



THEIS KLAUBERG

Partner, CEO at Klauberg BALTICS attorneys-at-law

Baltic companies evaluate opportunities provided by Dieselgate

What are the main developments?

The Dieselgate scandal has now reached the European level, and the message from the European court is clearly in favour of car buyers. This creates opportunities for companies to return vehicles or settle for payments from the manufacturers. Companies in Germany, the US and Canada have been doing this for years.

How are Baltic companies involved?

Just like German companies, Baltic companies may demand payment by way of the European Treaty. The European Court will help as well, as it is currently preparing a ruling based on a question posed by an Austrian court on whether the thermal window technology (as used by Daimler Benz, among others) is indeed illegal. It looks like the court will follow the recently published suggestion whereby a thermal window is a defeat device and is therefore illegal. This will then allow for claims for Mercedes Benz diesel cars and vans.

Is there a time limit?

Yes, ten years after the car was bought is definitely too late. But the affected vehicles were built and sold well beyond 2015.

What is the experience of companies in other countries?

In the US, companies were able to return all vehicles for compensation of the full purchase price. In Europe, however, companies will have to accept reduced compensation, as use of the vehicle is also taken into account. It is increasingly common to agree settlement payments, whereby the company keeps the vehicle at usually about a quarter to a third of the purchase price.

Have Baltic companies been seeking compensation in Germany?

Yes, we have recently seen a case whereby a settlement payment was negotiated for an Audi Q7 in less than a year, but it is still rare for Baltic companies to seek legal redress across borders.

Which vehicles are affected?

It currently looks as if most cars, vans and motor homes fitted with a diesel engine during the period of 2005 – 2016 and sold in the EU are affected, but the picture is not always very clear. We have collected a list of affected vehicles on the website www.dieselgate.legal.

Isn't there a group that claim companies can join?

No, group claims are made for consumers, but companies still have enough possibilities. A claim would join more than 60,000 single claims already filed in German courts. The courts generally decide in favour of the buyer.

What are the risks?

The potential source of income from claims is relevant, at least for those companies that own several vehicles. But, at present, such claims almost always require filing a court claim in Germany, and that obviously poses a risk. The good side of this, however, is that all costs created in such a court procedure are fixed by law, so the cost risk is fixed as well.

Theis Klauberg is an attorney-at-law in Latvia, Lithuania and Estonia. He consults companies in all areas of business law, as well as private clients, foundations and public institutions. The attorney-at-law firm Klauberg BALTICS with offices in Riga, Tallinn and Vilnius counts 20 years of experience.

Klauberg BALTICS attorneys-at-law www.klauberg.legal

Klauberg Advokaadibüroo OÜ Estonia pst. 9 EE-10143 Tallinn, Estonia

Klauberg zvērīnātu advokātu birojs Elizabetes iela 85A LV-1050 Riga, Latvia

Klauberg advokatų profesinė bendrija Olimpiečių g 1-37 LT-09235 Vilnius, Lithuania