

# In the name of the King

## vOx|31S

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COURT OF AMSTERDAM

Private Law Division

### Judgment of 16 July

**2025** in the joined cases

C/13/686493 / HA ZA 20-697 of

the foundation

DIESEL EMISSIONS JUSTICE FOUNDATION,  
established in Amsterdam,  
plaintiff,  
represented by J.D. Edixhoveli, lawyer in

Amsterdam, against

1. the company incorporated under foreign law MERCEDES-BENZ GROUP AG, established in Stuttgart, Germany,
3. the private limited liability company MERCEDES-BENZ NEDERLAND B.V., established in Nieuwegein, lawyer J.S. Kortmalin in Amsterdam,
4. the private limited liability company ASV AUTOMOBIELBEDRIJVEN B.V., established in Veghel,
5. the private limited liability company AUTO KÖKCÜ B.V., established in Vijfhuizen,
6. the private limited liability company AUTO WÜST DORDRECHT B.V., established in Oud-Beijerland,
7. the private limited liability company AUTO WÜST HELLEVOETSLUIS B.V., established in Oud-Beijerland,
8. the private limited liability company AUTO WÜST B.V., established in Oud-Beijerland,
9. the private limited liability company VAN DRIEL AUTOBEDRIJF B.V., established in Liempde,
10. the private limited liability company LOUWMAN MB G B.V., established in The Hague,
11. the private limited liability company LOUWMAN MB R B.V., established in The Hague,

12. the private limited liability company AUTOSERVICE VAN  
DEN **AKKER** B.V.,

established in Uden,

14. the private limited liability company BAAN TWENTE B.V.,  
established in Zulia, municipality of Wierden,

15. the private limited liability company COR **MILLENAAR**  
B.V.,

established in Amstelveen,

16. the private limited liability company under Dutch law  
GOMES NOORD HOLLAND B.V.,

established in Alkmaar,

17. the private limited liability company LOUWMAN MB  
B.V.,

established in The Hague,

18. the private limited liability company MERCEDES-BENZ  
DEALER BEDRIJEN B.V.,

established in The Hague,

19. the private limited liability company SMEETS M.B.  
EINDHOVEN B.V.,

established in Heerlen,

20. the private limited liability company SMEETS M.B.  
VENLO B.V.,

established in Heerlen,

21. the private limited liability company SMEETS M.B. ZUID-  
LIMBURG B.V.,

established in Heerlen,

22. the private limited liability company  
HEDIN AUTOMOTIVE 1M B.V.,

(formerly STERN 1M B.V), established  
in Utrecht,

23. the private limited liability company VAN MOSSEL MB  
B.V.,

established in Rotterdam,

24. the private limited liability company WENSINK  
AUTOMOTIVE B.V.,

established in Apeldoorn,

represented by Mr B. Kemp, lawyer in

Amsterdam, the defendants,

and

C/ 13/69561 I / HA ZA 21-60 of

the foundation

**STICHTING CAR CLAIM,**

established in Rotterdam,

plaintiff,

lawyer no. P. Haas in Rotterdam, against

the defendants named above.

Stichting D reset Ent tss ions Justice will hereinafter be referred to as SDEJ, Stichting Cai' C laim will hereinafter be referred to as Car C laim. Defendants 1 and 3 will hereinafter be jointly referred to as Mercedes. Defendants 4 to 12 and 14 to 24 will hereinafter be jointly referred to as the Partners.

## **1. The course of the proceedings**

1.1 . By judgment of 13 November 2024, the court issued Mercedes with an order as referred to in Article 22 of the Code of Civil Procedure.

12 On 5 March 2025, Mercedes executed a deed following the judgment of 13 November 2024 containing the order pursuant to Article 22 of the Code of Civil Procedure, with exhibits.

13 In a decision on the roll of 7 May 2025, the court gave SDEJ and Car Claim the opportunity to respond in writing to Mercedes' refusal to disclose part of the information requested on the grounds of its confidential nature and sensitivity to competition, and on Mercedes' alternative request for an order of confidentiality pursuant to Article 28(1)(b) of the Code of Civil Procedure.

14 On 4 June 2025, SDEJ and Car Claim entered into a joint deed following a decision on the order of 7 May 2025. On that date, Car Claim also entered into a deed in which it joined the joint deed and requested the court to consider its contents as repeated and inserted in the Car Claim case.

15 This judgment is the decision announced in legal ground 2.8 of the decision of 7 May 2025.

## **2. The assessment**

2, 1. In the opinion of the court, Mercedes' refusal is not justified and Mercedes' request must be granted in part. The following considerations are taken into account in this regard.

2.2. In this case, Article 22 of the Code of Civil Procedure, as it read until 1 January 2025, applies. Article 22(1) of the Code of Civil Procedure stipulates that the court may, in all cases and at any stage of the proceedings, order the parties or one of them to explain certain statements or to submit certain documents relevant to the case. The second paragraph of Article 22 of the Code of Civil Procedure stipulates, insofar as relevant here, that the parties may refuse to do so if there are compelling reasons for doing so. The third paragraph of Article 22 of the Code of Civil Procedure stipulates, insofar as relevant here, that the court shall decide whether the refusal referred to in the second paragraph is justified. The fourth paragraph of Article 22 of the Code of Civil Procedure stipulates that if the court decides that the refusal is not justified, it may draw the conclusions it deems appropriate.

