

**Questionnaire to Member States' Authorities****Questions to Ministries (when relevant to market surveillance bodies)****Questions 1 and 3:****Answer:**

Questions 1 and 3 are answered together as they are factually connected.

We have implemented an obligatory disclosure of basic emission strategies (BES) and additional emission strategies (AES) in the type-approval procedures. In anticipation of the expected further development of the European provisions and following a decree of the Federal Ministry of Transport and Digital Infrastructure (BMVI), since 22 April 2016, the KBA, as the responsible type approval authority, has made the disclosure of emission strategies and software inspections, when required, a prerequisite for vehicle manufacturers to receive a type approval. If the emission strategy presented by the manufacturer is not plausible or an individual AES needs to be reviewed, vehicles are subjected to relevant tests either by the KBA itself or in its presence.

The KBA has been carrying out the COP and ISC measures provided for in the emission provisions on a regular basis and continues to do so. In addition, various research projects (see answers to questions 5 and 6 of part 1) and a field test have been carried out.

**Question 2:****Answer:**

Regulation (EU) No. 715/2007 is a component of Annex IV of the Framework Directive 2007/46/EC. In Germany, the Framework Directive has been transposed by the EC Vehicle Approval Regulations (EC-FGV). The type approval issuing procedure for class M, N and O vehicles and their systems, components and independent technical units is laid down in Section 4 of the EG-FGV. Currently, according to the relevant EU provisions, applicants are not obliged to provide information on their emission strategies or the presence of any defeat devices as described in Article 5 (2) of Regulation (EU) No. 715/2007. It is the type approval authority that interprets EU legislation concerning permissible exemptions from the ban of defeat devices on a case by case basis as part of the type approval procedure.

We have no knowledge of any relevant judicial decisions connected to "defeat devices", "engine protection" or "safety".

**Question 4:****Answer:**

Regarding exceedances of real-world NOx emissions please read answer to question 7.

After publications by US authorities on 18 September 2015, the KBA was informed about higher NOx values in connection with unlawful defeat devices installed in vehicles which had been type approved in Germany. VW first provided specific information on 20 September 2015.

The KBA is testing the exhaust gas behaviour of vehicles in use with the aid of guidelines specifically developed for this purpose. Six manufacturers are currently subject to ISC tests carried out by the KBA.

**Questions 5 and 6:**

**Answer:**

Questions 5 and 6 are answered together as they are factually connected.

Since the 1990s, the Federal Environment Agency (UBA) has carried out a total of eight research projects in which pollutant emissions of vehicles in use were measured. The focus of these projects was to collect data on the real world emission performance of petrol and diesel vehicles of different emission classes. The tests carried out by the UBA and other European environmental agencies focused only on determining real world emission factors. They were not fit to identify defeat devices or other forms of manipulations.

**Question 7:**

**Answer:**

For a few years now it has been known that real driving emissions are higher than the values measured in the lab. At the end of 2010, the European Commission decided to complement the lab-based type approval test by a test under real driving conditions on the road (RDE). From the very beginning, Germany has been supporting the work on RDE. Investigations carried out by ICCT, ADAC and environmental groups support the Federal Government's opinion, that RDE is necessary and must be implemented effectively as soon as possible. In this context, please read the answer to questions 5 and 6, too.

**Question 8:**

**Answer:**

A CoC issued by the manufacturer of the vehicle is to be deemed valid until non-conformity is proven. No proof of non-conformity with 2007/46/EC of type-approved vehicles was available by September 2015.

**Question 9:**

**Answer:**

Germany has established relevant penalty rules based on the German administrative law and the EC Vehicle Approval Regulations. The relevant provisions provide the possibility to impose a financial penalty or withdraw or revoke the issued type approval.

We do not have a list of measures taken based on these. The possibilities provided for by the administrative law were used in particular in the case of VW, where ancillary provisions to the type approval were mandated. As a result, all affected VW vehicles are recalled.

**Question 10:****Answer:**

At the time, the Federal Government did not have any knowledge of the possible connection between elevated emission values of diesel vehicles under real driving conditions possibly and the use of unlawful defeat devices. Official investigations at EU level and the relevant ICCT test (see also FAQs on ICCT homepage) did also not lead to this conclusion.

