

Our position

EU experiences and risks of unregulated third-party litigation funding

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 €3.7 trillion in 2022, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

Executive summary

Third-party litigation funding (TPLF) is gaining momentum across the EU, offering financial resources for litigants in exchange for a portion of the litigation proceeds. This practice purports to increase access to justice, but without sufficient regulatory oversight, it poses risks to the integrity of civil and commercial justice systems. Across Europe, concerns about TPLF include conflicts of interest, increased litigation costs and questionable motives by plaintiff organisations. These concerns have prompted calls for stronger EU-wide regulations to ensure transparency, fairness and genuine consumer advocacy in funded legal actions.

Experiences from various Member States underscore the importance of regulating TPLF to prevent litigation abuse and ensure fair compensation for claimants. The EU faces a challenge in harmonising these regulations to prevent market fragmentation and ensure consistent legal standards across Europe. The rapid growth of TPLF in the Netherlands, Portugal and the UK demonstrates why early intervention to manage the development of TPLF is in the interests of consumers and the wider European legal system.

A robust, EU-wide regulatory framework is necessary to oversee TPLF. This framework should focus on transparency, consumer protection and the harmonisation of regulations to avoid ‘forum shopping’ and uphold the integrity of the Single Market.

Introduction

TPLF involves a financial arrangement where an external party, not directly involved in a lawsuit, finances some or all of the litigant's legal costs in exchange for a portion of any financial recovery from the litigation. TPLF has grown rapidly in various jurisdictions worldwide and is increasingly present in the EU.

Supporters of unregulated TPLF argue that it facilitates access to justice by enabling private citizens and businesses to undertake legal actions that they might not otherwise be able to afford, effectively transferring the risk of uncertain litigation outcomes to the funder. However, without proper regulation, this mechanism poses risks such as potential conflicts of interest, the encouragement of meritless litigation and strategic use by businesses to harass competitors. Without appropriate regulation, TPLF will likely lead to increased litigation costs across the EU and could distort the justice system by prioritising profit over justice.¹

The TPLF landscape in the EU varies significantly. While its use remains limited in most Member States, TPLF is expected to grow due to climate and other environmental, social and governance-related litigation, its large financial incentives and the absence of regulation. The EU therefore needs a balanced regulatory approach that ensures citizens and businesses have access to justice while minimising the risks of system abuse and exploitation.

This position paper is a summary of information and examples about TPLF in Europe, gathered from members of the American Chamber of Commerce to the EU (AmCham EU) and stakeholders in AmCham EU's wider network.

¹ European Parliamentary Research Service, ‘Responsible private funding of litigation’ (2021)

European experiences of TPLF

AmCham EU members and stakeholders were surveyed to discover:

- The prevalence of TPLF in their sector’s legal environment and its impact.
- Whether specific regulations affecting TPLF in Member States have been beneficial or posed challenges.
- The key learnings and differences observed across jurisdictions in the EU and beyond.

Their responses made clear that TPLF is emerging in different ways across the EU. Some jurisdictions, such as Portugal and the Netherlands, have seen far more examples of funded representative actions than others.

Portugal

Although the Portuguese law transposing the Representative Actions Directive² requires courts to scrutinise funding agreements, AmCham EU stakeholders do not believe that this measure adequately prevents process abuses or conflicts of interest between claimants, funders and consumers. Because plaintiff lawyers can benefit financially from funded litigation (when ordinarily that case would be unable to proceed), stakeholders perceived an impact on lawyers’ objectivity. Additionally, defence lawyers have to spend additional time and resources making submissions about the funding’s legality and legitimacy. One AmCham EU stakeholder noted that they were not aware of a single instance of Portuguese courts scrutinising a funding agreement, although this is likely because these rules have only recently come into force.

In one recent Portuguese representative action, it was reported that a plaintiff organisation – ostensibly established to advocate for consumer rights in the EU – appeared to be significantly influenced by private interests, particularly those of its founding legal firm and third-party financiers. The main lawyer in the representative action, who is also the founder and a major figure in the organisation, has represented the plaintiff in a significant number of actions since it was established. This overlap raises concerns about potential conflicts of interest and the genuine intent behind the plaintiff organisation's formation. The funder involved in the case is not based in the region and primarily seeks economic benefits from its involvement, which might not align with the intended advocacy for consumer rights. The plaintiff's formation and subsequent legal actions appear strategically orchestrated to facilitate litigation funding, suggesting a possible exploitation of legal frameworks intended for public benefit to serve private interests.

