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## **VZBV AND VOLKSWAGEN REACH SETTLEMENT FOR DUPED CONSUMERS**

As a result of the out-of-court settlement agreement in the context of the German model case, Volkswagen will have to pay up to 830 million euro (estimated) in compensation

- With the settlement, entitled consumers will receive offers for compensations between 1.350 and 6.257 euro – depending on the model and the age of the vehicle.
- Volkswagen will pay up to 190 euro of the fees for personalised consumer advice by a lawyer.
- Consumers that would like to reject the offer can introduce an individual claim at least until October 2020.

**Five years after the Volkswagen emissions scandal, roughly a quarter of a million duped owners of a diesel car will receive an offer for a quick, transparent and reliable compensation. That is what Verbraucherzentrale Bundesverband (vzbv) and Volkswagen AG have agreed in a settlement in the context of the German model case.**

Entitled consumers that joined the model case can receive the payment of (on average) 15 percent of the original purchasing price from Volkswagen. The company has committed itself to paying compensation between 1.350 and up to 6.257 euro – depending on the model and the age of the vehicle – and estimates the total amount to be around 830 million. Around 260.000 consumers will receive an offer for compensation. Volkswagen will cover the entire costs of implementing the settlement agreement and the cost of legal advice for the consumers.

### **Checks by auditors**

Yesterday, independent auditors have confirmed that the amounts of compensation were plausible. They will also perform random checks of the implementation of the settlement. Should rights arise from the withdrawal of the operating license of cars or from hardware upgrades, consumers will not be obliged to waive them.

“vzbv fought for more. But in the context of the difficult negotiations, the result is the maximum that was achievable. The offer is not generous but it lies within the amounts that were granted so far in settlements reached in

the context of individual claims in front of German courts”, says Klaus Müller, vzbv’s Executive Director.

### **Consumers are facing a choice**

Consumers affected now have a real choice: They can either accept the settlement and rely on receiving money quickly. Or they can reject the offer. Since vzbv will end the model case, affected consumers will be able to introduce an individual claim until at least October. They will no longer be bound by the model case.

“The model case’ big advantage is that it comes at no cost for consumers and that it allows for a legal assessment of the claims against Volkswagen with little effort from consumers. However, since it is unfortunately not a representative action, the way to compensation even in the case of successful rulings would have been long. Today’s settlement cuts the length and leads to a quick compensation”, says Müller. It is possible that the German Highest Civil Court (Bundesgerichtshof - BGH) will rule in the coming months that consumers are entitled to compensation for damages but that compensation for use would have to be deducted. “In that case, time is money in consumers’ pockets. Every driven kilometre would reduce the right to compensation.”

Those who would like to accept the offer of the settlement will have to decide until 20 April 2020: It was important to Volkswagen that affected consumers take a decision before the first hearing of the case in front of the Bundesgerichtshof in the dieselgate case. The Bundesgerichtshof will hear the case on 5 May 2020. It will most probably take a stance on whether it deems claims for compensation for damages justified and compensation for use acceptable. It remains to be seen whether the Bundesgerichtshof denies claims for compensation for damages, whether it upholds current jurisprudence or whether it will rule even more in favour of consumers. “Consumers have the right to file an individual claim. But they will then have to take a certain risk. Those who would like to take less risk can accept the settlement offer”, according to Klaus Müller.

### **The settlement is transparent and reliable**

vzbv insisted from the beginning of the negotiations that the implementation of a settlement should be reliable and transparent. “We have reached that objective for the best of consumers. Independent auditors that we appointed will perform random checks to ensure that consumers actually receive the agreed pay-out”, says Müller. A dedicated dispute settlement body will be set up for the resolution of potential conflicts or complaints regarding the implementation. The body will be led by three personalities of high reputation.

### **The cost of independent legal advice will be covered by Volkswagen**

On top of that, consumers will be able to seek advice from a lawyer of their choice. Klaus Müller explains: “It was key for vzbv to allow consumers to choose their lawyer freely”. The costs of usually around 190 euro (net) for initial legal advice will be covered by Volkswagen if consumers accept the settlement offer. However, if consumers decide to file a legal action after an initial legal consultation, these costs will not occur. “Consumers should seek advice from lawyers that are knowledgeable in the field of diesel cases”, according to Müller.

There will be no settlement offer for consumers that acquired their car after 31 December 2015 or that did not have their legal residency established in Germany at the time of the purchase. “We think that those consumers also have rights. But the grounds for those claims are so diverse that they could not have been decided in the context of the model case”, explains Müller.

“vzbv filed the first collective action of that nature and magnitude in Germany. It is an important success that this action has led – against all odds – to more than a quarter of a million consumers receiving a quick and easy offer for settlement and that the prescription period was interrupted for many other claims“, says Müller.

### **Kontakt**

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