.s. estimates that it exported around 200,000 Renault vehicles to the Netherlands between 2009 and 2019. Due to the different variants in model and version, engine type and engine variants and emission class, among others, this results about 1,000 different (software) calibrations. On top of that, the calibration can be by after-sales updates.

The court's assumption that it would be possible, with respect to all vehicles, to provide insight into the operation/impact of an arbitrary parameter such as driving speed in an isolated manner is incorrect.

2.16. An engine type represents a family of diesel engines. It has a multitude of engine variants, which are denoted by several specific sub-engine codes. These engine variants differ (non-exhaustively) by emission class, power (kW/hp), year of manufacture, model (generation), gearbox (such as an automatic or manual transmission), etc. To illustrate, the engine type K9K has almost 40 engine variants and hundreds of (software) calibration versions. Each calibration in turn consists of tens of thousands of labels that provide information about certain parameters in a specific vehicle, according to ever Renault et al.

2.17. The court sees no reason in the foregoing to the Section 22 Rv order. The assessment does not focus in general on the operation of the vehicle nor in on the operation of the emission control system, but on the presence of a specific component that affects the operation of the emission control system, namely the presence or absence of

manipulation tools. That the calibration varies *from vehicle to vehicle* (and thus that there would be about 200,000 different calibrations of vehicles exported to the Netherlands) is not plausible, as these are series-built vehicles and Renault c.s. mentions elsewhere in its deed a number of about 1,000 different software calibrations.

2.18. On the questions to be asked, the court considers the following. The questions in the order are not aimed at a general and comprehensive understanding of the operation of the emission control system, but specifically at the presence or absence of manipulation devices. The fact that each of the calibrations consists of tens of thousands of labels does not alter the fact that Renault c.s. can be expected to be able to find without difficulty in those labels the labels that determine the operation of the emission control system, and to be able to find without difficulty within them whether functionalities falling under the definition of a defeat device have been applied. The European legislator apparently considered this definition to be sufficiently clear. This means that the question of whether a manipulation device is present is also sufficiently clear. The fact that manipulation devices are in principle prohibited means that car manufacturers can be expected either not to apply a manipulation device or to apply it only with settings such that one of the cases mentioned in Article 5(2) of the Emissions Regulation, namely cases in which a manipulation device is not prohibited, occurs.

2.19. Renault et al. further point to the passage of time, which prevents the (practical) feasibility of the intended categorisation. Indeed, the Foundations' claims cover a ten-year period, which period now more than five to 15 years ago. Most of the engine types (including all variations) are no longer produced and most of the engineers with the necessary specialist (technical) knowledge of the diesel engines used at the time are no longer working for the company.

2.19.1. The court recognises that these circumstances may make the provision of the requested information more difficult, but not impracticable. Accordingly, the order is not modified.

2.20. Renault c.s. does want to think along about (among other) an alternative (workable) categorisation, but has so far had insufficient time to do so. In view of its objections, Renault requests that the intended categorisation be abandoned and question 1 be deleted. As the intended categorisation is not (practically) feasible according to Renault et al, the follow-up questions cannot be answered either.

2.20.1. The court sees no reason for a different categorisation. Although the court found Renault c.s. expressly invited to do so in the interlocutory judgment of 13 November 2024, Renault c.s. also failed to propose an alternative more workable categorisation. The court stands by this categorisation.

- *legal*

2.21. Renault et al consider that the legal debate on the appropriate interpretation of legally relevant terms has not crystallised. A physically-technically complex information task in a setting of regulations and terminology yet to be legally interpreted requires knowledge, understanding and debate on the underlying issues. Renault et al believe that sufficient knowledge, understanding and debate are lacking, leading the court to (repeatedly) ask questions based on erroneous assumptions.

2.22. According to Renault et al, its engineers would have to search thousands of parameter sets manually on the basis of unclear search criteria and also legally interpret them, which they are (obviously) incapable of doing. The new categorisation by engine type offers no relief. Renault c.s. considers the amended Article 22 injunction ineffective and impracticable. Moreover, it had insufficient time to formulate detailed-systematic objections to this injunction, let alone to identify possible alternative approaches.

