

Request for a preliminary ruling from the Landgericht Gera (Germany) lodged on 16 October 2019 — PG v Volkswagen AG**(Case C-759/19)**

(2020/C 45/13)

*Language of the case: German***Referring court**

Landgericht Gera

Parties to the main proceedings*Applicant:* PG*Defendant:* Volkswagen AG**Questions referred**

1. Are Paragraphs 6(1) and 27(1) of the EG-FGV ⁽¹⁾ and/or Articles 18(1) and 26(1) of Directive 2007/46/EC ⁽²⁾ to be interpreted as meaning that the manufacturer is in breach of its obligation to issue a valid certificate pursuant to Paragraph 6(1) of the EG-FGV (and/or of its obligation to deliver a certificate of conformity pursuant to Article 18(1) of Directive 2007/46), if it has installed in the vehicle an impermissible defeat device within the meaning of Articles 5(2) and 3.10 of Regulation (EC) No 715/2007, ⁽³⁾ and that the placing of such a vehicle on the market is in breach of the prohibition on placing a vehicle on the market without a valid certificate of conformity pursuant to Paragraph 27(1) of the EG-FGV (and/or of the prohibition of sale without a valid certificate of conformity pursuant to Article 26(1) of Directive 2007/46)?

If that question is to be answered in the affirmative:

- 1 a. Are Paragraphs 6 and 27 of the EG-FGV and/or Articles 18(1), 26(1) and 46 of Directive 2007/46 aimed at protecting another person within the meaning of Paragraph 823(2) of the BGB (Bürgerliches Gesetzbuch; German Civil Code), including in particular in relation to that person's freedom of disposal and assets? Does an end customer's acquisition of a vehicle that has been placed on the market without a valid certificate of conformity come within the scope of the risks for the prevention of which those provisions were adopted?
2. Is Article 5(2) of Regulation (EC) No 715/2007 also aimed in particular at protecting the end customer, including in relation to that customer's freedom of disposal and assets? Does an end customer's acquisition of a vehicle in which an impermissible defeat device has been installed come within the scope of the risks for the prevention of which that provision was adopted?

⁽¹⁾ EG-Fahrzeuggenehmigungsverordnung (EC Vehicle Approval Regulation) of 3 February 2011 (BGBl. I p. 126), last amended by Article 7 of the Regulation of 23 March 2017 (BGBl. I, p. 522).

⁽²⁾ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ 2007 L 263, p. 1).

⁽³⁾ 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 (OJ 2007 L 171, p. 1).