Another AmCham EU stakeholder observed the activities of four entities – Ius Omnibus; Citizens’ Voice; Associação de Micro, Pequenas, Médias Empresas Portuguesas (AMPMEP); and Associação Portuguesa para a Defesa do Consumidor (DECO) – and found a large volume of pending cases that may involve third-party litigation funding. However, the lack of transparency means this cannot be comprehensively evaluated. Based on the facts available, some of these cases could be of a speculative

² Decree -Law 114-A/2023 of 5 December published on 6 December 2023 to incorporate Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers (Directive) into Portuguese law.

nature in similar categories against similar types of defendants. A summary of activities that may have TPLF links is set out in Annex 1.

The same AmCham EU stakeholder anticipated the following risks about the growth of TPLF in Portugal:

- **Impact on the normal course of proceedings:** the most active entities try to obtain access to documents about the judicial phase of competition public enforcement cases to help them prepare private enforcement actions. They submit requests to the courts while appeals against the Portuguese Competition Authority decision are still ongoing, including requests for confidential versions of company appeals. In many cases, the requests go beyond accepted case law on the confidential nature of the information and are refused by the court – a decision which the entity then appeals before upper courts. These kinds of document-fishing exercises use up valuable court resources and the resources of targeted companies, and directly impact the duration of cases.
- **Lack of independence of class representatives and third-party funders:** AmCham EU stakeholders questioned whether there is true independence in the relationship between class representatives and the third-party funder entities. The interest of the funding party is strictly financial and not based on principles such as public order, effective judicial redress and due process. Policymakers should scrutinise whether third-party funders unduly influence class representatives and whether these arrangements comply with relevant legal standards.
- **Potential conflicts of interest:** the Portuguese system seems to contain an incentive not to advertise the court-recognised awards to increase the third-party funder's return on investment. This may conflict with the interests of the class members who are part of the class action.
- **Potential legal ethics issues of third-party funding:** because of their relationship, the funding party and the claimant's legal counsel may share privileged and confidential information, including confidential communications and strategic legal advice. Disseminating this information risks breaches of confidentiality, in violation of the ethics (also known as deontological) obligations in force in Portugal.
- **Incentive to propose actions based on financial motives instead of the merit of the claim:** the AmCham EU stakeholder observed a risk that third-party funders may push for class actions based primarily on potential financial returns rather than the merits underlying the claims. This would appear to be corroborated by recent data on opt-out class actions published by the law firm CMS. The data puts the cumulative claimed value of opt-out claims in Portugal between 2016 and 2023 at €45.8 billion.³

Netherlands

In the Netherlands, an AmCham EU stakeholder with experience in numerous representative actions submitted information. The respondent's answers related to cases in the Dutch courts but with

³ [European Class Action Report 2024](#) (CMS, July 2024), p 7.

parallel litigation in Spain, the UK, Germany, Italy and Portugal. This respondent observed a significant increase in TPLF activity and funded case numbers since 2020, when it became possible to claim damages in civil cases. Before 2020 TPLF-funded cases were more unusual. However, since the US-style opt-out class action legislation (WAMCA) entered into force in 2020, the number of litigation funders operating in the Netherlands has doubled to 47. Recent published data shows that the cumulative claimed value of opt-out claims between 2016 and 2023 was €35.33 billion.⁴

At least one other AmCham EU stakeholder is litigating a class action filed in 2019 by a Dutch special purpose vehicle. The class action is funded by a US plaintiff-side law firm, pursuant to an arrangement that entitled the funder to an arbitrary, uncapped 18% fee that was separate from and in addition to full coverage of the funder's costs. It is not clear yet whether that same law firm is funding additional litigation filed more recently against the same stakeholder.

The respondent noted that TPLF in the Netherlands is causing increased litigation costs for all parties (leading to 'social inflation'), prolonged duration of cases and changes in settlement strategies that benefit funders rather than the claimants.