- 2.23. It is not clear to the court what Renault et al mean by manual examination of thousands of parameter sets. To the extent that this means that the approximately 1,000 calibrations will have to be separately, that is inherent in Renault c.s.s use of those different calibrations. Assuming that the use of different calibrations is allowed within the obligations under the Emissions Regulation, that does not detract from the obligations arising from that Regulation and Renault c.s. will therefore also have to provide insight into the manipulation instruments it applied.
- 2.24. According to Renault c.s., the question of whether there is a defeat device within the meaning of Article 3(10) of the Emissions Regulation cannot be answered factually unambiguously in view of the other parameters mentioned in the definition and in view of the physical-technical complexity. Concepts such as reduced efficiency and conditions to be expected in the normal use of a vehicle are also legally ambiguous.
- 2.25. In paragraph 4.4 of the interlocutory judgment of 13 November 2024, the court considered that it follows from the ECJ's decision in DS v Porsche Inter Auto and Volkswagen that "reduction in effectiveness" should be understood to mean the situation in which the emission limits set are not achieved. According to Renault et al, this is a legally controversial decision that should have been by a party debate. Renault c.s. expressly objects to the court's view.
- 2.26. According to Renault, the question whether a vehicle type (with emission standards 5 to Euro 6c) complies with the emission limits under normal conditions of use cannot be at present, because it lacks a (uniform) definition of this term. The court's question under 2. sub a-i incorrectly already assumes functionalities that qualify as a manipulation device within the meaning of the Emission Regulation.
- 2.27. The court considers the question of whether there is a manipulation device sufficiently clear (see at 2.18). The fact that the definition therein also mentions other parameters does not this, because a car manufacturer must be able to find in the software used, without any doubt, which parameters are used to control the emission control system. The Court sticks to the preliminary judgment as mentioned under 2.25, because Renault c.s. has now not put forward any grounds why this would be incorrect, and will give a final judgment on this after party debate. The question of when are circumstances to be expected in normal use of a vehicle is a question that requires a factual opinion, which the court will give on the basis of concrete data on operation of the various manipulation devices and party debate on this point.
- 2.28. Renault c.s. the following further objection. In the interlocutory judgment, the court abandoned the use of type approvals as an ordering principle and switched to an ordering based on engine types (ranked by emission class). In the Renault case, none of the Foundations (nor Renault et al) proposed this categorisation. It was apparently prompted by the party debate in the Mercedes . Renault c.s. has consistently stressed that this case is not comparable to emissions cases against other car manufacturers in terms of its factual constellation.
- 2.29. In doing so, Renault c.s. did not, in the court's view, draw any consequences from its objection to the categorisation used. The court therefore upholds it.
- 2.30. Regarding the definition of affected vehicles, Renault c.s. notes that it does not have access to specific information on which diesel vehicles and how many of them were marketed by Renault in the Netherlands during the relevant period. Renault c.s. can (if necessary) collect information on the exported to the Netherlands. However, Renault c.s. does not have access to information on vehicles that may have been imported to the Netherlands from another country. The same applies to vehicles that may have been subsequently exported from the Netherlands to another country.

Renault et al cannot determine how many of the vehicles exported to the Netherlands were actually sold and used in the Netherlands, let alone how many of these vehicles are currently still in use in the Netherlands.

2.31. The court notes that the questions raised may be answered by starting from the vehicles exported to the Netherlands, without prejudice to the fact that the court will have to assess the claims brought by the Foundations, which start from their definition of vehicles involved.

2.32. The court upheld the open final question despite Renault's objections.

Renault c.s. continues to object to the retention of the open closing question. Renault et al argue that this question effectively amounts to a fishing expedition.

2.33. The court will maintain the open-ended final question. The definition of manipulation devices contains an open-ended element, therefore the court cannot but also ask this question.

2.34. Renault considers c.s. unclear what the court understands specifically by the term calibration in question 3.

According to Renault et al, answering question 3 is (technically and practically) not feasible. An isolated perusal of all the different software calibrations does not answer the question of a vehicle's emissions behaviour and thus the question of whether there is (or can be) a (prohibited) manipulation device within the meaning of the Emissions Regulation (let alone its operation).

The effect of specific parameters cannot be found out in an automated way (via a categorical keyword search). On the contrary, it requires an individual assessment of the interaction between (at least) certain hardware, software (calibrations), physical and technical characteristics of the vehicle in question. To illustrate, there is not just one label, but several labels the operation of EGR systems, combining, for example, different inputs and outputs to ensure a specific ratio between the air intake and recirculated exhaust gases in a given case.

2.35. The court understands by calibration (following the parties) the concrete settings of the software functions the emission control system. The court asks Renault et al. not to explain the concrete result of the operation of the emission control system it uses, but whether there are manipulation devices in that emission control system and how they are set. The latter is necessary for the party debate on whether those settings result in the manipulation device affecting the effectiveness of the emission control system under normal conditions of use.

