

Ensuring access to justice - an expert debate on 'Third Party Litigation Funding'

13.00-14.45

Tuesday, 8 December 2020



About the American Chamber of Commerce to the EU



AmCham EU speaks for American companies **committed to Europe on trade, investment and competitiveness issues**. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than **€3 trillion in 2019**, directly supports more than **4.8 million jobs in Europe**, and generates billions of euros annually in income, trade and research and development.

About the European Justice Forum



The European Justice Forum (EJF), formed in 2005, is a coalition of businesses, individuals and organisations aiming to promote fair, balanced, transparent and efficient civil justice laws and systems in Europe without incurring the damage that would arise from the adoption of US-style class actions.

As an association working on collective redress, they adopt a holistic approach which covers the entire process from dispute detection across out-of-court dispute resolution up to in-court dispute settlement or judgment. EJF's aim is to ensure that the legal environment in Europe protects both consumers and businesses alike, and that those with a legitimate grievance have access to justice.

EJF engages in an open dialogue with opinion leaders in EU Institutions, national governments and other relevant stakeholders as well as research. EJF builds on its expertise with practical (legal) experts and academic research and develops position papers and other outreach materials, organises expert debates and participates in factual events.

Programme

Background: With the successful Trilogue on the Directive of Representative Actions by end of June 2020, the focus will shift to the national implementation period which is estimated to be concluded in December 2022. This period also leaves crucial time for understanding potential gaps regarding Third Party Litigation Funding (TPLF). An important area when building a fair and effective civil justice system in Europe. Questions may touch issues like commercialisation, transparency, conflict of interests and effects of digitalisation. It is therefore important to understand different perspectives to be able to discuss opportunities and risks in a wider context. *The informal expert discussion will run under Chatham House Rules.*

This event will be moderated by **Ekkart Kaske**, Executive Director, European Justice Forum.

Welcome

- 13.00 – 13.10
- **Kaarli Eichhorn**, Vice-Chair, AmCham EU, Partner, Jones Day
 - **Moya Stevenson**, Chair, European Justice Forum

Introduction: TPLF and Collective Redress

- 13.10 – 13.20 **What role does TPLF play in the political context?**
- **Nils Behrndt**, Director, Consumers, Directorate-General for Justice and Consumers (JUST), European Commission

Learnings from TPLF in practice

- 13.20 – 13.30 **History of TPLF and what role does it play?**
Which legal measures have been introduced?
What are the learnings from Australia?
- **Mark Doepel**, Partner, Sparke Helmore Lawyers, Adjunct Associate Professor of Law and ANZIF Fellow

What does academic research tell us about TPLF?

- 13.30 – 13.40 **Presenting results of a study:**
TPLF in Europe, which risks are involved?
What scope of regulation is needed?
- **Mag. Marko Djinović**, Secretary General, Ljubljana Arbitration Centre, Chamber of Commerce and Industry of Slovenia

Panel 1: Expert Panel Discussion

13.40 – 14.25 **What is TPLF and how is it used in practice?**
Are there alternatives?
Does TPLF need to be regulated and if so, how?
What role does digitalisation play?
(Including Q&A from audience)

- **Mark Doepel**, Partner, Sparke Helmore Lawyers
- **Isabella Wijnberg**, Senior Associate, Houthoff
- **Dr Herbert Woopen**, EU Representative, Opus

Recap and first conclusions

14.25 – 14.35 **What have we learnt from the presentations & discussions?**

- **Dr Burkhard Hess**, Founding and Executive Director, Max Planck Institute Luxembourg

Closing remarks

14.35 – 14.45

- **Kaarli Eichhorn**, Vice-Chair, AmCham EU, Partner, Jones Day
- **Moya Stevenson**, Chair, European Justice Forum

Biographies

Welcome



@KaarliEichhorn

Kaarli Eichhorn

Vice-Chair, AmCham EU

Partner, Jones Day

Kaarli H. Eichhorn is a Partner at Jones Day. He was elected Vice-Chair and Member of the Board in July 2020.

