Recent developments on the Dieselgate scandal

European Parliament resolution of 28 March 2019 on recent developments in the ‘Dieselgate’ scandal

(2019/2670(RSP))

(2021/C 108/11)

The European Parliament,

— having regard to Article 226 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament’s right of inquiry (1),

— having regard to its Decision (EU) 2016/34 of 17 December 2015 on setting up a Committee of Inquiry into emission measurements in the automotive sector, its powers, numerical strength and term of office (2),

— having regard to Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (3),


— having regard to its resolution of 27 October 2015 on emission measurements in the automotive sector (8),

— having regard to its resolution of 13 September 2016 on the inquiry into emission measurements in the automotive sector (9) (based on the interim report of the Committee of Inquiry into Emission Measurements in the Automotive Sector),

— having regard to the final report of the Committee of Inquiry into Emission Measurements in the Automotive Sector of 2 March 2017,

— having regard to its recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector (¹),

— having regard to the European Court of Auditors’ briefing paper of 7 February 2019 on the EU’s response to the ‘Dieselgate’ scandal,

— having regard to the judgment of the Court of Justice of the European Union (CJEU) of 13 December 2018 in Joined Cases T-339/16, T-352/16 and T-391/16 (²),

— having regard to the Recommendation of the European Ombudsman in case 1275/2018/EWM,

— having regard to its resolution of 13 March 2019 on a Europe that protects: Clean air for all (³),

— having regard to Rule 123(2) of its Rules of Procedure,

A. whereas Parliament had requested a comprehensive report from the Commission on the actions taken by the Commission and the Member States on the conclusions and recommendations of the Committee of Inquiry on Emission Measurements in the Automotive Sector (hereafter referred to as the ‘EMIS Committee’);

B. whereas on 18 October 2018, the Commissioner for the Internal Market, Industry, Entrepreneurship and SMEs, Elżbieta Bieńkowska, sent a letter to the former Chair of the EMIS Committee containing a table of follow-up actions taken by the Commission as a response to the request for a ‘comprehensive report on the actions taken by the Commission and the Member States on the conclusions and recommendations of the EMIS Committee’;

C. whereas the table attached to this letter only sought to address issues raised in the recommendations and did not address the conclusions of the EMIS Committee, particularly as regards the cases of maladministration and contravention of EU law; whereas Commissioner Bieńkowska underlined several times in the table that certain issues addressed in the recommendations are outside her remit;

D. whereas on 12 October 2018 the European Ombudsman upheld the complaint made by a Member of the European Parliament (MEP) and found that the Commission’s refusal to grant public access to all positions of the representatives of the Member States relating to environmental information constituted maladministration;

E. whereas this obstructive behaviour on the part of the Commission led to a significant slowdown in the work of the EMIS Committee and, among other negative impacts, reduced the amount of information available to MEPs when questioning the Commission’s representatives in the hearings;

F. whereas on 13 December 2018, the General Court of the European Union decided to uphold the actions brought by the cities of Paris, Brussels and Madrid (judgment of the Court of Justice of the European Union in Joined Cases T-339/16, T-352/16 and T-391/16, ECLI:EU:T:2018:927), and annulled in part Commission Regulation (EU) 2016/646, which had set excessively high nitrogen emission limits for the tests for new light passenger and commercial vehicles;

G. whereas on 22 February 2019 the Commission decided to appeal this judgment, which may push back the deadline established by the Court until which the so-called ‘conformity factors’ can stay in place;

H. whereas on 6 December 2016 the Commission decided to launch infringement procedures against seven Member States, namely the Czech Republic, Germany, Greece, Lithuania, Luxembourg, Spain and the United Kingdom, for their failure to set up penalty systems to deter car manufacturers from violating car emissions legislation or to impose such sanctions in the case of the Volkswagen group;

I. whereas on 17 May 2017 the Commission started another infringement procedure concerning the emission control strategies employed by the Fiat Chrysler Automobiles (FCA) Group and the failure of Italy to meet its obligations to adopt corrective measures and impose sanctions on this manufacturer;

J. whereas despite the fact that these procedures, which are still ongoing against Germany, Italy, Luxembourg and the United Kingdom, were launched more than two years ago, the Commission has still not pushed them beyond the stage of seeking further information from the Member States through additional letters of formal notice;

K. whereas some Member States appear not to be cooperating sincerely with the Commission in this regard;

L. whereas in a press statement issued on 16 October 2018 on the work programme of the European Court of Auditors (ECA) for 2019, the President of the ECA, Klaus-Heiner Lehne, announced that the ECA would examine the EU's approach to measuring vehicle emissions in order to 'establish whether the EU is delivering what it has promised';

