



# IAPP Europe **Data Protection Congress 2025**

Training 17-18 November

Workshops 18 November

Conference **19-20 November**

**BRUSSELS**

**#DPC25**

# GDPR Mass Litigation

#DPC25



# Speaker



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# Agenda

- I. Mass litigation and data privacy
- II. Practical examples
- III. Key takeaways

# I. Mass litigation and data privacy

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# GDPR litigation mechanisms in the EEA

Actions under  
Representative  
Actions  
Directive

Test cases

Mass litigation

# Parallel proceedings



## Forum shopping

- In civil proceedings
- One-stop-shop as possible defensive mechanism in DPA proceedings



## Tactics of plaintiff's counsels

- Obtain decisions from various courts
- Drive proceedings where the most favorable legal opinion is adjudicated



## Great effort & costs for defendants

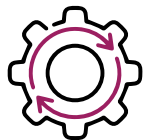
- Many different (district) courts
- Often only rudimentary prior knowledge of data protection law



## Parallel nature of

- civil court proceedings and complaint proceedings before the DPA - with obligation to cooperate
- official examination procedure before the DPA - with publication by the DPA

# Efficiency in handling mass litigations



- Need for automation
- 



- Challenges:
  - Identification of differences in several complaints / lawsuits
  - Preparation of statements / responses to complaints
  - Submission tracking of different procedural and strategic contexts
  - DSAR information gathering strategy by plaintiffs / claimants

# The new burden-of-proof rules by the CJEU

Decision	Burden of proof with the plaintiff	Burden of proof with the defendant
<b>MediaMarkt Saturn</b> (CJEU C-687/21, 25 January 2024)	<ul style="list-style-type: none"><li>• Violation of the GDPR (para 45)</li><li>• "Non-material damage" requires a justified fear that data could be abused - purely hypothetical scenarios are not enough (para 69)</li></ul>	<ul style="list-style-type: none"><li>• Implementation of appropriate security measures (para 43)</li></ul>
<b>KV Nordrhein</b> (CJEU C-667/21, 21 January 2023)		<ul style="list-style-type: none"><li>• Lack of fault (para 96)</li></ul>
<b>Natsionalna agentsia za prihodite</b> (CJEU C-340/21, 14 December 2023)	<ul style="list-style-type: none"><li>• Occurrence of non-material damage (para 84)</li></ul>	<ul style="list-style-type: none"><li>• Security measures were appropriate (para 52)</li><li>• Lack of causality between GDPR violation and damages (para 72)</li></ul>

# The new burden-of-proof rules by the CJEU



## Prerequisites for liability

- 1 Damage
- 2 Causation
- 3 Unlawfulness
- 4 Fault



## Burden of proof

Plaintiff

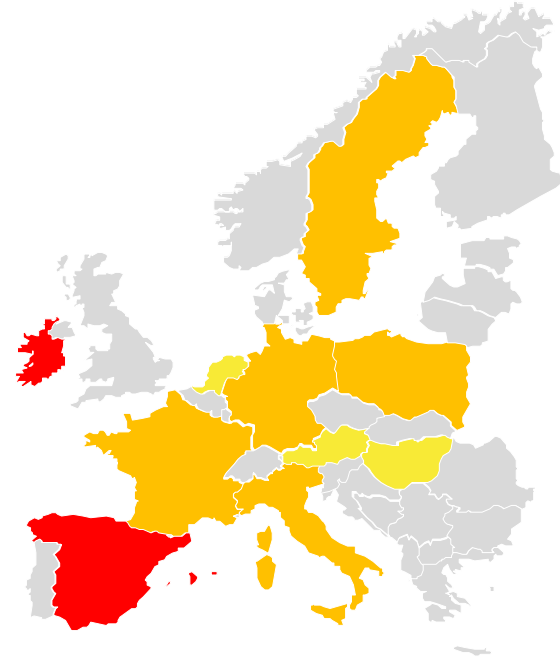
Defendant (at least for a data breach)

Defendant (at least for TOMs)

