

Top German court to hear first 'dieselgate' case

May 5 2020, by Yann Schreiber



The first case from a Volkswagen driver reaches the courts

Herbert Gilbert is just one of tens of thousands of drivers who have sued Volkswagen for cheating emissions tests, but he will make legal history Tuesday when his "dieselgate" case becomes the first to reach Germany's top court.

Judges at the Federal Court of Justice in Karlsruhe will not immediately deliver a ruling on Gilbert's demand for compensation.

But they are expected to give a hint of which way they are leaning—in what could have major repercussions for the barrage of other cases against the German carmaker.

The saga started in 2015 when Volkswagen was forced to admit it had installed "defeat devices" in 11 million diesel engines worldwide designed to dupe lab tests and make the cars seem less polluting than they really were.

One of the cars equipped with the rigging software belonged to Gilbert, a life-long Volkswagen customer.

"I was shocked and very disappointed when VW wrote to me to tell me my car was affected," the 65-year-old told reporters in an online press conference organised by his lawyers last week.

Gilbert had bought a used Volkswagen Sharan from a dealership in 2014 for 31,490 euros (\$34,370), which he said he chose specifically because of its alleged environmentally friendly credentials.

Accusing Volkswagen of deliberately deceiving him, he wants to return the car and be paid back for the full purchase price.

Volkswagen rejects his claim, saying he suffered no [economic damage](#) from the scam and was able to keep driving his car. The cheating function was removed in a mandatory software update.

'High hurdles'

The judges are expected to publish their opinion on key points in the case on Tuesday.

Their verdict will follow at a later time and will set a precedent for the

roughly 68,000 individual cases still pending.



The biggest crisis ever for VW—and it's not over

Gilbert first filed his complaint in 2017 with the [district court](#) in Bad Kreuznach, near the western city of Mainz.

The [court](#) rejected his claim, but Gilbert won on appeal with judges ordering VW to take back the car and refund the plaintiff to the tune of 25,616 euros—less than Gilbert had sought.

Both VW and Gilbert appealed the judgement, pushing the case up to Germany's highest civil court.

"In our view, the hurdles are high for the [federal court](#) to accept the damages claim," VW said in a statement, reiterating that Gilbert had "full use" of the car throughout.

Gilbert's lawyers argue that VW "deliberately harmed" their client, and expect the court to deliver a "key ruling" that will have bearing on other "dieselgate" cases snaking their way through German courts.

The individual complaints are separate from a massive US-style class action suit that Volkswagen settled in Germany last week.

The out-of-court settlement brought an end to Germany's biggest ever lawsuit after VW agreed to pay around 750 million euros in compensation to some 235,000 customers, or between 1,350 and 6,250 euros per car.

But it's a modest amount compared with the much larger payouts drivers

in the United States have received.

Overall, the dieselgate scandal has cost the VW group—which includes the Porsche, Audi and Skoda brands—more than 30 billion euros in fines, buybacks and compensation.

The group remains entangled in a web of legal woes.

Investors in Germany have joined forces to demand billions of euros in compensation over VW's steep share price plunge in the days after the scandal became public knowledge.

Investigations and court cases against several top VW figures, including present boss Herbert Diess and former chief executives Martin Winterkorn and Matthias Mueller, also remain open.

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