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Judgment of the Court in Case C-100/21 | Mercedes-Benz Group (Liability of manufacturers of vehicles fitted with defeat devices)

### **The purchaser of a vehicle equipped with an unlawful defeat device has a right to compensation from the car manufacturer where that device has caused damage to that purchaser**

*EU law protects, in addition to public interests, the specific interests of the individual purchaser of a motor vehicle vis-à-vis the manufacturer of that vehicle where that vehicle is equipped with a prohibited defeat device*

An individual (QB) brought an action for damages against Mercedes-Benz Group before the Regional Court of Ravensburg (Germany). By that action, QB seeks compensation for the damage allegedly caused to him by Mercedes-Benz Group by equipping the vehicle he purchased with software that reduces the exhaust gas recirculation rate when outside temperatures are below a certain threshold. Such a defeat device, which results in an increase in nitrogen oxide (NO<sub>x</sub>) emissions, is prohibited by Regulation No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles.

In German law, a right to compensation may arise in respect of ordinary negligence where a law intended to protect others has been infringed. Accordingly, the German court asks the Court of Justice whether the relevant provisions of Directive 2007/46 establishing a framework for the approval of motor vehicles ('the Framework Directive'), read in conjunction with Regulation No 715/2007, must be interpreted as protecting the specific interests of an individual purchaser of such a vehicle. As regards the calculation of the amount of compensation that may be owed to QB, the Regional Court of Ravensburg also wishes to know whether it is necessary, in order to give practical effect to EU law, that the benefit derived from the use of the vehicle not be offset against the right to compensation or be offset only to a limited extent.

In its judgment, the Court explains, first of all, that it is for the German court to carry out the factual assessments necessary to establish whether the programming software in question constitutes a defeat device within the meaning of Regulation No 715/2007 and whether its use may be justified on the basis of one of the exceptions provided for in that regulation.<sup>1</sup>

As regards the interests protected by Regulation No 715/2007, aside from the general objective of ensuring a high level of environmental protection, the Court takes into account the broader regulatory framework for the approval of motor vehicles within the European Union of which that regulation forms part. In that regard, the Court notes that, in accordance with the Framework Directive, the vehicles must receive EC type-approval, which may be granted only if the type of vehicle in question satisfies the provisions of Regulation No 715/2007, including those relating to emissions. In addition, the Court notes that, in accordance with the Framework Directive, car manufacturers are also

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<sup>1</sup> See in that respect the judgments of the Court of 14 July 2022, *GSMB Invest*, C-128/20 (see [Press Release No 124/22](#)), and of 17 December 2020, *CLCV and Others (Defeat device on diesel engines)*, C-693/18 (see [Press Release No 170/20](#)).

required to issue a certificate of conformity to the individual purchaser of a vehicle. That document, which is required inter alia for the purposes of the entry into service of a vehicle, certifies that the vehicle complied with all regulatory acts at the time of its production. The certificate of conformity thus allows an individual purchaser to be protected against the manufacturer's failure to fulfil its obligation to place on the market vehicles which comply with Regulation No 715/2007.

Those considerations lead the Court to conclude that **the Framework Directive establishes a direct link between the car manufacturer and the individual purchaser of a motor vehicle intended to guarantee to the latter that that vehicle complies with the relevant EU legislation.** Consequently, the Court considers that the provisions of the Framework Directive, read in conjunction with those of Regulation No 715/2007, **protect**, in addition to public interests, **the specific interests of the individual purchaser of a motor vehicle vis-à-vis the manufacturer of that vehicle where that vehicle is equipped with a prohibited defeat device. The Member States are therefore required to provide that the purchaser of such a vehicle has a right to compensation from the manufacturer of that vehicle.**

In the absence of provisions of EU law governing the detailed rules under which purchasers concerned by the acquisition of a vehicle equipped with a prohibited defeat device may obtain compensation, it is for each Member State to determine those rules. The Court notes nevertheless that national legislation cannot make it impossible or excessively difficult for the purchaser to obtain adequate compensation for the damage caused to him or her. It may also be provided that national courts should ensure that the protection of rights guaranteed by the EU legal order does not result in unjust enrichment of the persons concerned. In the present case, it is for the Regional Court of Ravensburg to verify whether the offsetting of the benefit derived from QB's actual use of the vehicle ensures adequate compensation for any damage he actually suffered connected with the installation, in his vehicle, of a device prohibited under EU law.

**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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