M. whereas the ECA briefing paper of 7 February 2019 on the EU's response to the 'Dieselgate' scandal pointed out that there are still large numbers of highly polluting cars on the road and observed that ongoing vehicle recalls have had a limited impact on NOx emissions, as have the software updates initiated in that regard;

N. whereas Germany requires German car manufacturers to offer car owners an exchange programme or a hardware retrofit with a selective catalytic reduction (SCR) system;

O. whereas the legacy of highly polluting diesel vehicles remains largely untackled, as they will continue to have an adverse effect on air quality for many years to come if no effective coordinated action is taken by the Commission and the Member States to reduce the harmful emissions they produce, particularly in areas to which these vehicles are exported in large numbers;

P. whereas according to the information transmitted to the Commission by the Member States, recall campaigns in the Member States concern only a limited number of cars from the following brands: Volkswagen, Renault, Daimler, Opel and Suzuki;

Q. whereas several non-governmental organisations and the media have reported that models from several other brands have shown suspicious emissions behaviour or exceeded the pollution limits laid down in EU law;

R. whereas some Member States, namely Bulgaria, Hungary, Ireland, Slovenia and Sweden, have still not sent any information to the Commission on their recall programmes;

S. whereas the Commission's response to the 'Dieselgate' scandal included not only the revision of Directive 2007/46/EC but also a proposal for a directive on representative actions for the protection of the collective interests of consumers (COM(2018)0184); whereas such binding legislation is key to ensuring that consumers have clear rights and can take meaningful collective action, in particular since the 2013 recommendation on collective redress was scarcely implemented in the majority of Member States; whereas in the United States, where the system of class actions is well developed, Dieselgate victims have received between USD 5 000 and USD 10 000 in compensation payments, while European consumers are still waiting for proper compensation; whereas this file is among the many that are blocked in the Council;
T. whereas President Juncker has proposed a revision of Regulation (EU) No 182/2011 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (1), in order to oblige Member States to be more transparent regarding the positions they adopt at committee level; whereas a more transparent procedure for the adoption of the real driving emissions (RDE) test would have prevented Member States from unduly delaying the procedure, as explained in the EMIS conclusions; whereas this file is also among the many that are blocked in the Council;

U. whereas following an investigation by the European Anti-Fraud Office (OLAF), the European Investment Bank and Volkswagen AG have come to an agreement regarding a sub-project part of a loan of EUR 400 million that was granted in 2009 and fully repaid on schedule in February 2014;

V. whereas according to this agreement, the European Investment Bank will conclude its investigation and Volkswagen AG will in turn voluntarily not participate in any European Investment Bank projects during an 18-month exclusion period;

Responsibilities of the Commission

1. Recalls that pursuant to Article 17(8) of the Treaty on European Union, ‘the Commission, as a body, shall be responsible to the European Parliament’; regrets, therefore, that the Commission, as a body, has not submitted a comprehensive report to Parliament addressing both the conclusions and the recommendations of the EMIS Committee;

2. Deplores the fact that the letter from the Commissioner for the Internal Market, Industry, Entrepreneurship and SMEs, Elżbieta Bieńkowska, to the former Chair of the EMIS Committee, is insufficient, as not all issues are within the remit of the Commissioner, as stated in the letter, and the letter fails to address the conclusions of the EMIS Committee;

3. Calls on the Commission to immediately send a comprehensive report, approved by the whole College, to Parliament, as required by Parliament in its resolution, which will address not only the recommendations, but also the core of the investigative task of the parliamentary inquiry, i.e. the conclusions of the EMIS Committee, in particular as regards the cases of maladministration and contravention of EU law; considers that the Commission should draw clear political conclusions on the basis of the conclusions of the EMIS Committee;

4. Notes that the Ombudsman’s recommendation confirms that the Commission has significantly obstructed the work of an official parliamentary committee of inquiry; considers that the Commission should draw clear political conclusions from this failure;

5. Calls on the Commission to grant access to the minutes of meetings of technical committees in general, and to those of its Motor Vehicles Technical Committee in particular;

6. Calls on the Commission to publish guidelines on the recall of vehicles, outlining in detail how recalled vehicles must comply with the relevant EU regulations, including by applying hardware retrofits where software updates do not ensure compliance with emissions limits;

7. Calls on the Commission to include in the guidelines measures to ensure that highly polluting vehicles do not remain in circulation on the second-hand market, including in other Member States and third countries;

8. Calls on the Commission to monitor the set-up and implementation of the market surveillance checks by the Member States in accordance with Regulation (EU) 2018/858;