There was no reason for the KBA to investigate the use of unlawful defeat devices.

**Question 11:****Answer:**

Regulation No. 715/2007/EC in conjunction with 692/2008 does not prescribe an obligation to indicate to the type approval authority the possible use of defeat devices in accordance with Article 5(2) of Regulation No. 715/2007/EC. This obligation was first introduced when Regulation (EU) 2016/646 entered into force.

**Question 12:****Answer:**

In cases, in which the KBA was not able to make a final evaluation of an emission strategy's function or effect beyond any doubts or the manufacturer's explanation did not seem plausible, additional technical tests are carried out either by the KBA or an appointed technical service.

**Question 13:****Answer:**

Germany has been supporting the adoption of effective and appropriate RDE-requirements at EU level from the beginning by making constructive contributions to various Commission working groups.

**Question 14:****Answer:**

The manufacturers mandate the technical services to conduct technical tests necessary to receive a type approval. Usually, the technical services are paid directly by the manufacturer, irrespective of whether the tests are carried out in the laboratories at manufacturers' premises or the technical services'.

Manufacturer and technical services have a business relation. If both parties act with integrity, which is to be assumed, there is no conflict of interests here. The technical services' independence is examined by the KBA in the Procedure for the assessment of the technical services according to the highest EN ISO/IEC 17025 or 17020 standards. As part of the revision of Directive 2007/46/EC, the Federal Government will lobby to ensure that the technical services' independence is further increased. To achieve this, the Federal Government asked the European Commission during the Transport and Environment Council in Luxemburg on 7 June 2016, to explore whether a rotation of the technical services could be introduced.

**Question 15:****Answer:**

The TCMV's work is governed by its Rules of Procedure. Only the Member States and the Commission are represented in the TCMV.

**Question 16:****Answer:**

The Federal Government strongly supports the introduction of a procedure for testing the real driving emissions of passenger cars and light commercial vehicles (RDE). With a view to environmental and economic needs RDE is necessary and will help to improve the urban air quality situation in the future.

Additional test specifications were or will be adopted in a comitology procedure (TCMV) in various packages of regulations:

1. PEMS- procedure and beginning of a monitoring phase (adopted on 19 May 2015)
2. Conformity factors (limit values) and their application dates (adopted at the TCMV on 28 October 2015)
3. Extension of the measuring procedure by including tests of particle counts (in 2016) and completion of RDE measuring procedure
4. ex post "in-service-conformity" checks of vehicles already in use (in 2016)

**Question 17:****Answer:**

In Germany, type approvals are issued by the KBA. The Federal Motor Transport Authority (KBA) is an executive federal agency of the BMVI. The Commission's proposal to audit type approval authorities is currently being examined.

**Question 18:****Answer:**

The provisions of Article 8 paragraph 6 of Directive 2007/46/EC apply, transposed into national legislation by EC Vehicle Approval Regulations (EG-FGV).

**Question 19:****Answer:**

Passenger cars, which are classified as low-emission and were registered for the first time between 1 January 2011 and 31 December 2013, were granted a one time exemption from the vehicle tax amounting to 150 euros. To be eligible for the tax exemption, the vehicles had to meet Euro-6 emission values during the approval process.

## 2. Questions to Type-approval Authorities

### Question 1:

What is exactly the role of type approval bodies in your country? How are they managed and audited - including number of authorized technical services, testing systems, number of tested cars etc.? Do you act also as private company providing technical, consultancy and laboratory services? Do you provide advice to car manufacturers on how to prepare vehicles for a test?

### Question 1:

*Was genau ist die Rolle der Typgenehmigungsbehörden in Ihrem Land? Wie werden sie verwaltet und geprüft - einschließlich der Anzahl der zugelassenen technischen Dienste, den Testsystemen, der Anzahl der getesteten Autos etc.? Agieren Sie auch als privates Unternehmen die technische Beratung und Labordienstleistungen anbieten? Beraten Sie Automobilhersteller, wie man Fahrzeuge für einen Test vorbereitet?*

### Answer:

The KBA is the authority designated by the Federal Government for EU and UNECE approvals. The KBA neither offers technical consultancy nor laboratory services. However, it notifies technical services, which carry out technical inspections for type approvals. Currently, there are 91 notified technical services (69 category A and/or B and/or D, 22 category C).