It was also reported that claimant lawyer- and funder-driven cases are particularly problematic in the Netherlands. In such cases, it is often the funders themselves (rather than consumers who have actually suffered any harm) that initiate claims, and the funders themselves are the original clients of the law firm bringing the claim. One respondent said 'this should be prohibited, or at least a law firm should demonstrably request multiple offers from other funders' to ensure competition and reduce fees. Respondents noted that a large portion of the settlement sum was typically reserved for the TPLF, and this was deducted from the sum available for the individual class members.

Funders starting cases by, for instance, setting up an ad hoc vehicle for the purposes of bringing the claim, rather than consumers who have actually suffered any harm starting cases, raises fundamental questions about the TPLF business model. In such instances, it appears that funders are using litigation to seek profit rather than justice for consumers. AmCham EU stakeholders described one case where a large claim for damages was filed against a motor vehicle manufacturer by an ad hoc entity that had been set up by funders. Not a single consumer had actively joined this entity as a member of the class.

In the Netherlands, the total value of claims in collective litigation in general has approached €90 billion since 2020.⁵ This has prompted unease among AmCham EU members and other businesses over the sustainability of operating under such litigious conditions. The Netherlands has become a hot spot in the global litigation finance market in just a few years. Many claim vehicles have been founded in the Netherlands, with foreign litigation funders in the background looking for attractive returns on investment. Class actions for alleged violations of European privacy laws are now concentrated in the Netherlands, in part due to the jurisdiction's funder-friendly model. There has been a particular focus on class actions against technology companies, with a number of claims filed on issues including competition, consumer rights, privacy and more, with the alleged damages sought running into billions of euros.

One Dutch respondent provided the following feedback: 'There is no loser-pays rule in the Netherlands of any significance; defendants can only get a few thousand euro in adverse cost when

⁴ [European Class Action Report 2024](#) (CMS, July 2024), p 7.

⁵ Estimate figure provided to AmCham EU by a Dutch academic specialising in mass litigation. This is the total amount of damages claimed in all the 94 collective actions against both the Dutch government and companies that have been launched since the WAMCA entered into force in 2020.

they win a case. There is no disclosure requirement of the funding agreement, and the recent Airbus securities class action and the data breach cases against TikTok have shown that there is funder control. Therefore, there is a need for a prohibition of this type of control. Both in the Fortis bank case and the recent TikTok case there were serious questions if claimants were actually receiving adequate compensation or if the majority of the pay-out was ending up with the claimant lawyers and funders’.

Dutch law does provide for certain protections against TPLF in efforts to avoid undermining the interests of individual class members. For example, the claim organisation (and not the TPLF) must retain ‘control’ over the litigation to prevent abuse and/or conflicts of interest. In addition, the TPLF’s return on investment (ROI) must be reasonable (with case law indicating that payouts to the TPLF should not exceed 25% of the compensation to the class members, among other factors). Indeed, the two previously mentioned Dutch cases against Airbus and TikTok have illustrated judicial willingness to intervene on questions of funder control.⁶ However, an AmCham EU stakeholder reports that in most cases, Dutch courts do not rigorously enforce these requirements. In some cases, they may not even review the relevant litigation funding agreement or fail to assess whether an uncapped percentage-based ROI, which could result in an astronomical return, is reasonable and protects class members’ interests. Without adequate judicial scrutiny, these purported safeguards are not consistently effective.

Finally, the profit-driven nature of the TPLF industry is leading to additional unintended consequences in the Netherlands. For instance, respondents have reported that major class actions are launched against companies that only have a tenuous link with the country; often the company merely has a registered office address in the Netherlands. It also appears that claimant firms are concocting increasingly novel and questionable legal bases to found claims, increasing potential returns for funders. For example, the recent case brought against pharmaceutical company, AbbVie, due to an alleged abuse of dominance in its pricing of an arthritis medication called Humira, has been reframed as a breach of human rights claim.⁷

The wider landscape

- In Austria, one respondent said that they did not perceive a growing trend yet in that jurisdiction and that TPLF firms could be helpful in enabling some categories of representative actions – for example, consumer claims against gambling companies. However, another respondent, with extensive experience in civil justice regulation, said that existing and proposed regulation of TPLF within the Representative Actions Directive (RAD) transposition was too weak and did not address the conflict of interest risks. This respondent said that there should be procedures in place to compel the disclosure of the funding agreement to the court and defendant. This would facilitate proper inquiry about the independence of the plaintiff lawyer from the funder company.

