

German court approves claims over illegal diesel exhaust software

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The illegal programme reduced or even completely deactivated emissions filtering when temperatures were below 15 degrees Celsius (59 degrees Fahrenheit) and higher than 33 degrees Celsius.

A top German court on Monday opened the way to further compensation claims against carmakers that installed illegal diesel exhaust treatment software, following a landmark European ruling.

Diesel owners with the "thermal window" program would be entitled to a payout if their vehicles risked being taken off the road, said the German Federal Court of Justice (BGH).

The decision followed a ruling by the European Court of Justice (ECJ) in March that consumers had a right to compensation if their vehicles had the software installed. The ECJ left it to German courts to determine the exact scope for claims.

The illegal program reduced or even completely deactivated emissions filtering when temperatures were below 15 degrees Celsius (59 degrees Fahrenheit) and higher than 33 degrees Celsius.

Carmakers long argued that their use of the software was necessary to protect the engine—even if it made the car more polluting.

But experience showed that car owners "would not have bought the vehicle at the agreed price" had they known about the software, according to the BGH.

The buyer of the vehicle incurred damages when its use was threatened by "an impending operating restriction or ban", the [court](#) in Karlsruhe said.

As such, successful claimants would be entitled to between five and 15 percent of the price of the automobile in compensation.

Automakers had to demonstrate they did not "intentionally or negligently" install the software to avoid a payout, the court ruled.

'Millions of consumers'

The original ECJ judgment came after a German court in Ravensburg asked it to weigh in on a case brought by the owner of a Mercedes-Benz [vehicle](#) equipped with the "thermal window" software.

German judges had until now set high hurdles for damages, asking

plaintiffs to prove that the car manufacturer had intentionally harmed the buyer rather than merely being negligent.

German consumer lawyer Claus Goldenstein, who represents some 50,000 claimants in emissions-cheating cases, said the BGH ruling could benefit "millions of consumers in Europe".

"It has never been easier to assert claims for damages than it is now," Goldenstein said in a statement, predicting a "wave of lawsuits" in Germany.

The "thermal window" software issue is different from the scandal that erupted in 2015 when Volkswagen admitted to installing illegal defeat devices in millions of diesel cars to dupe emissions tests.

The [software](#) behind the so-called dieselgate scandal made cars seem less polluting in the lab than they were on the road.

The revelation led to a flood of lawsuits against the German giant, and has likewise ensnared other carmakers.

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