The testing conditions for vehicles result from the relevant rules and regulations.

### Question 2:

Are you sufficiently equipped with legal and monitoring tools to verify the conformity of production and presence of software that can manipulate emissions?

### Frage 2:

*Sind Sie ausreichend mit rechtlichen und Monitoring-Werkzeugen ausgestattet, um die Übereinstimmung der Produktion und das Vorhandensein von Software zu überprüfen, welche Emissionen manipulieren können?*

### Answer:

The current CoP, market surveillance, ISC and IUC provisions do not describe a procedure for a detailed test or monitoring of the control unit software. We have only begun to procure monitoring tools and develop effective procedures.

### Question 3:

How was the obligation on the conformity of production implemented in your country (verification whether produced cars comply with the prototype type-approved)? Are the conformity of production tests done randomly on a random vehicle or on a sample car provided by the manufacturer?

### Frage 3:

*Wie wurde die Verpflichtung für die Übereinstimmung der Produktion in Ihrem Land umgesetzt (Überprüfung, ob die produzierten Fahrzeuge den typgeprüften Prototypen entsprechen)? Finden die Produktion-Übereinstimmungs-Tests an einem zufällig ausgewählten Fahrzeug oder an einem vom Hersteller zur Verfügung gestellten Fahrzeug statt?*

### Answer:

The vehicle manufacturer is responsible for ensuring CoP according to the applicable rules. The CoP measures taken by the manufacturer are reviewed by the competent approval authority. The KBA usually witnesses emission tests in the lab. It also takes vehicles out of production and checks whether they are in conformity with the rules. The test procedures implemented by the KBA on the basis of Article 12 paragraph 2 of 2007/46/EC are limited exclusively to those described in the relevant legal acts. Since 2015, it has been carrying out other procedures in its own emissions tests.

**Question 4:**

Were the type approval bodies in your country approached by third parties with information or evidence indicating the use or possible use of defeat devices?

**Frage 4:**

*Wurden die Genehmigungsbehörden in Ihrem Land durch Dritte mit Informationen oder Beweismitteln über die Nutzung oder mögliche Verwendung von Abschaltvorrichtungen informiert?*

**Answer:**

For a while now, it has been known, through publications by various institutions (Federal Environment Agency UBA and other European environment agencies) NGOs like DUH and the media, that certain vehicles have elevated real emission values. However, the established test procedures were not suitable for detecting defeat devices or similar tools. Therefore, before September 2015, there was no concrete information on or proof of the use of unlawful defeat devices.

In various discussions, the EPA provided general information on how to conduct tests.

**Question 5:**

How does type approval and testing work in practice? What is the particular role of technical services, laboratories, car manufacturers and national type approval organisations in your country? Are vehicle manufacturers represented in any governing or advisory bodies of the type approval authority?

**Frage 5:**

*Wie funktionieren die Typgenehmigung und die Typprüfung in der Praxis? Wie ist die besondere Rolle von Technischen Diensten, Laboratorien, Automobilhersteller und die nationale Typgenehmigungsorganisationen in Ihrem Land? Sind die Fahrzeughersteller in allen Führungs- und Beratungsgremien der Genehmigungsbehörde vertreten?*

**Answer:**

Manufacturers are only represented in some bodies of the KBA without having any influence on it.

Technical services must be designated by the type approval authority. The manufacturer commissions one of the technical services designated by the KBA with testing the vehicle. The technical services conduct the tests on their own, on the manufacturer's or a third party's premises. Then the manufacturer presents their application to the KBA together with the required description of the vehicle and the test report of the technical services. The KBA reviews all the documents and decides whether a type approval is going to be issued or not.

After receiving a type approval, manufacturers are obliged to examine the conformity of their production with appropriate monitoring measures. Sometimes, they commission technical services with monitoring the production. In random tests or in accordance with the relevant provision, the KBA checks to see whether the processes for monitoring conformity are effective or it checks the conformity of the product itself.