Mr Eichhorn is a member of Jones Day's Antitrust & Competition Law Practice. He is also affiliated with the Firm's Government Regulation Practice and is one of Jones Day's Nordic Practice leaders. Prior to joining Jones Day, he served as Global Executive Counsel – Competition Law & Policy at General Electric Company. He has worked on a significant number of high-profile and politically sensitive merger and antitrust matters globally for almost 20 years. He has substantial experience in competition law, international regulation and government affairs, including legislative advocacy, foreign investment screening and sanctions.

Kaarli H. Eichhorn has held prior leadership roles at AmCham EU for many years, including as chair of the Legal Affairs Task Force and as vice-chair of the Competition Committee. He is a prior member of the board of European Justice Forum, a former vice-chair of the In-House Competition Counsel Association and member of the BusinessEurope competition committee. He is a non-governmental adviser at the International Competition Network.

He is a Swedish Advokat (member of the Swedish Bar) and a member of the Brussels Bar.



Moya Stevenson

Chair

European Justice Forum

Moya Stevenson is currently Global Senior Claims Counsel within Swiss Re Corporate Solutions.

Her career in private practice, at a broker and now at a re/insurer has brought her in contact with various forms of dispute resolution worldwide, including litigation, arbitration and mediation. Prior to joining the Swiss Re Group in Zürich in 2004, Moya Stevenson had spent nearly ten years working as a solicitor in London in private practice and a further three years as an in-house counsel at a Lloyds Broking house. She has focused on the insurance and reinsurance industry almost all of her working life.



@EkkartKaske

Moderator**Ekkart Kaske**

Executive Director

European Justice Forum

Ekkart Kaske has been Executive Director of the European Justice Forum since mid-2017. In this position, he is responsible for the operational and strategic development of the association. He focuses on topics such as collective redress, efficiency and effectiveness of dispute resolution, better regulation, digitalisation, as well as ethical and open culture.

During more than 12 years, Mr Kaske worked for global players in Government Affairs and Public Policy activities. His tasks, among others, covered the set-up of the Representative Office in Berlin for Allianz and heading the Government & Industry Affairs department at Zurich Insurance Group, in Germany, with a co-lead period of EU activities. Building on his experience in strategic communications and on regulatory and reputational risk management, Ekkart Kaske then founded a consultancy specialised in corporate diplomacy in Berlin.

Earlier in his career, he worked for nearly 10 years in the Operations area of financial services companies - including four in leading positions in China. He also gained further experience in Business Development at a Telematics start-up in Trieste, Italy.

Ekkart Kaske studied Business Economics in Munich, Glasgow (UK) and Bayreuth. During his Executive MBA at Kellogg School of Management (Chicago/Evanston) in cooperation with WHU (Vallendar), he focused on Political Risk Management and Government Relations.

Introduction: TPLF and Collective Redress



@NilsBehrndt

Nils Behrndt

Director, Consumers

Directorate-General for Justice and Consumers (JUST)

European Commission

Nils Behrndt works in the European Commission as Director for Consumers in the Directorate-General Justice and Consumers.

After having worked as researcher and lawyer for some years in Germany, he has joined the European Commission in 2000. He held various positions in Directorate-General Enterprise and Industry, in the cabinets of Vice-President Günter Verheugen (Enterprise and Industry), Commissioner John Dalli and Commissioner Tonio Borg (both Health and Consumer Policy) and Commissioner Neven Mimica (Consumer Policy; International cooperation and development).

Nils Behrndt has German and British law degrees and holds a PhD in public administration/law.

Learnings from TPLF in practice



Mark Doepel
Partner
Sparke Helmore Lawyers

Mark Doepel is a partner in Sparke Helmore's Sydney office specialising in financial lines insurance and reinsurance disputes.

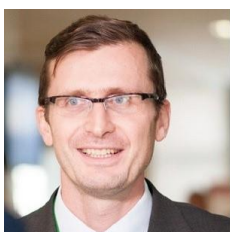
With more than 25 years' experience in the areas of professional indemnity litigation, D&O claims, financial lines litigation and all aspects of reinsurance practice, Mark Doepel is recognised as a leader in his field. He advises insurers and insureds on professional indemnity matters, D&O claims and financial institutions litigation. He has been involved in some of Australia's most significant professional Indemnity claims, including the largest ever single litigated matter brought against a professional in Australia, and also a number of the country's leading class actions, where he has acted for accountants, financial planners and insurance brokers, amongst others.

