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The Rise of Collective Actions and the Risk to Portugal's Economy

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FOREWORD BY PAULO PORTAS

Portugal's economic transformation over the past decade has been substantial. Through investment in human capital, openness to foreign direct investment, and a serious commitment to digitalisation, Portugal has repositioned itself as a more competitive and more attractive destination for innovation and internationally mobile capital.

That progress depends on more than tax incentives or economic strategy. It also depends on legal predictability, regulatory stability and investor confidence. These are not secondary considerations. They are part of the environment that makes investment possible in the first place.

This policy brief from the European Centre for International Political Economy addresses an issue that now deserves much closer attention in that context: the growth of collective actions and the expanding role of third-party litigation funding in Portugal. The point of the analysis is not to question access to justice or consumer protection. It is to assess whether the current trajectory is serving Portugal's wider economic interests, and whether the consequences are being properly understood.

The findings are clear. Portugal has become one of the most active jurisdictions in Europe for mass litigation, with collective actions concentrated in sectors such as information and communication technology, manufacturing and digital services. These are precisely the sectors Portugal has worked hard to strengthen and attract. The evidence presented here shows that the rise in litigation is being driven less by any increased consumer harm or product malfunction than by legal incentives and the growing role of professional litigation funders. Many of those funding structures also lack meaningful transparency, creating scope for unfair competition abuses and making it harder to assess whose interests are really being advanced.

That matters because Portugal's economic future depends in significant part on its ability to attract and retain mobile investment. Legal unpredictability affects that directly. When companies in high-value sectors face concentrated and financially motivated litigation risk, investment decisions change. Businesses become more cautious. Capital becomes harder to secure. Innovation is affected.

The paper also underlines the significance of the revised EU Product Liability Directive in the mass litigation landscape. By extending strict liability explicitly to software, AI systems and digital services and lowering evidentiary barriers for claimants, the Directive introduces far-reaching changes that will create additional legal uncertainty, raise the potential for meritless claims and intensify litigation risk in a market that is already favourable to collective actions. How Portugal implements this Directive will therefore matter a great deal, not only for consumers but also for the companies driving the country's digital transition.

The issue is one of balance. Collective redress serves a legitimate purpose. Consumers must have effective remedies where harm has occurred. But a system that promotes the non-voluntary or uninformed recruitment of claimants sits uneasily with basic principles of individual freedom and informed choice. When those mechanisms become a vehicle for financially driven litigation that

is increasingly detached from actual harm, the costs do not stay within the legal system. They are felt in lower investment, weaker incentives for research and development, and a less attractive business environment.

This is why the debate should not remain confined to legal specialists. The economic effects of mass litigation are too significant for that. Portugal has made real progress in building a more competitive economy. It should ensure that implementation of the PLD is balanced and take steps to control litigation funding in order to prevent the inequities of mass litigation from undermining its economic progress.

This report is a timely contribution to an important policy debate. It brings useful evidence to an issue that needs more serious attention, and it should help inform the choices that Portugal and Europe now face.

Paulo Portas

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EXECUTIVE SUMMARY

Over the past decade, Portugal has systematically transformed its economy, moving away from traditional sectors to build a tech-intensive knowledge economy. This deliberate strategy relies on regulatory stability and predictability to attract high-value Foreign Direct Investment (FDI). However, a fundamental tension has now emerged that threatens this progress: Portugal has rapidly become a highly attractive jurisdiction for collective actions. This report examines how the country's emergence as a major European hub for mass litigation fundamentally contradicts its economic ambitions and jeopardises its digital transition.

This surge in mass litigation is facilitated by a unique, claimant-friendly procedural framework that currently ranks as the second most open regime in the EU. As a result, Portugal has experienced one of the fastest growth rates in case volume across Europe. For a 'catch-up innovator' that is still building its technological resilience, this rapid expansion of legal risk is particularly dangerous, as it directly deters the foreign capital required to sustain its economic trajectory.