**Question 6:**

Do type approval bodies and test organisations across Europe apply comparable standards, instruments and procedures?

**Frage 6:**

*Arbeiten die Typgenehmigungsbehörden und Testorganisationen in Europa nach vergleichbaren Standards, Instrumenten und wenden vergleichbare Verfahren an?*

**Answer:**

The European type approval authorities all work in line with uniform European rules.

**Question 7:**

May type approval authorities and/or technical services test cars on the road or apply a different laboratory test, if they consider this necessary (e.g. to verify the use of a defeat device)?

**Frage 7:**

*Können Typgenehmigungsbehörden und/oder Technische Dienste Fahrzeuge auf der Straße testen oder Labortests anwenden, wenn sie dies für erforderlich halten (zum Beispiel um die Verwendung einer Abschaltvorrichtung zu überprüfen)?*

**Answer:**

In cases, in which the KBA was not able to make a final evaluation of an AES or BES beyond any doubts or the manufacturer's explanations did not seem plausible, additional technical tests may be carried out to assess the effect of the AES.

**Question 8:**

How many emission measurements are carried out in your organisation in a year? And by how many persons?

**Frage 8:**

*Wie viele Emissionsmessungen werden pro Jahr in Ihrer Organisation durchgeführt? Und durch wie viele Personen?*

**Answer:**

In 2015, the KBA issued 1,307 type approvals and their extensions in accordance with Regulation (EC) No. 715/2007 and UN Regulations 83 and 101. Technical tests are carried out by the technical services and not by the KBA. The KBA does not know how many persons are involved in the tests conducted by the technical services.

In 2015, 60 vehicles were subject to emission retesting and so far in 2016, approximately 70 vehicles.

**Question 9:**

How and in what extent is the type-approval authority financed, publicly and privately, what is the price of type approval and how are fees, if any, collected?

**Frage 9:**

*Wie und in welchem Umfang wird die Typgenehmigungsbehörde finanziert, öffentlich und privat, was ist der Preis für die Typgenehmigung und wie hoch sind die Gebühren, falls diese erhoben werden?*

**Answer:**

The type approval authority KBA is fully financed by the federal budget. The revenue generated from the type approval fees covers all costs and is directly and entirely transferred to the federal budget. The costs for a type approval range between 169 and 4,853 euros and are listed in a "type approval procedure" fees catalogue.

**Question 10:**

Have there been cases where national type approval organisations intervened in companies providing technical services or laboratories? What happened after that?

**Frage 10:**

*Gab es Fälle, bei denen nationale Typgenehmigungsbehörden bei Firmen mit der Beistellung von Technischen Diensten oder Labors eingeschritten sind? Was ist danach erfolgt?*

**Answer:**

No such cases are known.

**Question 11:**

Where your authority also acts as a technical service, how are lines of management organised and independence assured?

**Frage 11:**

*Falls Ihre Behörde auch die Aufgaben eines Technischen Dienstes hat, wie sind die Organisationswege gestaltet (Entscheidungswege organisiert?) und ist Unabhängigkeit gesichert?*

**Answer:**

The KBA as the German type approval authority does not act as a technical service.

**Question 12:**

Do you have procedures for dealing with conflicts of interest?

**Frage 12:**

*Gibt es bei Ihnen Standardprozesse für den Umgang mit Interessenskonflikten?*

**Answer:**

This question is seen in connection with question 11. Based on the answer to question 11, there is no need to answer this question.

**Question 13:**

Whether and in which cases have the national authorities considered in line with Article 10 or (Note BMVI: "or" seems to be a typing error; "of" seems to be wright) Regulation 715/2007/EC certificates of conformity to be no longer valid for the purposes of Article 7(1) of Directive 70/158/EEC (Note BMVI: correctly mentioned 70/156/EEC) and the registration, sale or entry into service been prohibited on grounds relating to emissions?