Defendant

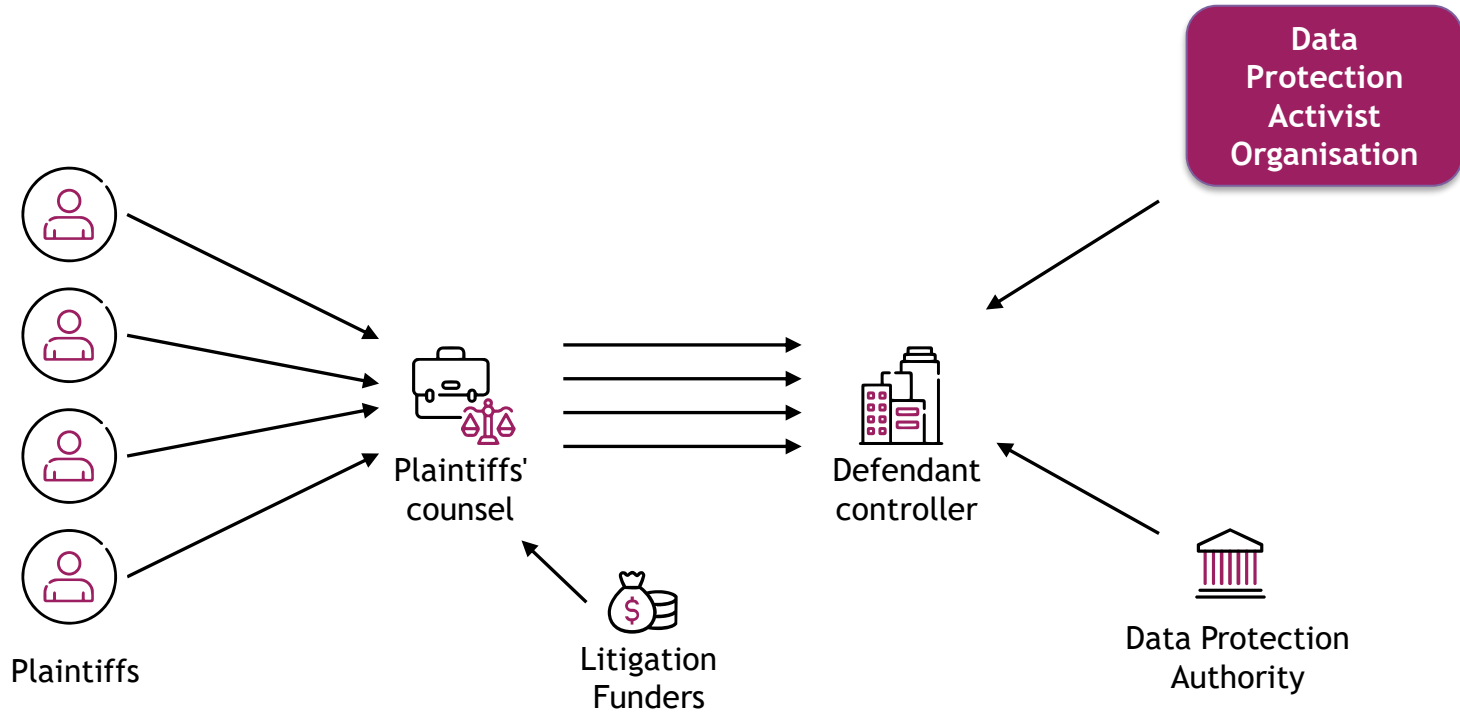
# Immateral damages awarded in practice

	From (EUR)	To (EUR)
Austria	500	2,000
Belgium	250	5,000
France	5,000	6,000
Germany	100	5,000
Hungary	500	2,000
Italy	500	5,000
Ireland	2,000	7,500
Netherlands	250	2,500
Poland	100	4,500
Spain	700	10,000
Sweden	300	5,000

