The Volkswagen emissions scandal in NL – a first hearing just took place and a ruling on certain issues is expected in early March 2021, as well as recent developments in Spain and the CJEU

We have previously reported on this case here. This is a collective redress action to seek damages resulting from the Volkswagen emission scandal (also known as Dieselgate). Proceedings were commenced in the Netherlands against Volkswagen (Group) and involve other related parties such as Audi, Seat, Skoda, Porsche, Robert Bosch, importer(s) and dealers in the Netherlands and abroad. This action is made pursuant to the Dutch Collective Redress of Mass Damages Act (*Wet afwikkeling massaschade in collectieve actie*, WAMCA).

On **18 January 2021**, a case management -pre-trial- hearing (*regiezitting* in Dutch) was held before the Amsterdam District Court. The purpose of this meeting was for all the parties involved to exchange views on "the desired sequence of subjects to be addressed in the initial phases of the WAMCA procedure". This includes issues such as the jurisdiction of the Dutch court over the claims, the law that would be applicable to the case, the appointment of an Exclusive Representative Party, etc. For more information, click here.

As indicated before, one of the institutes / organisations seeking to be the exclusive representative in this collective redress action is Diesel Emissions Justice Foundation (DEJF). The DEJF has stated that: "*The [Amsterdam District Court] has indicated that a decision on the order of handling of [these] points can be expected on **March 3**.*"

See also our previous posts: Mass Litigation in Times of Corona and Developments in the Netherlands, Jurisdiction over financial damages – the A-G

Opinion in the Volkswagen Case before the CJEU (CJEU) and The VW NOx Emissions Group Litigation, [2019] EWHC 783(QB), and (some aspects of) CoL (UK).

Interestingly, the DEJF has reported about a recent case where a Spanish court ordered damages against Volkswagen. I transcribe the summary of the case provided on the DEFJ website: "**25 January 2021** – A Madrid court has found Volkswagen guilty of the use of manipulated software, or "cheating software". In proceedings brought by a Spanish consumer association against Volkswagen on behalf of 5,400 affiliated consumers, the judge awarded damages totalling € 16.3million for unfair commercial practices, amounting to an average of € 3,000 per consumer. The judge used a pragmatic method to determine this amount; half to compensate for the depreciation of the affected cars and the inconvenience of use of having to have the cars repaired, and the other half for "moral damage" as breach of confidence due to the advertised "green" image of these cars, the environmental damages and the impact on society." The judgment is available here (in Spanish).

And let us not forget the significant judgment of the Court of Justice of the European Union (CJEU) of **17 December 2020** (Second Chamber): Criminal proceedings against X, Request for a preliminary ruling from the *Juge d'instruction du tribunal de grande instance de Paris Case* C-693/18 (in French, which was the language of the proceedings). See also here (in other languages but not yet in English). Although this case arises in the context of criminal proceedings, it provides support to the claims above and in establishing liability.

More information is available here.