**Frage 13:**

*Haben und wenn in welchen Fällen nationale Genehmigungsbehörden erwogen, gemäß Artikel 10 oder (bei „oder“ scheint es sich um einen Tippfehler zu handeln, „der“ erscheint an dieser Stelle richtig zu sein) Verordnung 715/2007/EC ein CoC im Sinne des Artikel 7(1) der RiLi 70/158/EWG ((Anmerkung BMVI: muss richtig lauten 70/156/EWG) nicht mehr länger als gültig anzuerkennen und die Fahrzeugzulassung, den Verkauf und die Inbetriebnahme wegen emissionsrelevanten Belangen zu verbieten?*

**Answer:**

See answer to part I of question 8.

**Question 14:**

Are you aware of car manufacturers using specifically selected cars ("golden cars") for emission measurements and type approval?

**Frage 14:**

*Haben Sie Kenntnis über Fahrzeughersteller, die speziell ausgewählte Fahrzeuge („goldene Fahrzeuge“) für die Emissionsmessungen und die Typgenehmigung verwenden?*

**Answer:**

No.

**Question 15:**

What is legally the procedure when a car fails the emissions tests or fails to get a type approval? Is it legally allowed to engage another test organisation after a failed test or failure to get approval?

**Frage 15:**



*Wie sehen die rechtlichen Schritte aus, wenn ein Fahrzeug die Emissionsprüfungen nicht besteht oder bei der Typgenehmigungsprüfung verfehlt?  
Ist es rechtlich erlaubt, nach durchgefallener Prüfung eine andere Prüforganisation mit der Genehmigung zu beauftragen?*

**Answer:**

When a car fails the tests, type approval is to be denied and the authorities of other countries must be informed. In general, manufacturers are allowed to apply for a type approval again and have another technical service conduct the test (please also see part I of question 18).

**Question 16:**

Would you confirm that there exists a 'type approval shopping' phenomenon in Europe? Do your type approval authorities have an unusual high share of type approvals of cars in general or specific automotive parts?

**Frage 16:**

*Würden Sie bestätigen, dass es das Phänomen einer Typgenehmigungseinkaufstour (oder besser „Typgenehmigungstourismus“) innerhalb Europas gibt? Hat Ihre Typgenehmigungsbehörde einen ungewöhnlich hohen Anteil an Typgenehmigungen von Fahrzeugen generell oder bei spezifischen Fahrzeugteilen?*

**Answer:**

European legislation allows manufacturers to freely choose the authority to which they want to apply for a type approval. Most manufacturers have type approvals from different member states. Given the production share of the German automotive industry, the KBA does not issue an unusually high share of type approvals.

**Question 17:**

In your understanding, what are technically safe operating conditions, including temperature, for emission technologies such as SCR, LNT and EGR?

What are the minimum and maximum temperature conditions?

**Frage 17:**

*Was sind nach Ihrem Verständnis für Abgasreinigungstechniken wie SCR, NSK und AGR technisch sichere Betriebsbedingungen, einschließlich Temperatur? Was sind die minimalen und maximalen Temperaturbedingungen?*

**Answer:**

Emission reduction must be viewed in connection with various influence factors to the overall system and its structure rather than focusing on individual components of the system. Evaluating the components with individual criteria does not make much sense because the use of one single component is always adapted to the effect of the overall system, which can vary depending on the manufacturer.

**Question 18:**

How many type approval applications have been rejected, recalled or withdrawn as regards Euro5 or Euro6 applications? How do you inform other authorities and the Commission of such cases?

**Frage 18:**

*Wie viele Typgenehmigungen wurden abgelehnt, zurückgerufen oder aberkannt in Bezug auf Euro 5 und Euro 6 Applikationen? Wie unterrichten Sie andere Behörden und die Kommission über solche Vorkommnisse?*

**Answer:**

No Euro 5 or Euro 6 type approvals have been rejected, recalled or revoked. When the KBA rejects or recalls a type approval, it informs the type approval authorities of the other member states according to Article 8 paragraph 6 of Directive 2007/46/EC. There is no legal requirement to inform the Commission.

**Question 19:**

Have any of the engines installed in the faulty Volkswagen cars been type-approved by your national type approval authority?

**Frage 19:**

*Wurden irgendwelche der in den fehlerhaften Volkswagen Fahrzeugen eingebauten Motoren in Ihrem Land typgeprüft?*

**Answer:**

The KBA issued the type approvals for vehicles of VW and some SEAT models with EA189 aggregates.