2.36. Question 4 concerns the possible justification(s) for manipulation tools. Renault c.s. will return to this in the remainder of the substantive proceedings, to which the court has also provided an opportunity.

2.37. Renault c.s. points out that it considers premature and incorrect the preliminary opinion of the court that the Foundations have made sufficiently specific and substantiated evidence that Renault c.s. used manipulation devices within the meaning of the Emission Regulation. Moreover, this cannot be reconciled with (i) the preliminary opinion that Renault c.s. are subject to an aggravated burden of proof, because the burden of proof on the Claim Foundations would be so heavy that realisation of substantive law would be practically impossible and (ii) the opinion of your Court that, in the context of this Article 22 Rv order, it will not be assessed whether the Claim Foundations have made their claims plausible and that no substantive opinion will yet be given on these contentions.

2.38. The court did not make a preliminary finding that the Foundations had made sufficiently specific and documented plausible claims that Renault et al.

used manipulation devices within the of the Emissions Regulation. The court found it sufficiently plausible that manipulation devices were present in the Renault vehicles *under investigation*. In these proceedings, however, all the vehicles concerned must be assessed. That assessment cannot be based on an investigation of a limited number of examples, as Renault c.s. itself explicitly states. That examination does raise questions regarding other Renault vehicles. The Foundations have therefore sufficiently justified and substantiated their request that Renault c.s. be ordered to clarify its contentions. Renault c.s. has the knowledge and details of all the vehicles it sold; the Foundations do not. That justifies the increased obligation to state reasons. There therefore no contradiction.

- feasibility

- 2.39. With regard to practicability, Renault c.s. submitted the following. If Renault c.s. were to provide, to the best of its ability, (some form of) answer to the questions raised, this would presumably result in a theoretical exercise, involving the collection of (arbitrary) data on various functionalities and software (calibrations). Apart from the fact that this cannot be considered proportional, the implementation is not realistic. In short, it would mean that a highly specialised engineer of Renault et al would have to do manual searches on thousands of functionalities and parameters. In addition, the engineer in question would be required to step into inextricable legal interpretations which exercise is outside his or her area of expertise. Renault's relevant engineer would have to shut down his usual work for a very long time presumably around 6 months or more, damaging business operations. It is not as if Renault et al have already collected the requested data.
- 2.40. As considered above, it is not clear to the court what Renault c.s. means by manually examining thousands of parameter sets. And to the extent that this means that the approximately 1,000 calibrations will have to be assessed separately, so that is inherent in the use of those different calibrations. The choice to do so by Renault c.s. does not make it never have to disclose them under a Section 22 Rv order.

3 Adjusted section 22 Rv injunction

Amended order under section 22 Rv

3.1. The foregoing leads to the following revised order under section 22 Rv. The court orders Renault c.s. to answer the following questions in explanation of its claim that it did not apply prohibited manipulation devices in the vehicles in question.

1. Which engine types did Renault c.s. use in the vehicles in question during the relevant period and in which Emission Class do they fall.

Notes:

The relevant period means the period from 1 January 2009 to 31 January 2019.

The vehicles in question are diesel-engined vehicles marketed in the Netherlands by Renault et al during the relevant period.

This question serves as an introduction and is used to organise the task of manipulation tools.

If an engine type has versions that have been used under different emission classes, the follow-up questions should be separately for the different emission classes. The questions should be answered for emission classes 5 and 6.

2. Follow-up question for each of the engine types in question 1:

Which of the following manipulation tools were used in all or part of these engines:

- a. one or more temperature windows, i.e. a function or functions measuring the intake air temperature, the SCR temperature, the engine temperature or related values such as the coolant temperature or the temperature of any other engine component in order to trigger, modulate, delay or deactivate a component of the emission control system if it exceeds or falls below a given value, thereby reducing the effectiveness of the emission control system;
- b. preconditioning recognition or test recognition means one or more functions which serve to recognise the condition of the vehicle when it is being prepared for test (preconditioning) or when it is being tested in order to activate or modulate a component of the emission control system in that event so as to achieve the prescribed emission values, where those values are achieved only under those specific conditions and outside those conditions,
- c. a "hot restart" function, which, after engine start-up, measures the SCR temperature or any other temperature to , modulate, slow down or deactivate a component of the emission control system if it is above a certain value, thus reducing the efficiency of the emission control system;
- d. a function whose purpose is to actuate, modulate, delay or render inoperative a component of the emission control system at driving speeds above or below a specified value, thereby reducing the effectiveness of the emission control system;
- e. a function whose purpose is to actuate, modulate, delay or deactivate any component of the emission control system in one or more gears so as to reduce the effectiveness of the emission control system;
- f. a "planned obsolescence" function, which serves to trigger a component of the emission control system when a certain total distance travelled by the vehicle has been reached, to