This permissive legal environment could be significantly amplified. The revised EU Product Liability Directive (PLD) acts as a powerful multiplier within Portugal's expanding litigation ecosystem. By explicitly bringing software, digital services, and AI systems under the scope of strict liability and lowering evidentiary barriers, the PLD concentrates new, highly unpredictable legal risks squarely on the digital economy.

The empirical analysis in this report quantifies the scale and direction of this threat, revealing four critical findings:

- **Sectoral Targeting:** Mass litigation in Portugal is not evenly distributed; it disproportionately hits the strategic sectors that are the engines of the country's growth. Between 2018 and 2025, the Information and Communication Technology (ICT) sector faced the highest volume of collective actions (29 per cent of all cases), followed closely by manufacturing (26 per cent). This litigation directly targets the primary providers of FDI in Portugal.
- **Impact on GDP:** The aggregate cost of private enforcement through collective actions could impose a heavy drag on national output. Scenario analysis estimates that the absolute economic impact of this litigation burden could reach between EUR 640 million and EUR 1.93 billion, representing up to 0.63 per cent of Portugal's GDP.
- **Impact on Innovation:** Excessive litigation distorts and depresses research and development. The chilling effect on innovation is highly quantifiable: the projected decline in market capitalisation for Portugal's top R&D investors, resulting from heightened litigation risk, is estimated at between EUR 63 million and EUR 188 million.
- **The Decoupling from Harm:** The surge in litigation is a supply-side phenomenon driven by financial incentives, rather than a demand-side response to product malfunction. The data shows a clear decoupling from actual consumer harm, evidenced by consistently low product-safety alerts and consumer confidence levels that remain above the EU average.

As a 'catch-up innovator', Portugal remains highly sensitive to regulatory shocks. The fear of aggressive mass litigation could act as a significant deterrent to the foreign capital required to sustain its economic trajectory. This unpredictable liability environment risks unravelling Portugal's digital transition and chilling future investment. The careful implementation of the PLD – which must be designed to avoid acting as an amplifier for collective actions – is an imperative for Portugal's continued economic development and competitiveness.

1. INTRODUCTION

Portugal stands at a critical juncture in its economic trajectory. Following a decade of deliberate structural reforms, targeted tax incentives, and substantial investments in human capital, the country is successfully pivoting away from traditional industries to build a tech-intensive knowledge economy. As a result, Portugal has become a highly attractive destination for Foreign Direct Investment (FDI), particularly in the Information and Communication Technology (ICT) sector, which serves as the primary engine for its ongoing digital transition.

However, a parallel development in the national legal landscape threatens to undermine these economic gains. Over the last several years, Portugal has rapidly emerged as one of Europe's most active jurisdictions for mass litigation. Driven by a highly permissive procedural framework and the influx of third-party litigation funding, the volume of collective actions has surged. This domestic legal trend is now colliding with the transposition of the revised EU Product Liability Directive (PLD). By bringing software, AI systems, and digital services firmly under the scope of strict liability, the PLD threatens to exponentially increase the legal exposure of the very sectors driving Portugal's modernisation.

To date, debates surrounding the rise of collective actions and the transposition of the PLD have largely been confined to legal circles, focusing on procedural mechanics and consumer rights. The economic consequences of this litigation environment – specifically its capacity to reduce foreign investment, distort research and development, and act as a drag on national output – remain critically underexplored.

The purpose of this study is to bridge that gap. By translating legal dynamics into quantifiable economic impacts, this report provides a comprehensive assessment of how the uncontrolled growth in mass litigation could derail Portugal's economic strategy.

The subsequent chapters build this argument systematically. Chapter 2 examines Portugal's economic strategy and digital transition, setting the stage for Chapter 3, which breaks down the Portuguese legal framework enabling mass litigation. Chapter 4 then analyses the new PLD and the acceleration of collective action, before Chapter 5 maps the empirical landscape to show how mass litigation targets strategic sectors and FDI. Finally, Chapter 6 demonstrates the decoupling of mass litigation from actual consumer harm, leading into Chapter 7, which quantifies the macroeconomic impact of these trends on GDP and innovation.