9. Calls on the Commission to proceed with the work in the first stage of the infringement procedures against Germany, Luxembourg, the United Kingdom and Italy, given that these procedures were launched more than two years ago, and to issue reasoned opinions;

10. Welcomes the CJEU ruling of 13 December 2018, which concluded that the Commission had no power to amend, as part of the second RDE package, the NOx emissions limits set by the Euro 6 standard; notes that the CJEU also concluded that the Commission failed to provide a sufficient technical explanation for the need to adjust the NOx emissions limits with the introduction of conformity factors; considers that the NOx emissions limits set by the Euro 6 standard are to be met under normal conditions of use and that the responsibility of the Commission is to design RDE tests so that they reflect real-world emissions;

11. Regrets the decision of the Commission to appeal the judgment of the CJEU in cases T-339/16, T-352/16 and T-391/16, and asks the Commission to reverse its decision in the light of the recent developments;

12. Asks the Commission to inform Parliament if the decision to appeal will push back the deadline established by the CJEU until which the conformity factors can remain in place;

13. Calls on the Commission to respect the emissions limits currently in force, established in Regulation (EC) 715/2007, which are to be complied with during real driving conditions according to this Regulation, and not to introduce any new correction coefficients (i.e. conformity factors) that would make these legal limits less stringent;

14. Regrets the fact that the OLAF report following its investigation in relation to the EIB loan ‘Antrieb RDI’ to Volkswagen AG was never made public, and regrets the weakness of the measures taken by the EIB;

Responsibilities of the Member States

15. Calls on the Member States to provide, without delay, all information required by the Commission to prepare a report on the actions taken by the Commission and the Member States on the conclusions and recommendations of the EMIS Committee;

16. Regrets the varying approaches and lack of coordination by Member States in recalling vehicles and offering exchange programmes; considers that these varying approaches undermine consumer interests, the protection of the environment, the health of citizens and the functioning of the internal market;

17. Calls on the Member States to implement as a matter of urgency the measures necessary to recall or withdraw from the market the large number of highly polluting cars, and to cooperate fully with the Commission on a common approach for recall actions on the basis of Commission guidelines;

18. Regrets the fact that the exchange programme and hardware retrofit requirements for German car manufacturers in Germany are not applied outside of Germany or to other car manufacturers in the Union;

19. Calls on Member States and car manufacturers to coordinate mandatory hardware retrofits for non-compliant diesel vehicles, including SCR hardware retrofits, to cut nitrogen dioxide (NO\textsubscript{2}) emissions and clean up the existing fleet; considers that the cost of these retrofits should be borne by the car manufacturer responsible;

20. Calls on those Member States that have not yet provided any information on their recall programmes to the Commission to provide such information without further delay;

21. Calls on the Member States to ensure the effectiveness of market surveillance checks and to test cars in circulation beyond RDE parameters to ensure that manufacturers do not optimise vehicles for these RDE tests using their own facilities, as suggested in the ECA briefing paper;

22. Calls on the Member States involved in the relevant infringement procedures to fully cooperate with the Commission and provide it with all the information needed;
23. Calls on the Member States to prevent car manufacturers from using new flexibilities in the worldwide harmonised light vehicle test procedure (WLTP) laboratory test as a means of lowering their CO$_2$ emissions;

24. Reminds the Member States to ensure that all cars in dealerships only use the WLTP CO$_2$ values, to avoid any confusion on the part of consumers, and stresses that Member States should adjust vehicle taxation and fiscal incentives to WLTP values, respecting the principle that WLTP should not have a negative impact on consumers;

25. Urges the Council of the European Union to take its responsibilities and adopt as a matter of urgency a general approach on the proposal for a Directive on representative actions for the protection of the collective interests of consumers and the proposal for a revision of Regulation (EU) 182/2011;

26. Stresses the importance of ensuring a high and uniform level of consumer protection in the single market vis-à-vis any future manipulation by car manufacturers resulting in higher-than-expected emissions, and calls on the Member States to support the development of fair, affordable and timely collective redress procedures;

27. Calls on the Member States and the Commission to take decisive steps to facilitate access to zero- and low-emission vehicles in all Member States, while avoiding an increased uptake of old, highly polluting vehicles in lower-income Member States;

28. Stresses, in this regard, that the availability and accessibility of charging infrastructure, including in private and public buildings in accordance with the Energy Performance of Buildings Directive (EPBD) (1), and the competitiveness of electric vehicles are essential for increasing consumer acceptance;

29. Urges the President of the European Council and the President of the Commission to attend the first plenary session of the European Parliament in April 2019 to answer any remaining questions regarding the EMIS conclusions and recommendations, the Ombudsman recommendation and other elements of this resolution;

30. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.