

Report on the conference on „Third party litigation funding – a necessity or deterrence of Justice?“ on 10.12.2021

On Friday, December 10, 2021, a conference on “Third party litigation funding – a necessity or deterrence of Justice?” was held, focusing in particular on the Directive (EU) 2020/1828 on representative actions for the protection of consumers’ collective interests (“*Collective Redress*”) and on the practical handling of the third-party litigation funding issue. The online event was **hosted by the Austrian Hub of the ELI** and moderated by **Univ.-Prof. Dr. Susanne Augenhofer, LL.M. (Yale), co-chair Austrian Hub**. The keynote address was given by **Prof. Judith Resnik, Yale Law School** on the topic “The Need for and the Challenges of collective redress”. In addition, numerous representatives from academia and practice spoke on the topic of third-party litigation funding. Besides Prof. Dr. Augenhofer, the other two chairpersons **Univ.-Prof. Dr. Christian Koller, University of Vienna, co-chair Austrian Hub**, and **Univ.-Prof. Dr. Walter Doralt, University of Graz, co-chair Austrian Hub**, took part in the conference on behalf of the Austrian Hub. After a welcoming speech by Univ.-Prof. Dr. Augenhofer, the conference was officially opened by Univ.-Prof. Dr. Doralt.

The conference began with an introduction to the regulatory content of Directive (EU) 2020/1828 by Univ.-Prof. Dr. Susanne Augenhofer.

Afterwards, Prof. Judith Resnik gave a keynote address on the “The Need for and the Challenges of collective redress”, in which she provided the participants with exciting and informative insights into the legal practice of third-party litigation funding in the USA.

Prof. Dr. Astrid Stadler, University of Konstanz, then took a closer look at how Directive (EU) 2020/1828 addresses the issue in detail. In this context, she noted particularly that according to the systematics of this Directive, the right to finance legal costs by third parties is restricted to non-profit consumer organizations (“*qualified entities*”).

Dr. Wolf v. Bernuth, Hausfeld, and **Dr. Alexander Klausner, bkp attorneys at law**, provided insightful contributions from practice, presenting the practical handling of third-party litigation funding from the perspective of German and Austrian legal application. Dr. Wolf v. Bernuth stated that the German legislator has generally had a positive outlook on third-party litigation funding at least since the “*VW diesel scandal*”, a fact which is also reflected in the Legal Services Act (“*Rechtsdienstleistungsgesetz*”), which regulates the authority to provide extrajudicial legal

services in Germany. Dr. Klausner stated that third-party litigation funding is often an absolute necessity in practice, as Austria probably has the highest litigation costs in the area of civil court proceedings within Europe.

The conference ended with a roundtable discussion with renowned representatives of various stakeholders (**Sabine Eichner**, Omni Bridgeway; **Dr. Petra Leupold, LL.M. (UCLA)**, VKI/University of Linz; **Augusta Maciuleviciute**, BEUC; **Prof. Giorgio Monti**, Tilburg Law School/EUI; **Malgorzata Posnow-Wurm**, EC, DG Justice and Consumers; **Prof. Maya Steinitz**, University of Iowa College of Law), during which a broad exchange of knowledge took place, and in the course of which new solutions and approaches to third-party litigation funding in Europe were discussed with the active participation of the conference participants.

(Julian Nigg)