2. HOW COLLECTIVE ACTION UNDERMINES PORTUGAL'S ECONOMIC STRATEGY

2.1 Portugal's Economic Transformation: From Traditional Sectors to a Tech-Intensive Economy

The Global Financial Crisis and subsequent Euro Area Crisis exposed deep structural vulnerabilities in Portugal, leading to a period of intense economic distress. Between 1995 and 2007, capital inflows were allocated into low-productivity non-tradable sectors, such as retail and construction, rather than more productive tradable sectors. Non-financial corporate debt surged from 81 to 150 per cent of GDP during this period, leaving the economy highly vulnerable to the sudden stop of capital that occurred during the sovereign debt crisis.¹ The subsequent economic recession of 2010-2014, characterised by unpopular budget measures and a downgrade of the country's credit rating, served as a catalyst that forced a fundamental rethink of Portugal's growth model.

The post-crisis strategy has centred on a deliberate policy choice to embed labour and economic policies within a knowledge-economy. A major pillar of this transformation was the rapid improvement in education: the percentage of 30 to 34-year-olds with a university degree more than doubled, rising from 13 in 2000 to 34 per cent in 2019, and Portugal's PISA scores in reading, mathematics, and science eventually surpassed the OECD average.² This upgrading of human capital provided the foundation for a burgeoning ICT sector. As illustrated in Figure 1, the share of employment in the ICT sector expanded from 1.3 to 3.3 per cent,³ and the contribution of ICT services to Portugal's gross value added increased from 3.3 to 4.7 per cent between 2008 and 2023.⁴ At the same time, nominal net turnover in the information and communication sector – a core component of the broader ICT sector – surged from 14 billion to 24 billion euros between 2008 and 2024,⁵ while the number of Portuguese SMEs operating in this field surged by 139 per cent, growing from 15,800 to 37,724.⁶

¹ Reis, R. (2013). 'The Portuguese Slump and Crash and the Euro Crisis.' Brookings Papers on Economic Activity, 143-210. Available at: <https://www.brookings.edu/articles/the-portuguese-slump-and-crash-and-the-euro-crisis/>

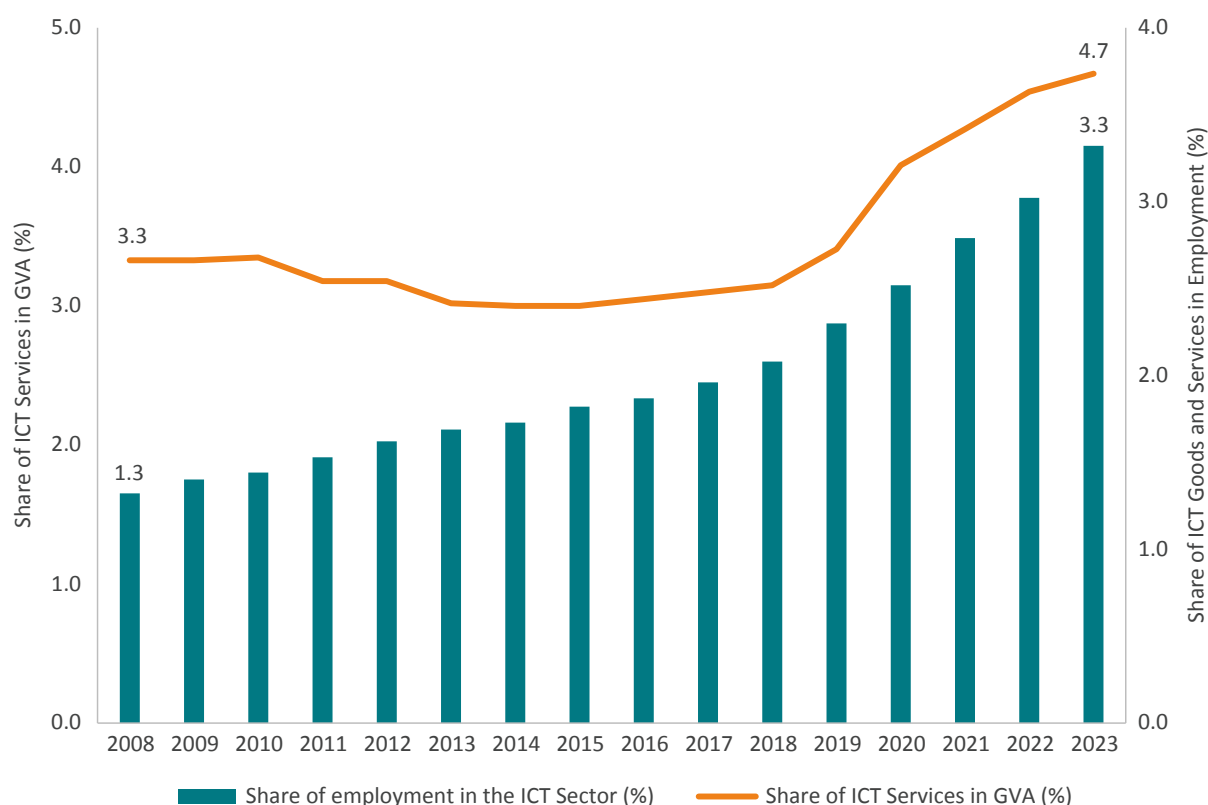
² Marques, P., & Videira, P. (2026). Aligning active labor market policies with national growth strategies: a comparative study of Portugal and Spain. *Journal of Public Policy*, 1–29. doi:10.1017/S0143814X25100949

