

THIRD-PARTY LITIGATION FUNDING IN THE EU

Roma Tre University
Rome, 13th September 2024, h 10-18

From a legal perspective, Third-Party Funding Litigation is a contract which has effects on the proceeding between the claimholder (usually, the funded) and the opponent: a third party, with no connection to the litigation, provides the client with funding to cover (all or part of) the cost of litigation in exchange for a share of any proceeds of the litigation.

The topic, of worldwide interest, poses itself at the point of intersection between the mercantile approach to Civil Litigation and the initiative promoting (an affordable) access to justice. This synergy between private investors and claimholders faces doubts: enthusiasts state that investing in someone else's claims providing financial support and betting on the favorable outcome of the dispute is a new approach to the issue of the allocation of costs in civil proceedings (considering that the loser-pays-rule applies in almost all European jurisdictions) and a tool to remove the barriers to access to justice for citizens. Critics, are concerned about the risk of commoditization of justice, of a possible conflict of interest, of the promotion of frivolous claims, and about the asymmetries and the lack of transparency and publicity between the claimholder and the funders (and the judge).

Europe is determined to regulate it, but doubts arise between policymakers on the preferable regulatory approach, whether strong or soft. This international conference would be opportunity to promote a transnational debate among academics, institutions and practitioners on how Third Party Litigation Funding could facilitate access to justice and how it should be regulated in EU.

10.00 - Introductory remarks

ANTONIO CARRATTA • Dean of the Rome Tre Law Department

I Session:

The Ecosystem of Litigation FUNDING: Law, Ethics and Business

CHAIRPERSON

CESARE CAVALLINI • Bocconi University

10.30 - Burkhard Hess • University of Wien

Pitfalls of the Proposal of Directive on Responsible Private Funding of Litigation

10.50 - Elena D'Alessandro • University of Turin

Systematizing Substantive and Procedural Issues

11.10 - Giorgio Afferni • University of Genoa

Taxonomy: Difference between Litigation Finance and Other Forms of Claim Monetisation

11.30 - Eva Lein • University of Lausanne,

*British Institute of International and Comparative Law
Third Party Litigation Funding in EU Member States?*

11.50 - Francesco Parisi • University of Minnesota and University of

Bologna - The Economics of Litigation Financing

Coffee break

12.30 - Plenary speech

Anthony J. Sebok • Benjamin N. Cardozo School of Law

13.00 - Discussion

13.20 Lunch

14.45 - II Session

The Regulatory Options: Private Ordering and Public Values

CHAIRPERSON

MARIA CHIARA MALAGUTI • Unidroit and Catholic University

15.00 - Maria Cecilia Paglietti • University of Rome Tre

The Regulatory Force of Soft Law

15.20 - Cristina Poncibò • University of Turin

Third-Party Litigation Funding between Private Autonomy and Morality

15.40 - Susanne Augenhöfer • University of Innsbruck and Yale Law

School - Transparency and Duties of Disclosure in Contract and in Trial

16.00 - Francesco Paolo Patti • Bocconi University

The Authority of the Third-Party Funder to Impact on Trial Strategies

16.20 - Xandra Kramer • University of Utrecht and University of

Amsterdam - Intersections: Third-Part Funding and Consumer Redress

16.40 - Peter Rott • University of Oldenburg

Third-Party Funding, Legal Tech and Collective Consumer Protection - Experiences from Germany

17.00 - Hans-Wolfgang Micklitz • European University Institute

Complaint Handling and ODR - How the EU Digital Policy Legislation is Undermining Collective Redress

17.20 - Conclusive remarks

Dame Sara Cockerill • Judge of the High Court of England and Wales, ELI Institute

SCIENTIFIC COMMITTEE: Professor **Maria Cecilia Paglietti** and Professor **Cristina Poncibò**

The conference will be held in person at the Department of Law, Roma Tre University, via Ostiense n. 159, Sala del Consiglio (I Floor). Registration: cl edir@uniroma3.it