⁶ In September 2023 in a landmark ruling, a securities class action against Airbus – over bribes allegedly being paid to get contracts for planes – was thrown out by the District Court in The Hague, which established that the funder initiated the case, attracted claimants, registered their claims, gathered evidence, wrote the writ of summons and filed the case at the court; the claim foundation was an empty shell created by the funders. In January 2024, in a case against TikTok over collecting children’s personal data allegedly without consent, the judge ordered the claim foundations to change the litigation funding agreements to ensure there is no funder control. Moreover, the Court gave ‘preliminary guidance’ that the funders’ fees should not be excessive. Funders and plaintiff lawyers stated in response that because of this ruling – limiting the funders’ fees – data breach cases might become less attractive for funders to invest in. According to the latest reports at the time of writing, the case will go ahead, albeit with amended funding agreements.

⁷ [‘AbbVie to face potentially groundbreaking case over Humira’](#) (The Lancet, 27 July 2024)

- In Italy, a stakeholder with experience in a class action against a transport company and international arbitration reported an increasing trend towards class actions. Although they reported that TPLF firms had not yet become entrenched in the Italian market, they felt that parties should be required to submit a copy of any funding agreement to the court for scrutiny.
- In Germany, an AmCham EU stakeholder noted the common practice of purchasing legal claims insurance, which covers statutory attorney's fees and costs in lawsuits. Such insurance is inexpensive, and the threshold for coverage is low. This has encouraged an industry of plaintiff mass claims firms whose business models rely on filing hundreds or thousands of separate lawsuits with identical or similar claims. Because insurance typically covers these firms' fees and costs – even if they are unlikely to succeed – firms are incentivised to file more lawsuits. This has caused a rise in meritless lawsuits, burdening the German court system and shifting plaintiff firms' focus from their clients' interests to profit. TPLF has the potential to negatively impact court systems and consumers across Europe in similar ways, even though there is now statutory provision to allow customer protection associations to bring such claims with effect for a whole class of (potential) claimants, thereby making such TPLF claims unnecessary.
- In Poland, a stakeholder with experience in over ten collective actions in retail banking said that funding firms had tried to use assignment agreements for a number of years to take over consumer claims, with courts often finding that these firms provided the original claimant with insufficient information. This respondent said that it would be essential for courts to have adequate ability to supervise funding agreements in representative actions (once RAD has been transposed in Poland) and that funding agreements should be presented to the courts. The respondent had observed that the presence of TPLF in Poland had led to prolonged litigation duration, increased litigation costs (and as a result, 'social inflation') and changes in settlement strategies to protect funders' interests. When asked their views on whether the EU should undertake TPLF regulation or leave it to Member States (given that Poland's proposed transposition of RAD had relatively stringent restrictions), the respondent said 'this should be regulated at the EU level, because RAD will be transposed differently across the EU. We cannot allow litigation funding firms to build a market on the backs of consumers – this would not protect European consumers'.
- In Slovenia, it was reported that noticeably more successful fee arrangements were appearing on the Slovenian market (especially in class actions). It was noted that it was difficult to measure the development of the funding market since there is no statutory obligation to report such finding (except in class actions and arbitrations). The stakeholder noted that courts should have more ability to scrutinise information about funding agreements.

Challenges in gathering data

All companies and law firms surveyed reported significant difficulties in sharing detailed information about examples of funded litigation due to legal privilege and confidentiality concerns.

Similarly, the format of the European Commission's stakeholder survey on TPLF is unlikely to enable the collection of comprehensive data, posing a challenge for respondents across various sectors due to the sensitive nature of litigation funding details and the confidentiality and legal privilege constraints faced by defendants and their legal representatives. Many respondents, including law

firms and corporations, will have faced legal and confidentiality constraints that prevent them from fully disclosing information about their funding arrangements or the specifics of claims they are involved in as either a plaintiff or defendant. Such constraints are exemplified in the survey's detailed inquiries into funding amounts, case outcomes and specific terms of funding agreements. Consequently, the potential lack of response data should not be misconstrued as an indication that TPLF poses no risk to European legal systems. In fact, the absence of detailed data could mask underlying issues and risks associated with TPLF, underscoring the need for alternative approaches to data collection and greater weight being placed on trends and analyses observed in other jurisdictions such as the US, the UK and Australia.

