



C/2024/1394

19.2.2024

**Request for a preliminary ruling from the Landgericht Ravensburg (Germany) lodged on
13 November 2023 — YH and Others v Volkswagen AG**

(Case C-668/23, Volkswagen)

(C/2024/1394)

Language of the case: German

Referring court

Landgericht Ravensburg

Parties to the main proceedings

Applicants: YH, JD, CN, XU, LO

Defendant: Volkswagen AG

Questions referred

1. Can the vehicle purchaser's right to compensation against the vehicle manufacturer for the negligent placing on the market of a vehicle equipped with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007 ⁽¹⁾ be denied on the grounds
 - a) that there was an unavoidable error as regards the wrongful nature of the act on the part of the manufacturer?
if the answer is yes:
 - b) that the error as regards the wrongful nature of the act was unavoidable for the manufacturer because the authority responsible for EC type-approvals or for subsequent measures actually authorised the installed defeat device?
if the answer is yes:
 - c) that the error as regards the wrongful nature of the act was unavoidable for the manufacturer since the vehicle manufacturer's legal interpretation of Article 5(2) of Regulation (EC) No 715/2007 would have been confirmed by the authority responsible for EC type-approvals or for subsequent measures (hypothetical approval)?
2. Is the vehicle manufacturer who supplied a software update liable to pay compensation to the vehicle purchaser if a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007 is installed by way of a software update when the vehicle is purchased and the vehicle purchaser suffers a loss or damage as a result?
3. Is it compatible with EU law if, in the case of a right to compensation against the vehicle manufacturer for the negligent placing on the market of a vehicle equipped with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007
 - a) the purchaser of the vehicle must allow the offsetting of the benefits derived from the use of the vehicle against the amount of compensation in their claim for 'minor compensation', if the benefits derived from the use, together with the residual value, exceed the purchase price paid less the amount of compensation?
 - b) the vehicle purchaser's claim for 'minor compensation' is limited to a maximum of 15 % of the purchase price paid?

⁽¹⁾ 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).