³ Eurostat. (2026). Percentage of the ICT sector personnel in total employment [Data set]. Available at: https://doi.org/10.2908/ISOC_BDE15AP

⁴ Eurostat. (2026). Percentage of the ICT sector in gross value added [Data set]. Available at: https://doi.org/10.2908/ISOC_BDE15AG

⁵ Eurostat. (2026). Annual enterprise statistics by size class for special aggregates of NACE Rev. 2 activities (2005-2020) [Data set]. Available at: https://doi.org/10.2908/SBS_SC_SCA_R2

⁶ Eurostat. (2026). Annual enterprise statistics by size class for special aggregates of NACE Rev.2 activities (2005-2020). [Data set]. Available at: https://doi.org/10.2908/SBS_SC_SCA_R2; Eurostat. (2026). Enterprise statistics by size class and NACE Rev. 2 activity (from 2021 onwards) [Data set]. Available at: https://doi.org/10.2908/SBS_SC_OVW

FIGURE 1: SHARE OF ICT IN GVA AND EMPLOYMENT (% , 2008-2023)

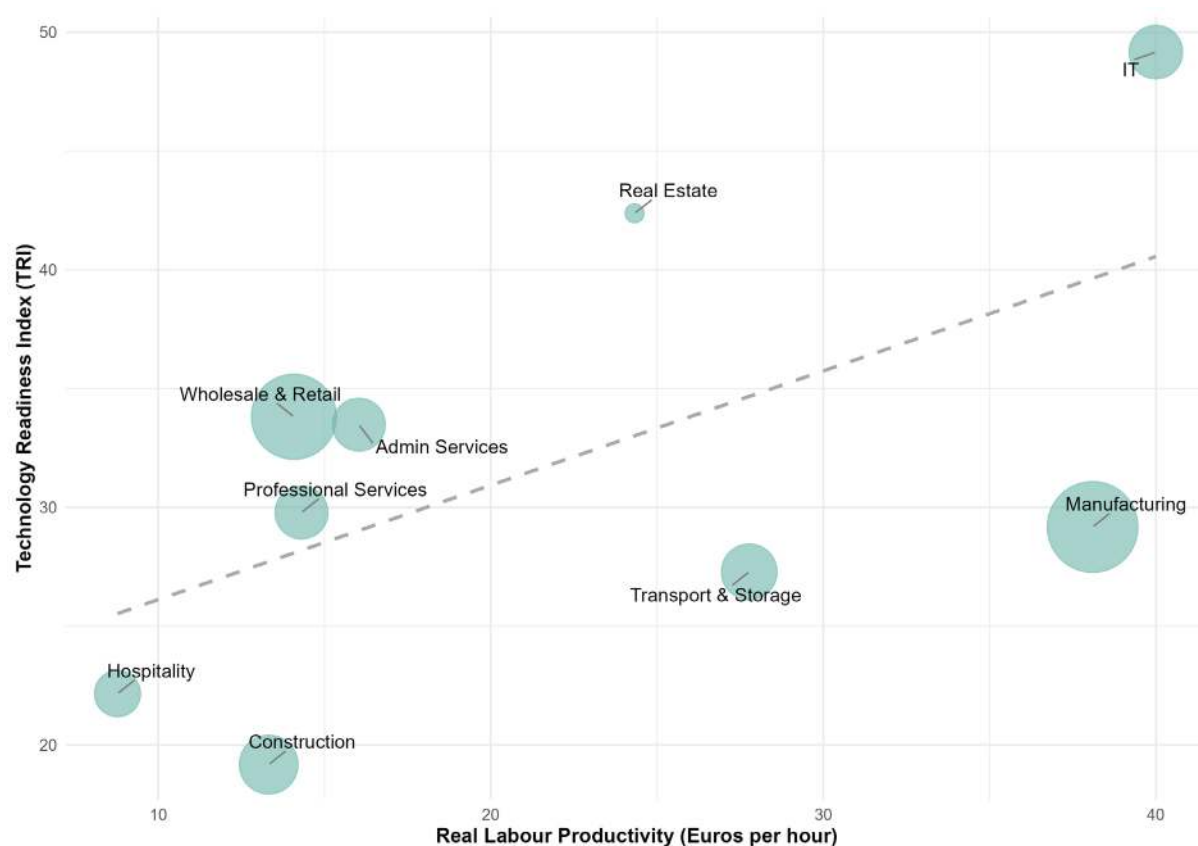
Source: Authors' calculations based on Eurostat data.

The expanding footprint of the ICT sector has delivered tangible benefits to the Portuguese economy. According to the Bank of Portugal, domestic firms that are intensive users of ICT consistently achieve higher levels of both labour and total factor productivity. Enterprises adopting a core ICT bundle – including cloud computing, big data, and basic web tools – present a 17.1 per cent average premium in labour productivity and pay wages that are 10.6 per cent higher than those of non-adopters.⁷