Insights from non-EU countries about unregulated TPLF

While TPLF is not yet commonplace throughout the EU, the UK's experience offers a compelling case for pre-emptive regulatory measures to mitigate the business and societal risks and consequences of unregulated TPLF. According to a recent report by Fair Civil Justice, the UK litigation funding industry, which has £2.2 billion in assets under management,⁸ has significantly influenced legal practices and outcomes, often to the detriment of justice.⁹ Funders in the UK capture a disproportionate share of settlement awards, as exemplified by the 'Post Office case', where funders and advisers took nearly 80% of the settlement, leaving claimants with far less than expected.¹⁰ A number of funders currently operating in the UK are also active across the EU, specifically Burford Capital, Harbour Litigation Funding, Therium, Omni Bridgeway, Woodsford Litigation Funding and Augusta Ventures. These companies are now seeking to achieve similar market growth in the EU. For example, Burford Capital boasts that it invested \$1.3 billion in Europe through 2023,¹¹ and Woodsford Litigation Funding's 2023 survey states 'it is likely that third-party funding will develop over the next few years with the intervention of Continental European and British funders'.¹²

Additionally, TPLF has drawn sharp criticism and calls for regulation in the US, particularly in the context of mass torts and other class actions. Bipartisan legislation to regulate TPLF at the federal level was introduced in September 2023.¹³

While funding non-meritorious claims is not a sound business strategy in the context of single-plaintiff cases, AmCham EU stakeholders have observed changed incentives when cases are aggregated. TPLF can render it profitable to bundle meritorious and non-meritorious claims or even a group of non-meritorious claims alone, given the leverage they can create by increasing the perceived size of a potential loss and the actual costs a defendant would incur to litigate the claims.

Further, TPLF of mass and class claims presents significant public interest concerns by undermining the general rule that the real parties in interest should be before the courts and exacerbating the risk for conflicts. Plaintiffs in these cases may be unnamed or even unknowable, and their stakes may be too small for them to be involved in the management of their counsel, which in itself increases the risk of potential conflicts between lawyer and client. With the addition of TPLF, lawyers' interests are

⁸ Note that this figure only represents the assets of the 15 largest funders. Of the other 56 funders active in the UK, there are no figures available.

⁹ [Establishing Fairness in Litigation Funding](#) (Fair Civil Justice, 2024), p 7.

¹⁰ *Ibid*, p 3.

¹¹ 'Europe', Burford Capital

¹² [Litigation Funding 2023](#), p 71.

¹³ [Protecting Our Courts from Foreign Manipulation Act of 2023](#)

often moved further away from those of clients and instead, closer to those of their funders, whose interests may not align with the plaintiffs’.

In addition, a general lack of adequate transparency around TPLF makes matters worse. Ultimately, plaintiffs’ lawyers target businesses with successful products or services with baseless claims, recruit plaintiffs – often with false or misleading advertising – and force the businesses to incur extraordinary fees to defend against the claims.

Recommendations

The anecdotes and outcomes from non-EU jurisdictions detailed in this position paper demonstrate the urgent need for the EU to establish clear requirements that ensure transparency, fair distribution of awards and protection of all parties involved (such as those that exist in the Netherlands, albeit not well enforced). Critically, the EU must also create a robust regulatory TPLF framework that ensures compliance with these requirements across Member State courts. Such regulation would help to prevent the unchecked expansion of TPLF and protect the integrity of the EU’s legal systems, avoiding the pitfalls observed in the US, the UK and Australia and moderating the risks to society from a growth in aggressive litigation practice. AmCham EU and many other business organisations supported the European Parliament’s legislative own-initiative report on responsible private funding of litigation.¹⁴

The growing influence of TPLF globally and its nascent development across the EU underscore the need for regulation, ensuring transparency and consumer protection. Consumer claimants may be poorly informed about the mechanics and funding of complex class lawsuits and are at the greatest risk of losing out if funders absorb the bulk of any compensation award. Consumers directly impacted by TPLF should be protected and entitled to transparency and appropriate information disclosures, just as they are when they buy or use other types of products or services.