modulate, slow down or render inoperative the efficiency of the emission control system;

g. a "postheating" function, which switches on the glow plugs only at a certain engine temperature and air pressure as can be expected at test conditions in order to heat the NSC catalyst faster,

h. a function that measures average fuel consumption for the purpose of activating, modulating, delaying or deactivating any component of the emission control system to reduce the effectiveness of the emission control system;

i. a function that measures air pressure for the purpose of activating, modulating, decelerating or deactivating a component of the emission control system to reduce the effectiveness of the emission control system;

j. other structural components (hardware or software) that measure temperature, engine speed, acceleration, intake depression or other parameters to trigger, modulate, delay or render inoperative any component of the emission control system, thereby reducing the effectiveness of the emission control system?

Explanatory note: Means a manipulation device as defined in Article 3(10) of the Emissions Regulation 3 . It refers to the situation before any update. If desired, the situation after an update can also be mentioned.

In each case, "a component of the emission control system" shall also mean one or more of its components.

If any of the above manipulation devices were applied, and Renault c.s. was required to provide information on the Base Emission (BES) and Auxiliary Emission Strategy (AES) for the relevant engine type and emission class under Regulation (EU) 2016/646, it is ordered that this information be brought into the proceedings.

3. If the manipulation devices mentioned in question 2 involved calibrations that, according to Renault, do not reduce the efficiency of the emission control system under normal conditions of use, what are these calibrations and in which engines or vehicles were they used?

Notes:

These are calibrations in the situation prior to any . If desired, the situation after an update can also be given. The purpose of this question is to understand the conditions under which the manipulation device operates. For example, in the case of a temperature window: below or above which temperature a component of the emission control system is triggered, modulated, delayed or rendered inoperative, thus reducing the efficiency of the emission control system. In other words, the intention is to explain the operation of the manipulation device.

If this question is not for a particular manipulation device, the court will assume that under normal conditions of use, the manipulation device reduces the effectiveness of the emission control system.

4. In any combination of the manipulation instruments mentioned under question 2 and the different calibrations applied to them: according to Renault c.s., there is one of the cases mentioned in Article 5(2) of the Emissions Regulation, namely cases in which a manipulation instrument is not prohibited.

Notes:

Now that the amended Article 22 order has been finalised, the matter will be referred to the roll

for deed in answer to questions 1 to 3. Renault c.s. stated that it would answer question 4 in its statement of reply.

4 Progress of proceedings

4.1. The proceedings will as follows.

- In this judgment, the court the Article 22 injunction final. Renault et al will be given a period three months to comply with the injunction.
- Renault c.s. will have to comply with the injunction by providing the requested information digitally (in Word, Excel or as a searchable pdf) the proceedings.
- After Renault c.s. has complied with the request of Article 22 Rv, the Foundations may thereupon respond. On that occasion, the Foundations will also be allowed to update and supplement their summonses, taking into account, inter alia, what was decided in the interlocutory judgment of 19 June 2024 regarding the split and joinder, the earlier judgment that the WAMCA does not apply and developments since the summonses, including developments in the case law of the CJEU. They will also be allowed to address whether the court has jurisdiction to rule on the prohibited nature of manipulation devices. The Foundations will be given a three-month deadline to do so.
- It is the court's preference that the Foundations submit their amended summonses and combine further procedural documents as much as possible.
- The two cases will then be referred to the roll for conclusion of response by defendants. For this, defendants are given a deadline.
- After that, the substantive oral hearing will take place.

5 The decision

The court

5.1. refers the matter to the roll of **14 May 2025** for the deed answering questions under Article 22 Rv by Renault et al,

5.2. any further decision.

This judgment was rendered by R.H.C. Jongeneel, M.R. Jöbsis and R.P.F. de Groot, Judges, assisted by P. Palanciyan, Registrar, and pronounced in public on 19 February 2025.

¹ Opinion of Advocate General A. Rantos of 21 November 2024 in Joined Cases C251/23 and C308/23, ECLI:EU:C:2024:977 (OB and YV v Mercedes-Benz).

² Notes 33 and 34 in this quote read as follows:

33 Judgment of 9 July 2020, Vueling Airlines (C86/19, EU:C:2020:538, paragraph 43 and case-law cited there). 34 See judgment of 6 October 2015, Orizzonte Salute (C61/14, EU:C:2015:655, paragraph 48).

³ 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.
