

# **ACCESS TO JUSTICE**

## **ALTERNATIVES IN FINANCING LITIGATION**



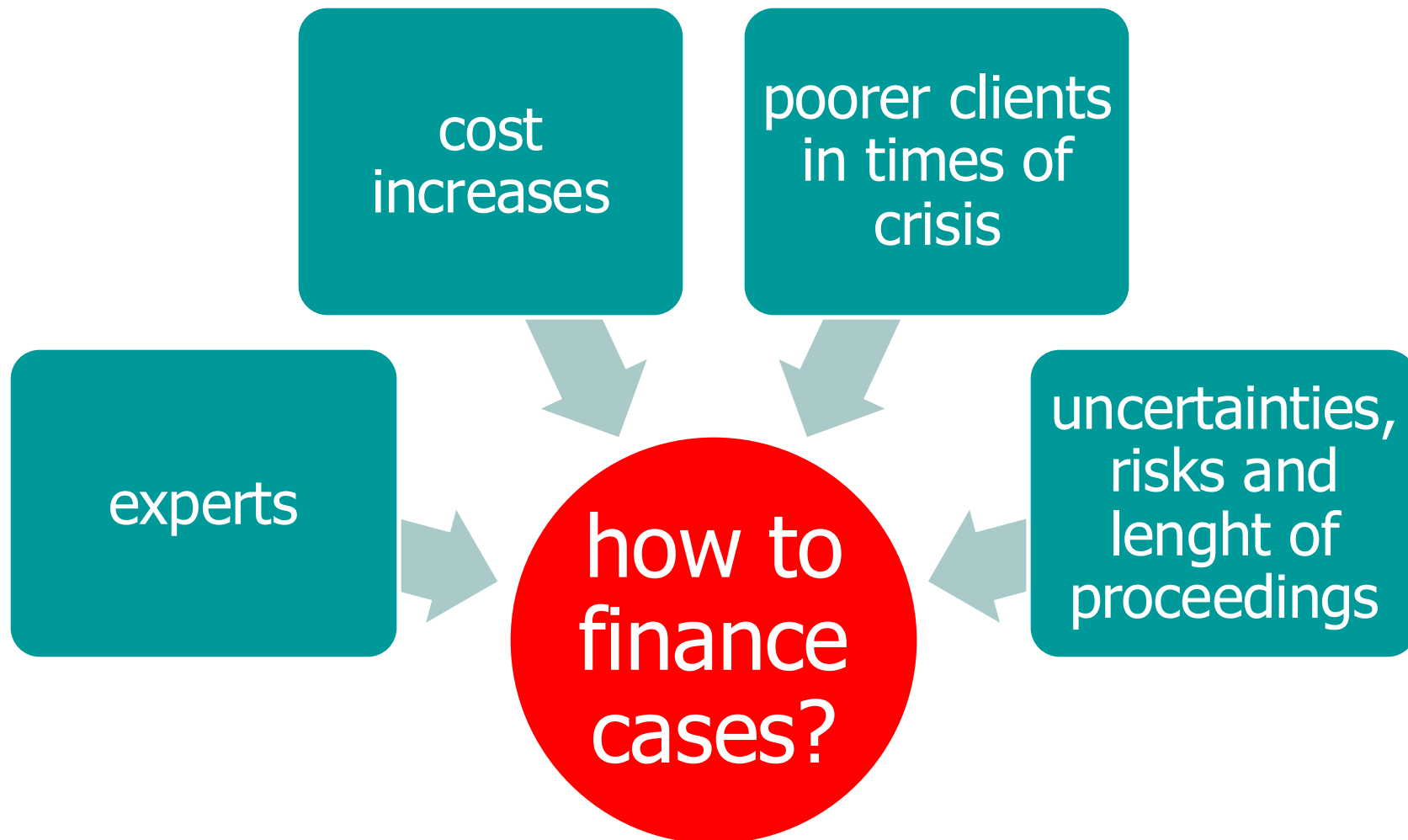
**Avv. Marco Bona**  
**Brussels, 26 September 2025**

# Introduction

## litigation funding

- ❖ as an issue concerning **access to justice**
- ❖ as an issue of **competition** between  
independent lawyers/law firms and other  
subjects
- ❖ as an issues of **policy of law**

