

**2024 Insurance Sector Group
Webinar Programme**

European Claims: Litigation trends and strategies

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What we will cover

01 Claims Trends

- Insurance disputes
- Professional negligence claims
- Class actions
- Litigation funding

02 Strategies

- Defending claims
- Settling claims
- Exercising costs control
- Effective monitoring of proceedings



1 Claims Trends

Insurance disputes

UK

- Russian aviation insurance disputes
- Covid-19 business interruption losses

Netherlands

- Interpretation of insurance contracts
- Two months notification period after discovery of non-disclosure

Spain

- Limitative clauses
- Article 20 of the Spanish Insurance Act on late interests



Italy

- Life insurance disputes (unit and index linked policies);
- Potential trends: natural disasters and catastrophic events

Belgium

- Life insurance disputes : extent of the liability of the insurer vs. liability of the insurance intermediary
- Natural disaster claims following massive floods (July 2021)
- Potential trend: increase of D&O cases

Professional negligence claims

UK

- Impact of inflation on claims values and costs
- Introduction of the Building Safety Act

Netherlands

- Tax advisors
- Introduction of the *Wet Kwaliteitsborging voor het bouwen*

Spain

- Medmal: not only professional negligence policies involved. Also, private health insurance policies
- Claims against lawyers and court agents

Italy

- Superbonus disputes
- Medical malpractice: introduction of Decree no. 232/2023

Belgium

- Potential impact of new book 6 of the Belgian civil code

Class action

UK

- Significant growth in competition class actions
- Increasing number of event driven securities actions

Netherlands

- Litigation about admissibility of claims
- Increasing number of ESG related class actions to be expected

Spain

- No claims in the past
- Very strict requirements
- New Law to be passed out in 4Q 2024

Italy

- Class action as regulated by the Italian Law
- Potential increase in litigation

Belgium

- Still limited use of genuine class actions in Belgium (just beyond 10 cases – consumers' cases) vs. collective actions (i.e. related actions)
- Recent extension of the scope : aggrieved financial investors may now act through class actions

Litigation funding

UK

- Uncertainty about litigation funding following Supreme Court decision in PACCAR
- Legislative reform on the horizon

Netherlands

- Class actions
- Legislative reform on the horizon

Spain

- Active and growing market
- Increasing number in anti-trust private enforcement cases
- Not precedents yet known in insurance related matters

Italy

- Practice and development of litigation funding in Italy
- Deontological criticisms

Belgium

- Uncertainty about litigation funding as no case law available
- Limited use of litigation funding as legal costs are quite low compared to other jurisdictions
- Deontological criticisms – recent recommendations of the Dutch speaking bars of Belgium (“OVB”)



2 Strategies

Defending claims

UK

- Strike out, summary judgment and security for costs applications
- Factual, expert and documentary evidence

Netherlands

- No pre-action protocols
- Disclosure obligations
- Battle of experts

Belgium

- Summary proceedings
- Factual and documentary evidence
- No disclosure obligations but forced production of evidence possible

Italy

- Factual and documentary evidence
- No disclosure obligation

Spain

- Disclosure obligations not mandatory: sought by means of counterparty's or third parties production of evidence
- Relevance of experts' cross examination (even joint cross-examination)
- Third party action against insurers

Settling claims

UK

- Alternative Dispute Resolution
- Part 36 and Calderbank offers

Italy

- ADR and the impact of the Cartabia reform.
- Arbitration for insurance disputes on the horizon.

Netherlands

- Alternative Dispute Resolution
- Active judges

Spain

- Direct negotiation as most standard way to settle
- Out of Court mediation incentivized by the Courts themselves

Belgium

- Alternative Dispute Resolution on the rise
- Courts increasingly active and referring to mediation
- Out of court or in court mediation

Costs control



Negotiate rates



Agree litigation
management terms



Request
estimates/budgets



Focus on pre-action
stage



Monitoring proceedings

Availability of court orders and pleadings

Access to other information

Agree protocols with defence counsel

Regular calls with defence counsel



3 Questions?

Upcoming webinars

Main trends and traps when handling professional indemnity claims (European and not European jurisdictions)

Wednesday 11 September, 11.00 CET/12:00 UK

PI Construction

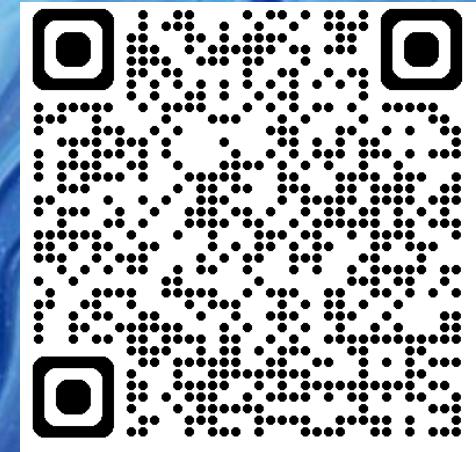
Thursday 17 October, 11.00 CET/12:00 UK

Claims handling

Wednesday 6 November, 10.00 CET/09:00 UK

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