Broader concerns about TPLF include potential economic security risks from external funds, notably from state-run entities outside the EU, which could use funded litigation as a way of misappropriating and infringing other parties’ intellectual property rights.¹⁵ As demonstrated in this position paper, the EU needs fair and robust TPLF rules that benefit all stakeholders, including on the plaintiff side. Putting in place appropriate regulation would not hinder access to justice. Instead, it would help ensure that TPLF supports meritorious claims rather than profit-driven abusive litigation. Further, it would ensure that the industry operates according to high ethical standards with transparency at its core.

Conclusion

Given the uneven, unchecked expansion of TPLF within the EU and the complex risks that it introduces into European justice systems, it is imperative to establish a stringent and harmonised regulatory framework. This framework should ensure transparency, protect the interests of claimants and prevent the potential for litigation abuse. By learning from global experiences and adapting to the unique legal landscape of the EU, it is possible to balance the possible benefits of TPLF – such as increased access to justice – with safeguards that maintain the fairness and integrity of the judicial process. This approach would not only protect litigants but also preserve the overarching values of the EU’s legal systems.

¹⁴ [Joint Statement on Responsible Private Funding of Litigation](#) (June 2022)

¹⁵ [‘With third-party litigation funding on the rise, courts are becoming a venue for politics’](#) (Euronews, 12 April 2024)

The above information about the Dutch experience highlights an urgent need for transparency, as TPLF has escalated litigation costs and influenced litigation dynamics significantly. Similarly, in Portugal, where courts scrutinise funded representative actions, concerns persist about potential conflicts of interest and the potential for litigation to be driven more by financial incentives than genuine consumer advocacy. Extensive consultation with AmCham EU members and its wider network reveal that closer examination of TPLF's growth is necessary to ensure that it is regulated in a consistent way across the Single Market and that unscrupulous funders do not generate revenue on the backs of consumer redress mechanisms and civil justice systems. If the growing TPLF market is left unchecked, the EU would likely not escape the challenges consistently faced by other jurisdictions.

Annex 1 – Details of activities by funder-linked entities in Portugal

An AmCham EU stakeholder has identified that most class actions for the protection of consumer rights in Portugal have been brought by a limited number of entities, which have specialised, to a greater or lesser extent, in this type of litigation. These entities are: Ius Omnibus; Citizens' Voice; Associação de Micro, Pequenas, Médias Empresas Portuguesas (AMPMEP); and Associação Portuguesa para a Defesa do Consumidor (DECO).

Below is an overview of the activity and cases they have filed in Portuguese courts where the AmCham EU stakeholder identified potential TPLF involvement. However, the lack of transparency about funding arrangements makes it impossible to be certain which cases are funded and which are not.

Ius Omnibus

Ius Omnibus is a non-profit consumer defence association with the aim of 'protecting and defending the interests of European consumers in a transparent and swift manner, with the aim of creating a new paradigm of legality and access to justice for all, and putting an end to the civil impunity that companies have enjoyed throughout the European Union when they massively violate consumer rights.'¹⁶

It was founded in March 2020 by Miguel Sousa Ferro, a competition law professor in Portugal who represents Ius Omnibus in the class actions detailed in the table below through Sousa Ferro & Associados, a law firm that he founded in November 2019. Miguel Sousa Ferro has advised the Portuguese Competition Authority in preparing the implementation of Directive 2014/104/EU.

The law firm Sousa Ferro & Associados entered into an agreement with Milberg Coleman Bryson Phillips Grossman, LLP, in November 2021 for the financing of class actions in Portugal and use of the Milberg brand in Portugal. During this partnership, Ius Omnibus proposed several class actions in Portugal that used third-party funding. This partnership was apparently ended in 2022 for reasons that have not been disclosed.

Sousa Ferro & Associados' fees are guaranteed by litigation funding agreements entered into with foreign entities, including in the context of the Milberg partnership. The rationale for these funding entities is based on the financial result arising from the private enforcement proceedings and the award of compensation decided by the court judging the class action in question. Their court documents provide details on the funding arrangements.

However, provisions applicable to class actions – and underlying principles – presuppose that the right of action is exercised for the protection of diffuse interests. It has been alleged in the press that the relationship between the funding entities and Ius Omnibus prevent the exclusive pursuit of such purpose.

¹⁶ More information on Ius Omnibus' website: <https://iusomnibus.eu/pt/missao-e-valores/>

Objectives that deviate from the class action legal framework previously described may have an impact on lus Omnibus' legal standing, as there is a risk that this association is not independent from its private funders. This risk arises for several reasons, explained below.

