

Report on the conference „Class and Aggregate Litigation in Europe and North America”



From July 8th to July 9th, 2022, the conference “Class and Aggregate Litigation in Europe and North America” took place at the Villa La Pietra (NYU) in Florence, Italy. The event was initiated and co-organized by Univ. Prof. Dr. Susanne Augenhofer, LL.M. (Yale) as a member of the ELI Austrian Hub,

together with the NYU School of Law. Among the attendees were many high ranking academics, judges, and practitioners from both sides of the Atlantic. This exceptional group of participants brought many years of experience and an incredible expertise to the conference.

The attendees discussed the *status quo* of collective redress in the United States and the European Union, recent developments in both jurisdictions and the hurdles people face regarding access to justice. The first day of discussion included panels focusing mainly on the U.S., with special focus on the current legal framework in North America and on two of the most prominent cases (VW and opioids). The panels were moderated by Arthur Miller (Professor of Law at NYU School of Law, Center on Civil Justice), Troy McKenzie (Dean of NYU School of Law and Cecelia Goetz Professor of Law) and Sam Issacharoff (NYU School of Law, Bonnie and Richard Reiss Professor of Constitutional Law). Their discussion partners each gave highly interesting insights on various legal matters, such as the use of multi-district litigation (MDLs) and settlement agreements in practice in the U.S. Participants included Judge Michelle J. Childs (U.S. District Judge, District of South Carolina) and Judge Paul J. Watford (U.S. Court of Appeals, Ninth Circuit), Professor Myriam Gilles (Paul R. Verkuil Chair in Public Law, Cardozo School of Law) and Anthony Maton (Global Co-Chair, Hausfeld LLP), to mention only a few. On the second day, the conference switched its focus to the European side of aggregate litigation and to consumer contracts: the recently adopted Representative Actions Directive (EU) 2020/1828, which introduces for the first time a system that allows for qualified entities to sue for compensation on behalf of consumers and its main innovations as well as shortcomings were discussed in a panel moderated by Professor Augenhofer.

Discussion partners in the panel included Beate Gsell (Professor of Law at LMU Munich and Judge at the Munich Higher Regional Court), Judge Remo Caponi (Italian Supreme Court) and Ursula Pachl (Deputy Director General, BEUC). The conference was concluded by a panel in which the group analyzed the controversial topic of third-party litigation funding. Brian T. Fitzpatrick (Milton R. Underwood Chair in Free Enterprise, Vanderbilt Law School) discussed potential possibilities and dangers of third-party litigation funding with Anthony Sebok (Professor of Law, Cardozo School of Law) and Ianika Tzankova (Full Professor of Global Dispute Resolution and Mass Claims, Tilburg University) – among others.



During, after and in between the panels, the attendees engaged in lively formal and informal discussions that brought up further issues, e.g., the historical developments of collective redress in the U.S. and the EU or the cultural differences between the two continents, which might have played and continue to play an important role in the development of mass litigation.

We would like to thank all the participants for attending this special conference and engaging in lively and fruitful discussions!