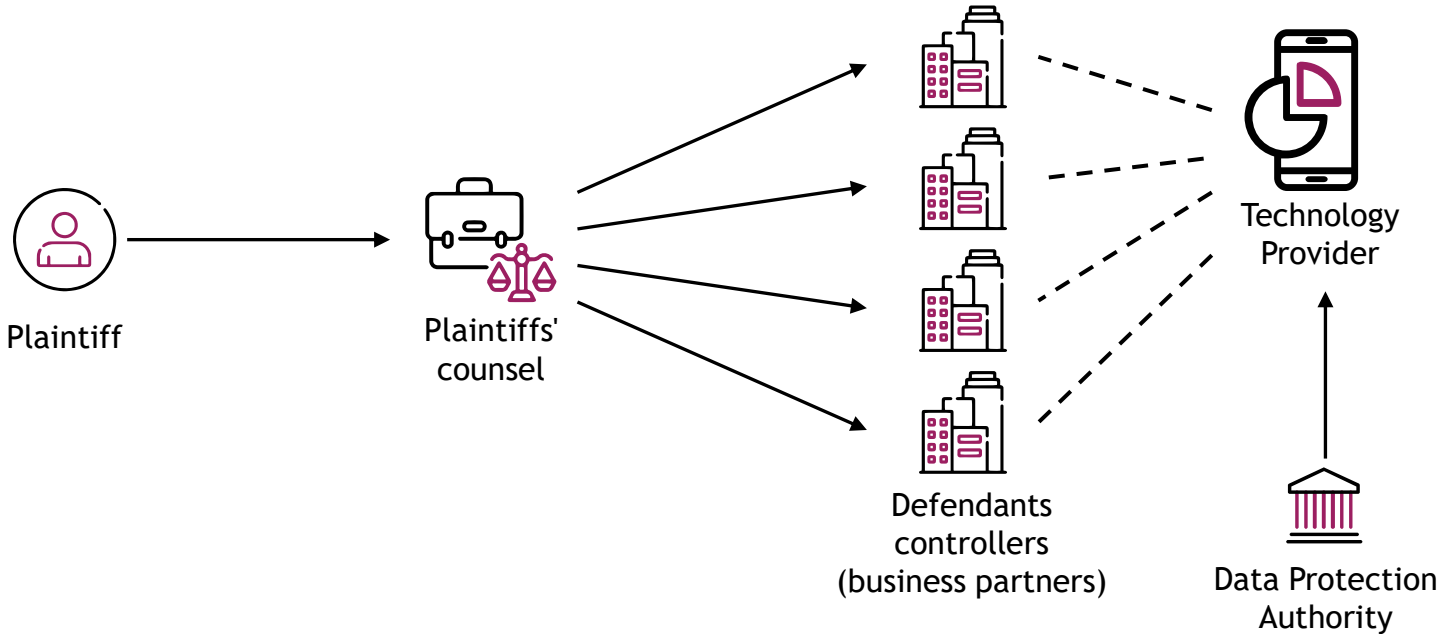


## II. Practical examples of GDPR mass litigations

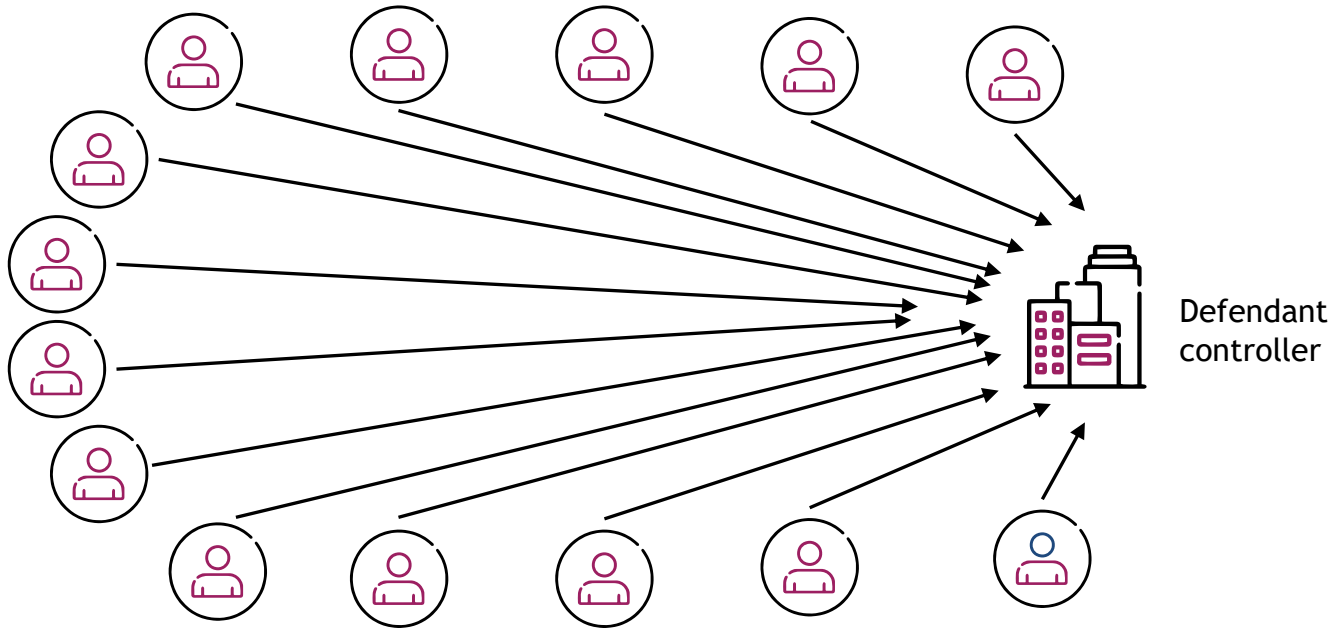
# Case study – Many plaintiffs, one plaintiffs' counsel