2.3. Article 28(1) preamble and sub b of the Code of Civil Procedure stipulates, insofar as relevant here, that the parties are prohibited from disclosing to third parties any information other than that referred to in that provision from a procedural document, if the court has so ordered.

2.4. Mercedes first invokes compelling reasons as referred to in Article 22.1id 2 of the Code of Civil Procedure. It argues that the information in question, when presented in the correct context and order, of the components, is not generally known to or easily accessible to those who are normally involved in such information, to information that has commercial value because it is secret, and to information that is subject to reasonable measures of secrecy.

2.5. SDEJ and Car Claim argue that Mercedes' position is contradictory and inadequately substantiated and that there are no trade secrets or interests worthy of protection.

2.6. The court considers the stated interest – namely that the requested information contains data that could be useful to competitors – to be insufficient grounds for Mercedes' refusal to comply with the court order. Even if it is assumed that the techniques used are sensitive, this does not alter the fact that the information requested by the court is necessary for the assessment of whether prohibited manipulation tools are involved and must form part of the party debate.

2.7. Mercedes will be given the opportunity to comply fully with the order. If it fails to do so, the court may impose the consequences it deems appropriate.

2.8. The court considers the possibility that the data to be submitted by Mercedes could be of importance to conciliation parties to be sufficient grounds for imposing a prohibition within the meaning of Article 28 of the Rules of Civil Procedure. After all, the interest of SDEJ and Car Claim is limited to the use of this information in this case and they have no interest in disseminating this information more widely, whereas this could potentially be harmful to Mercedes. The penalty payment claimed by Mercedes will be capped at € 1,000,000 per infringement.

2.9. The order will prohibit SDEJ and Car Claim from disclosing to third parties any information provided by Mercedes pursuant to the order ex ailiel 22 Rv. In this case, third parties are understood to mean persons other than the statutory board members, the members of the supervisory board and the lawyers (and their colleagues) of SDEJ and Car Claim, respectively, as well as the experts engaged by SDEJ and Car Claim, respectively. whereby these experts have undertaken in writing, on pain of the penalty payment referred to in 3.3 to be paid to Mercedes, not to disclose to third parties any information relating to the data submitted by Mercedes on the basis of the order pursuant to Article 22 of the Code of Civil Procedure.

2.10. The Partners are also parties to the proceedings and the prohibition also applies to them. Given their connection with Mercedes, it is not unreasonable to expect that the Partners will engage in competitive behaviour.

information to third parties. In order to eliminate any risk of this happening, they will be subject to the same prohibition and the same penalty as the claimants.

Third parties in this context are understood to mean persons other than statutory directors of the Partners and lawyers engaged by the Partners (and their colleagues).

2. 11. The procedure will be continued as decided in the order of 31 July 2024: after Mercedes has been given the opportunity to comply fully with the order, SDEJ and Car Claim will be given the opportunity to confirm and actualise their summons by deed. This deed does not need to be published in the central register for collective claims. Mercedes and the Partners will then be able to submit their response. The substantive oral hearing will then take place.

2.12. The decision on the remainder of the case will be reserved.

### 3. The decision

The court:

31. declares Mercedes' refusal to fully comply with the order issued by the court in its judgment of 13 November 2024 to be unjustified;

32. gives Mercedes the opportunity to fully comply with the aforementioned order by 30 June 2025 at the latest;

33. determines that S DEJ, Car C claim and the Parties are prohibited from disclosing to third parties as referred to in clauses 2.9 and 2.10 of the deed of transfer any information that Mercedes has brought or will bring into these proceedings in order to comply with the order issued by the court on 13 November 2024 pursuant to Article 22 of the Dutch Code of Civil Procedure, on pain of a penalty of €1,000,000 per infringement. 22 of the Dutch Code of Civil Procedure, on pain of a penalty of €1,000,000 per infringement;

34. determines that SDEJ and Car Claim shall comply with the confidentiality provisions as agreed by them with experts to be engaged by them pursuant to the provisions of 2.9 and sent to Mercedes in writing before the data to be provided by Mercedes in the proceedings to the expert,

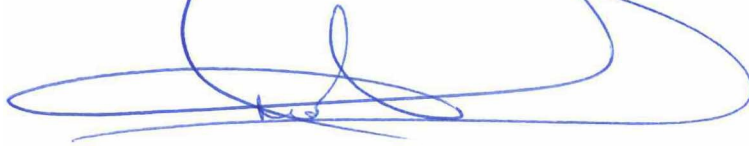
35. refers the case to the roll of 8 October 2025 for SDEJ and Car Claim to supplement and update the summonses, followed by the statement of defence of Mercedes and the Parties within a period of twelve weeks;

36. and reserves all further decisions.

This judgment was rendered by Mr R.H.C. Jongeneel, Mr F.L. Bolkestein and Mr M.L.S. Kalff, judges, assisted by Mr A.A.J. W issink, registrar, and pronounced in open court on 16 July 2025.

UITGEGEVEN VOOR GROSSE

De griffier van de  
rechtbank Amsterdam

A large, stylized handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the bottom.