# ACCESS TO JUSTICE



# ACCESS TO JUSTICE

**FINANCIAL SUPPORT:**

**IT MAY ALSO COVER LAWYERS' FEES**



# ACCESS TO JUSTICE

**NO FINANCIAL SUPPORT = NO CLAIM**

**FINANCIAL SUPPORT = IMPACT ON COMPENSATION (DEDUCTIONS)**

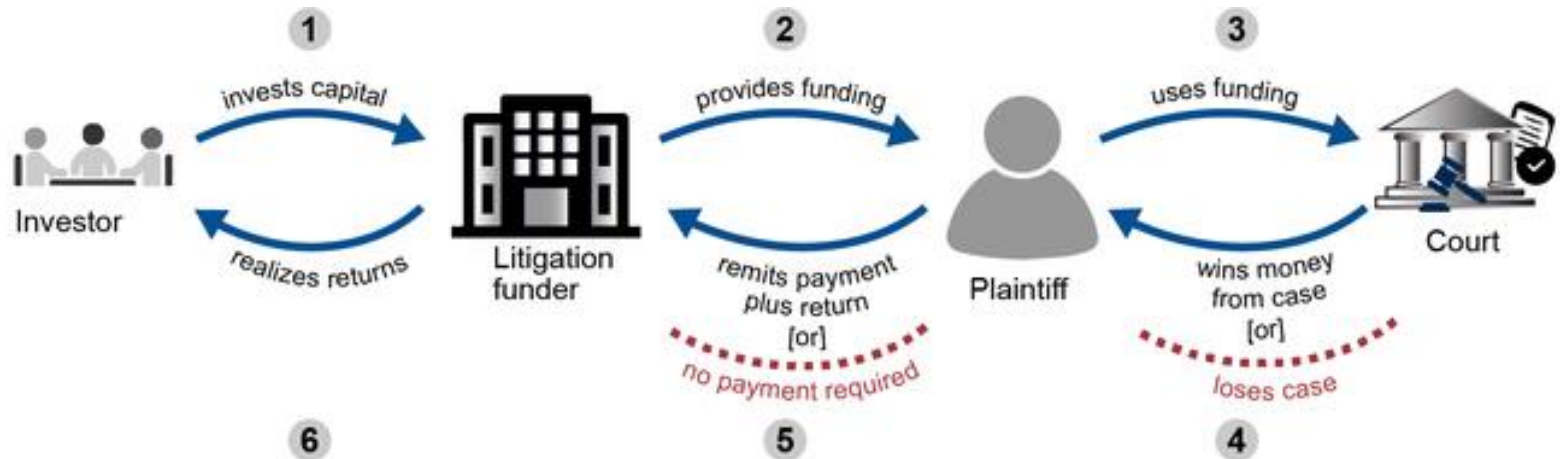
**goal:**

**fair balance between financial support (=access to justice) and transaction costs (= less compensation)**



# ACCESS TO JUSTICE

## TRANSACTION COSTS: Third Party Litigation Funding, fair balance?



Source: GAO. | GAO-23-105210

# SOURCES/COMPETITION

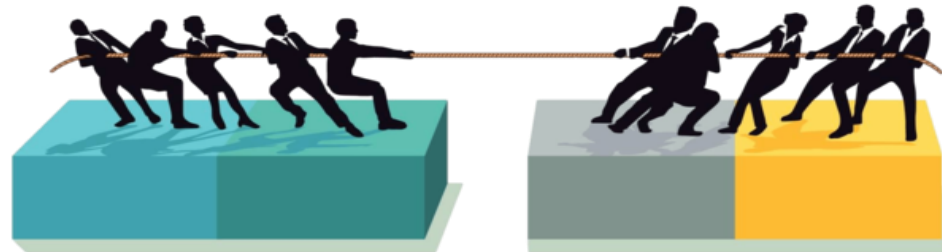
## SOURCES OF FINANCIAL SUPPORT FOR INJURED PARTIES' CLAIMS:

- ❖ **State legal aid (... everywhere insufficient and non attractive for lawyers)**
- ❖ **lawyers' & experts' self-funding (no win, no fees; contingency fees as remuneration for risks and advance payments of costs; pro bono work/marketing)**
- ❖ **consumers/victims organizations and trade unions: potential ally or competitor?**
  - ❖ **insurers: legal expenses insurance (LEI) and ATE insurance**
  - ❖ **banks and agencies: litigation loans**
  - ❖ **claims management companies ("*società infortunistiche*"), potential ally or competitor?**
- ❖ **third party funders (other than above subjects: see European Commission DG Justice and Consumers, *Mapping Third Party Litigation Funding in the European Union*, 2025)**

# POLICY OF LAW

**AVAILABILITY OF LITIGATION FUNDING = MORE  
LITIGATION (OR MORE JUSTICE)**

**STATES AND SERIAL DEFENDANTS VS JUDICIAL  
PROCEEDINGS = JUDICIAL REFORMS**





# POLICY OF LAW

## THIRD PARTY FUNDING

European Commission DG Justice and Consumers, "*Mapping Third Party Litigation Funding in the European Union*", 2025

### Hot topics under debate:

- ❖ **Permissibility and qualification of TPLF**
- ❖ **Undue control of funders over the proceedings**
  - ❖ **Conflicts of interest Transparency and disclosure**
  - ❖ **Need for regulation**

# POLICY OF LAW

## **Directive (EU) 2020/1828 of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (RAD)**

### *Article 10*

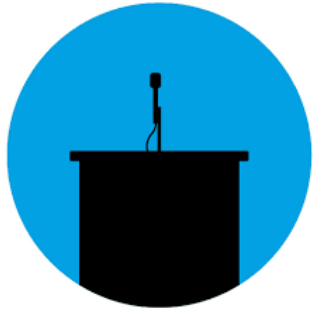
#### **Funding of representative actions for redress measures**

1. Member States shall ensure that, where a representative action for redress measures is funded by a third party, insofar as allowed in accordance with national law, conflicts of interests are prevented and that funding by third parties that have an economic interest in the bringing or the outcome of the representative action for redress measures does not divert the representative action away from the protection of the collective interests of consumers.
2. For the purposes of paragraph 1, Member States shall in particular ensure that:
  - (a) the decisions of qualified entities in the context of a representative action, including decisions on settlement, are not unduly influenced by a third party in a manner that would be detrimental to the collective interests of the consumers concerned by the representative action;
  - (b) the representative action is not brought against a defendant that is a competitor of the funding provider or against a defendant on which the funding provider is dependent.



# Time for your questions!

DEBATE



Thank you for your attention

I ♥ Debating



Join the debate



THANKS!

