



Press and Information

Court of Justice of the European Union

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Judgment in Case C-343/19

Verein für Konsumenteninformation v Volkswagen AG

A motor vehicle manufacturer whose unlawfully manipulated vehicles are resold in other Member States may be sued in the courts of those States

The damage suffered by the purchaser occurs in the Member State in which he purchases the vehicle for a price higher than its actual value

The Verein für Konsumenteninformation (VKI), an Austrian consumer-protection association, has brought before the Landesgericht Klagenfurt (Regional Court, Klagenfurt, Austria) an action for damages against the German motor vehicle manufacturer Volkswagen on the ground of damage resulting from the installation, in vehicles purchased by Austrian consumers, of software that manipulates data relating to exhaust gas emissions. The VKI claims that Volkswagen should be ordered to pay it €3,611,806, plus associated costs, and be declared liable for all damage that is not yet quantifiable and/or that is yet to be suffered in the future.

The VKI bases its application on Volkswagen's liability in tort, delict and quasi-delict, relying on the fact that the 574 consumers who have assigned to it their claims for the purposes of that action purchased in Austria new or used vehicles equipped with an EA 189 engine before the disclosure to the public, on 18 September 2015, of Volkswagen's manipulation of data relating to exhaust gas emissions from those vehicles.

According to the VKI, those engines are equipped with a 'defeat device' which is unlawful under the regulation on type approval of motor vehicles¹ with regard to emissions from light passenger and commercial vehicles (€5 and €6). The software in question makes it possible to display, during tests and when measurements are being taken, exhaust gas emissions that comply with the prescribed limit values, whereas a level of pollutants many times higher than the prescribed limit values is actually emitted under the real-world driving conditions of the vehicles concerned, that is to say, on the road. The VKI submits that it was only by means of that software which manipulates data relating to those emissions that Volkswagen was able to obtain the type approval provided for under EU legislation for vehicles with the EA 189 engine.

According to the VKI, the damage suffered by the owners of those vehicles consists in the fact that, had they been aware of the manipulation at issue, they would either not have purchased such a vehicle or would have purchased it at a price reduced by at least 30%. Since the vehicles in question were defective from the outset, their market value and therefore their purchase price are significantly lower than the purchase price actually paid. The VKI argues that the difference constitutes a recoverable loss.

Volkswagen, whose registered office is in Wolfsburg (Germany), disputes in particular the international jurisdiction of the Austrian courts.

¹ Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with regard to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ 2007 L 171, p. 1).

In that context, the Landesgericht Klagenfurt has asked the Court of Justice to interpret the regulation on jurisdiction.²

According to that regulation, in principle, the courts of the Member State in which the defendant is domiciled have jurisdiction. However, in matters relating to tort, delict or quasi-delict, that regulation confers special jurisdiction on the courts for the place where the damage occurred and on the courts for the place of the event giving rise to that damage. Consequently, the defendant may also be sued, at the option of the applicant, in the courts for either of those places.

In the present case, the place of the event giving rise to the damage is in Germany, where the vehicles in question were equipped with software that manipulates data relating to exhaust gas emissions. The connection to that place thus results, like the defendant's domicile, in the German courts having jurisdiction.

The Landesgericht Klagenfurt harbours doubts as to whether the view must be taken, owing to the mere purchase of the vehicles in question from car dealers established in Austria and the delivery of those vehicles in Austria, that the place where the damage occurred is in Austria, which would mean that the Austrian courts have jurisdiction.

In today's judgment, **the Court replies that, where a manufacturer in a Member State (Germany) has unlawfully equipped its vehicles with software that manipulates data relating to exhaust gas emissions before those vehicles are purchased from a third party in another Member State (Austria), the place where the damage occurs is in that latter Member State (Austria).**

In the present case, the damage alleged by the VKI takes the form of a loss in value of the vehicles in question stemming from the difference between the price paid by the purchaser for such a vehicle and its actual value owing to the installation of software that manipulates data relating to exhaust gas emissions.

Consequently, while those vehicles became defective as soon as that software had been installed, the view must be taken that **the damage asserted occurred only at the time when those vehicles were purchased, as they were acquired for a price higher than their actual value.**

The Court concludes that, in the case where vehicles equipped by their manufacturer with software that manipulates data relating to exhaust gas emissions are sold, **the damage suffered by the final purchaser is neither indirect nor purely financial** and occurs when such a vehicle is purchased from a third party.

The Court also observes that a motor vehicle manufacturer which is established in one Member State and engages in unlawful tampering with vehicles sold in other Member States may reasonably expect to be sued in the courts of those States.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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² Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).