In the past, he has lectured at the University of Sydney School of Law. Currently, he is an Adjunct Professor of Law at the University of Notre Dame where he teaches insurance law and is also a founding member of the faculty of the Australian College of Insurance Studies.

Mark Doepel is a Fellow of ANZIIF and has taught insurance courses for both AILA and ANZIIF.

He is also the current Chairman of Lloyd's Australia.

What does academic research tell us about TPLF?



Mag. Marko Djinović
Secretary General
Ljubljana Arbitration Centre
Chamber of Commerce and Industry of Slovenia

Mag. Marko Djinović is Secretary General of the Ljubljana Arbitration Centre at the Chamber of Commerce and Industry of Slovenia (the LAC) where he is responsible for the management of work for the LAC and overseeing day-to-day administration of disputes referred to the LAC.

Mr Djinović has been involved in several international and domestic arbitrations. Prior to becoming Secretary General of the LAC, he held the position of General Counsel to the CCIS and other senior legal positions. His areas of expertise include in particular international arbitration and ADR, dispute resolution, international commercial law and corporate law. He is also Senior Expert Advisor to the International Chamber of Commerce (ICC), National Committee of Slovenia and an active member of the ICC Commission on Arbitration and ADR (2012-present).

Mr Djinoić is a visiting lecturer at the Faculties of Law in Ljubljana and Maribor, Faculty of Economics in Ljubljana and Faculty of Management in Koper, where he teaches arbitration and ADR. Marko founded the Slovenian Arbitration Review and served as its Executive Editor between 2012 and 2018.

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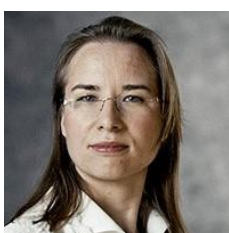
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Mark Doepel is a Fellow of ANZIIF and has taught insurance courses for both AILA and ANZIIF.

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Isabella Wijnberg
Senior Associate
Houthoff

Isabella Wijnberg is a Dutch lawyer at Houthoff. She specialises in dispute resolution with a focus on corporate litigation, class actions and complex disputes relating to commercial contract law. She acts as defence counsel for corporate, semi-public and financial institutions with a particular focus on class action litigation, particularly regarding the admissibility of claim vehicles. She has a broad experience regarding in-depth factual and fraud research.

Isabella Wijnberg is a member of the Dutch Association for Procedural Law. She is the author of the Class Action Survey, an in-depth survey on the future of class actions in Europe, the US and Israel, and of various other publications, in particular in the area of procedural law and collective redress. She is also a frequent speaker and commentator on the topic of collective redress, including in national media and was interviewed as expert by the Claim Code Commission.



Dr Herbert Woopen
EU Representative
Opus

Mr Woopen is admitted to the bar as a lawyer in Cologne and doctor of law of civil procedure both in Germany and in France.

Since 2009 he has contributed to research in particular as an Affiliate of the Swiss Re Programme for Civil Justice Systems in the EU at the Centre for Socio-legal Studies of the University of Oxford. As an operational banker for 15 years and Representative of the Insurer Allianz in Brussels for 9 years, he has also comprehensive expertise in banking and insurance. He has remained operationally active in the financial sector as Board Member of a specialised German insurer.

With full professional proficiency in English, French, Italian and native German, he has been building and managing relations with EU institutions, associations and industry representatives over many years and written various articles and factual papers on collective redress.

Recap and first conclusions



Dr Burkhard Hess

Founding and Executive Director
Max Planck Institute Luxembourg

Burkhard Hess became founding director of the Max Planck Institute Luxembourg for Procedural Law in September 2012.

He graduated in Munich in 1990. After being granted Venia Legendi in civil law, civil procedure, private international law, European law and public international law in 1996, he held chairs at the Universities of Tübingen and Heidelberg. He was a Guest Professor in Taipei, Georgetown, Paris (Sorbonne) and Beijing, and a scholar-in-residence at the Center for Transnational Law at the New York University. He served as a part-time judge at the Court of Appeal of Karlsruhe.

He is Chairman of the ILA Committee on the Protection of Privacy.

In March 2015, the University of Ghent awarded Professor Hess a doctor honoris causa; in May 2016, the University of Thessaloniki.

Closing remarks



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Vice-Chair, AmCham EU
Partner, Jones Day

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