AmCham EU stakeholder did not have access to information on the use of TPLF by lus Omnibus in each of class actions proposed, as desegregated information on this matter is not publicly available.

Table 1– Class actions initiated by lus Omnibus

Summary	Parties	Status
<p>Cogeco Communications proposed a class action against Sport TV, alleging abuse of its dominance in relation to sports broadcasting rights.</p> <p>This case was brought by Sousa Ferro under the umbrella of Observatório da Concorrência (AntiTrust Observer) before the creation of lus Omnibus.</p>	Cogeco vs Sport TV Portugal SA, Controlinveste-SGPS SA, NOS-SGPS SA	Closed. The right to compensation was time barred.
Class action alleging anticompetitive practices by Sony with regard to PlayStation.	lus Omnibus v. Sony (PlayStation)	Pending
Class action alleging misleading commercial practices and inappropriate processing of personal data.	lus Omnibus v. TikTok	Pending
Class action alleging unlawful sharing of sensitive personal and healthcare information.	lus Omnibus v. Flo Health, Inc.	Pending
Class action alleging anticompetitive practices by Apple in the provision of its services.	lus Omnibus v. Apple (App Store)	Pending
Action alleging anticompetitive practices by Google in the provision of its services.	lus Omnibus vs. Google (Play Store)	Pending
Seven separate actions against companies identified by lus Omnibus as having allegedly not acquired and made available the Electronic Complaints Book to Portuguese consumers.	lus Omnibus vs. Apple; Showroomprivé; Airbnb; Spartoo; ContextLogic (Wish); Gamezone (Mega-Mania); Infinite Styles (Shein)	Pending
Action related to alleged cartel behaviour in relation to mobile communications services.	lus Omnibus v. MEO/Nowo	Pending
Action relating to cosmetic products advertising.	lus Omnibus vs. Estée Lauder (Clinique)	Pending

Summary	Parties	Status
Class action related to the use of cookies and tracking technologies.	Ius Omnibus vs. PubMatic	Pending
Action alleging unlawful practices concerning the transmission of information and misleading advertising about the liquid resistance of iPhones.	Ius Omnibus v. Apple	Pending
Action alleging abuse of dominant position in the secondary regulation band market of the electricity system in mainland Portugal.	Ius Omnibus v. EDP	Pending
Action alleging price fixing in the market for the provision of surveying services.	Ius Omnibus v. ANT	Pending
Eight actions seeking disclosure of documents linked to alleged anticompetitive practices relating to the merchandising of films and television programmes. If successful, Ius Omnibus would be able to bring a popular action to seek compensation for Portuguese consumers who have allegedly been harmed.	Ius Omnibus v. Comcast/Universal Studios	Pending
Class action seeking compensation in relation to the use of illegal handling devices in light vehicles with diesel engines.	Ius Omnibus v. Stellantis/Fiat Chrysler Automobiles	Pending
Class action seeking compensation in relation to the use of illegal handling devices in light vehicles with diesel engines.	Ius Omnibus vs. Daimler/Mercedes-Benz	Pending
Class action seeking compensation for the alleged implementation of vertical practices that differentiate between consumers on the basis of their nationality or place of residence.	Ius Omnibus v. Meliá	Pending
Follow-on class action seeking €400 million compensation (corresponding to an average compensation of €40 to each affected consumer) for all Portuguese consumers harmed by alleged anti-competitive practices (resale price maintenance on distributors).	Ius Omnibus v. Super Bock	Pending
Follow-on class action seeking compensation for all Portuguese consumers allegedly affected by card transaction pricing.	Ius Omnibus v. Mastercard	Pending
Class actions alleging the unlawful exchange of confidential information in the markets for mortgage credit and business loans.	Ius Omnibus vs. Caixa Geral de Depósitos (CGD), BCP, Santander, BPI, BPN/BIC, BES, Barclays, Montepio,	Pending

Summary	Parties	Status
	União de Créditos Imobiliários, Crédito Agrícola	

AMPMEP

AMPMEP has proposed another class action against most banks with operation in Portugal regarding damages to micro, small and medium enterprises, following an alleged infringement of competition law by those banks investigated by the Portuguese Competition Authority. This action seems to have been coordinated with another case brought on the same facts by Lus Omnibus