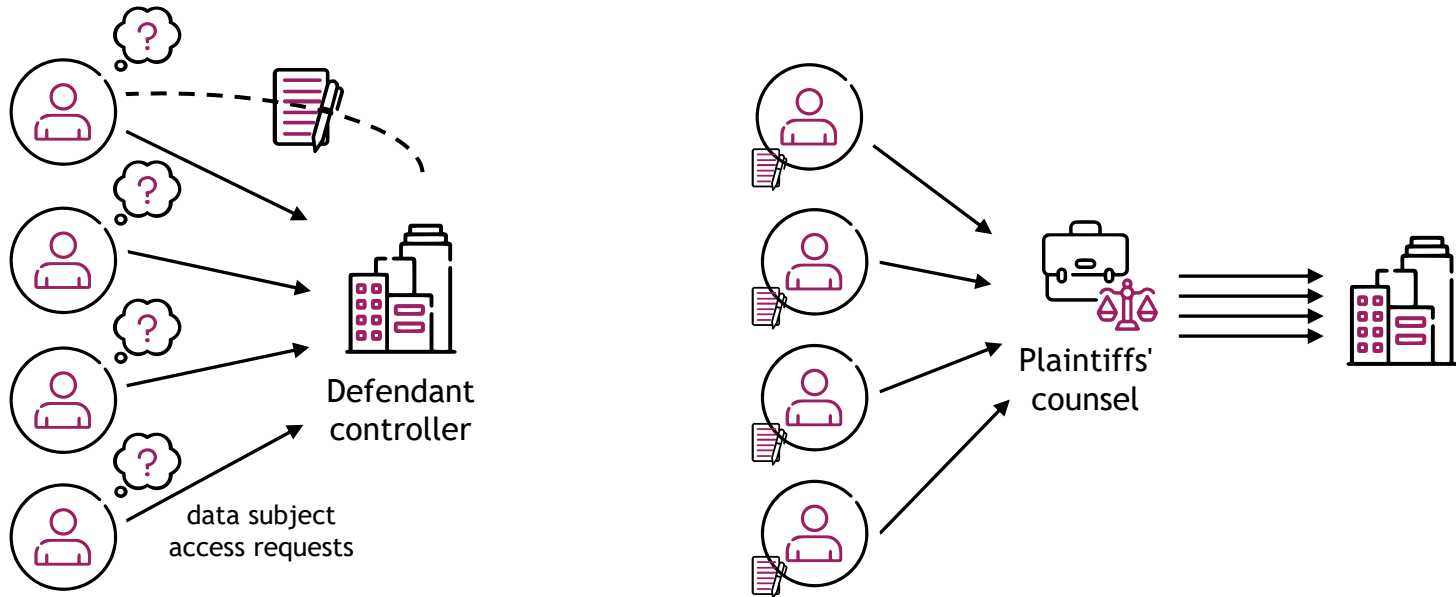
# Case study – One plaintiff, many defendants



# Case study – Mass complaints from the (disgruntled) population



# Case study – DSARs to obtain information for subsequent litigation



# III. Key takeaways

# Mass damages claims



Parallel nature of the individual administrative and judicial proceedings? Burden of proof in individual cases



Any binding effect of final DPA decisions on civil courts to be considered



Litigation efficiency



Public communication strategy

# RESOURCE LIST



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