

Volkswagen and the Dieselgate scandal

By **Goliathwatch** (Germany)

In September 2015, it was revealed that Volkswagen had developed and introduced specific software in its diesel cars in order to mislead customers and regulators about the vehicles' actual emissions in real-life driving conditions. The so-called "Dieselgate" scandal spread all over the world, suggesting that virtually all car manufacturers were engaged one way or another in such practices. Official investigations were launched in many countries, but their varying outcomes illustrate important legal differences between countries, particularly between the US and Europe. The absence of any compensation for victims of environmental pollution is also a major issue.

Contrasting outcomes

In the US, Volkswagen and some of its executives were immediately prosecuted by the Environment Protection Agency. Faced with the evidence, the car manufacturer had no choice but to

plead guilty. The corporation has had to pay US\$4.3 billion to date and repair over 80% of the cars it had sold or take them back. Two managers have been put in prison.

In Europe, where consumer protection is weaker, Volkswagen has not yet been forced to acknowledge its legal responsibility towards customers. Investigations were initiated in several European countries, some of which resulted in formal prosecutions (these are still underway). The German Parliament conducted a commission of enquiry between 2016 and 2017. Legal procedures yielded contradictory results, and the case has now gone to the German Supreme Court. Investigations were also initiated by German and European anti-trust agencies over possible illegal cooperation between car manufacturers over emission standards and tests.

Volkswagen CEO Martin Winterkorn was forced to step down and the Board of Directors appointed Matthias Müller, former CEO of Porsche AG, a major subsidiary of Volkswagen.

Faced with such mixed results, German activists have adopted a new legal strategy and are now fighting to get diesel cars banned from major German cities. They had their first victory in Hamburg in May 2018 and the legal battle continues.



About the corporation:

Name: Volkswagen

Sector: Automobile

Country of origin: Germany

Main ownership:

Porsche Automobil Holding SE	30.8% (voting rights 52.2%)
Institutional Investors	24.8%
Qatar Holding LLC	14.6% (17%)
State of Lower Saxony	11.8% (20%)
Others private shareholders	18.0% (10.8%)

After WWII, Volkswagen and other key industries in Germany were put under strong public control. The State of Lower Saxony has a veto position with its voting rights (Volkswagenwerk Gesellschaft mit beschränkter Haftung in private Hand (VW GmbHÜG)). Unions have a strong influence.

Countries in which the transnational has its operations: Volkswagen has operations in 31 countries (20 European countries and 11 other countries in different continents, 120 production sites in total).

Location of the case: United States, European countries, and many other countries around the world

Name of subsidiaries involved in the case: Volkswagen AG, and especially Volkswagen Group of America

This case is part of the report

THE EU AND THE CORPORATE IMPUNITY NEXUS
BUILDING THE UNBINDING TREATY ON TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS

The full report can be downloaded at:

<https://multinationales.org/The-EU-and-the-Corporate-Impunity-Nexus>

GOLIATH WATCH
Für Demokratie statt Macht der Konzerne.



Photo: Automobile Italia (<https://www.flickr.com/>)



Photo: Jon Worth (<https://www.flickr.com/>)

Dieseldate and corporate capture

Dieseldate also revealed the extent to which the car industry has an enormous influence in Germany and in the EU. The German state government of Lower Saxony is a major shareholder of Volkswagen, and its Prime Minister coordinated closely with the corporation when communicating publicly over the scandal. In August 2017, the German government organised a ‘national diesel summit’ with car manufacturers – and without civil society – to publicise a few minor concessions to the industry and help them improve their image. The German government has always been very supportive of export-oriented, industrial sectors such as the car industry, and German support for trade agreements such as TTIP and others is closely connected to the country’s export-focused economic strategy.

The European Commission took the German government (and other EU governments) to the European Court of Justice for its failure to hold car manufacturers accountable for their real emissions or take measures to improve air quality. The Dieseldate scandal has also revealed how the car industry has been able to ‘co-write’ EU environmental standards and make their implementation extremely flexible. For example, the latest diesel emission standards, Euro 6, were introduced in 2016 based on advice from an expert committee with heavy representation from the car industry. Unsurprisingly, even after Dieseldate, it is very easy for car manufacturers to bypass the official emissions standards.

Countless studies have revealed the human costs of diesel pollution in Europe and throughout the world in terms of impacts on health and premature deaths. It has been estimated for instance that the emissions scandal accounts for 4750 premature deaths in Europe every year (Tanaka et al. 2018: Non-compliant Volkswagen). In Germany, between 2008 and 2015, there were 1200 premature deaths – the equivalent of around 13,000 years of life. The monetary costs of diesel-related health issues in Europe and the United States have been estimated to be \$39bn. It is true that some car owners received compensation or had their vehicles replaced. But there is still no avenue offering other victims a way to hold Volkswagen and other car manufacturers accountable for their actions.

The Volkswagen case thus illustrates that it is not only consumers, but many others that are affected by such violations of environmental standards. The case also shows that access to justice is also variable, depending on the country and on the status of the affected people. In the United States, customers have effective legal rights, whereas German consumers can only hope for new legislation and for a favourable decision by the Supreme Court. Victims of illegal environmental pollution have no access to justice whatsoever. The UN Binding Treaty could create a ‘race to the top’ for better protection of human rights, because the same violation in different countries should lead to the same liabilities and the same access to justice.

SOURCES

Corporate Europe Observatory and Friends of the Earth Europe, February 2017, Driving Into Disaster. How the EU’s Better Regulation agenda fuelled Dieseldate (<https://corporateeurope.org/power-lobbies/2017/02/driving-disaster>)

Transport & Environment Dieseldate page. <https://www.transportenvironment.org/what-we-do/dieseldate-testing-reform>