At the sectoral level, Portuguese industries using more digital technologies tend to achieve higher labour productivity. Figure 2 presents the ECIPE Technology Readiness Index (TRI), a measure of digital adoption (detailed in Annex 1) and real labour productivity per hour for each of Portugal's economic sectors. The bubble size represents the sector's contribution in terms of real value added. The Figure clearly shows a positive relation between labour productivity and the adoption of digital technologies in the Portuguese economy.

⁷ Banco de Portugal (2023). A View on ICT and Digitalization in Portuguese Firms. Available at: https://www.bportugal.pt/sites/default/files/anexos/papers/re202311_en.pdf

FIGURE 2: TECHNOLOGY READINESS INDEX (TRI) AND REAL LABOUR PRODUCTIVITY BY ECONOMIC SECTOR (AVERAGE, 2009-2021)



Source: Authors' calculations based on Eurostat data.

2.2 Benchmarking Portugal's Digital Transition

Figure 3 illustrates Portugal's performance in its digitalisation efforts against a selection of indicators from the European Commission's Digital Decade framework. The chart highlights four key metrics: digital public services for businesses,⁸ Fixed Very High Capacity Network (VHCN) coverage,⁹ firm's adoption of AI, Cloud, or Data Analytics,¹⁰ and the specific use of at least one AI

⁸ Defined as the online provision of key public services for entrepreneurs, this metric measures the share of administrative steps that can be completed fully online for major business life events. Data is sourced from the European Commission's eGovernment Benchmark Reports (2012–2025), compiled by Capgemini and verified by relevant ministries in each member state.

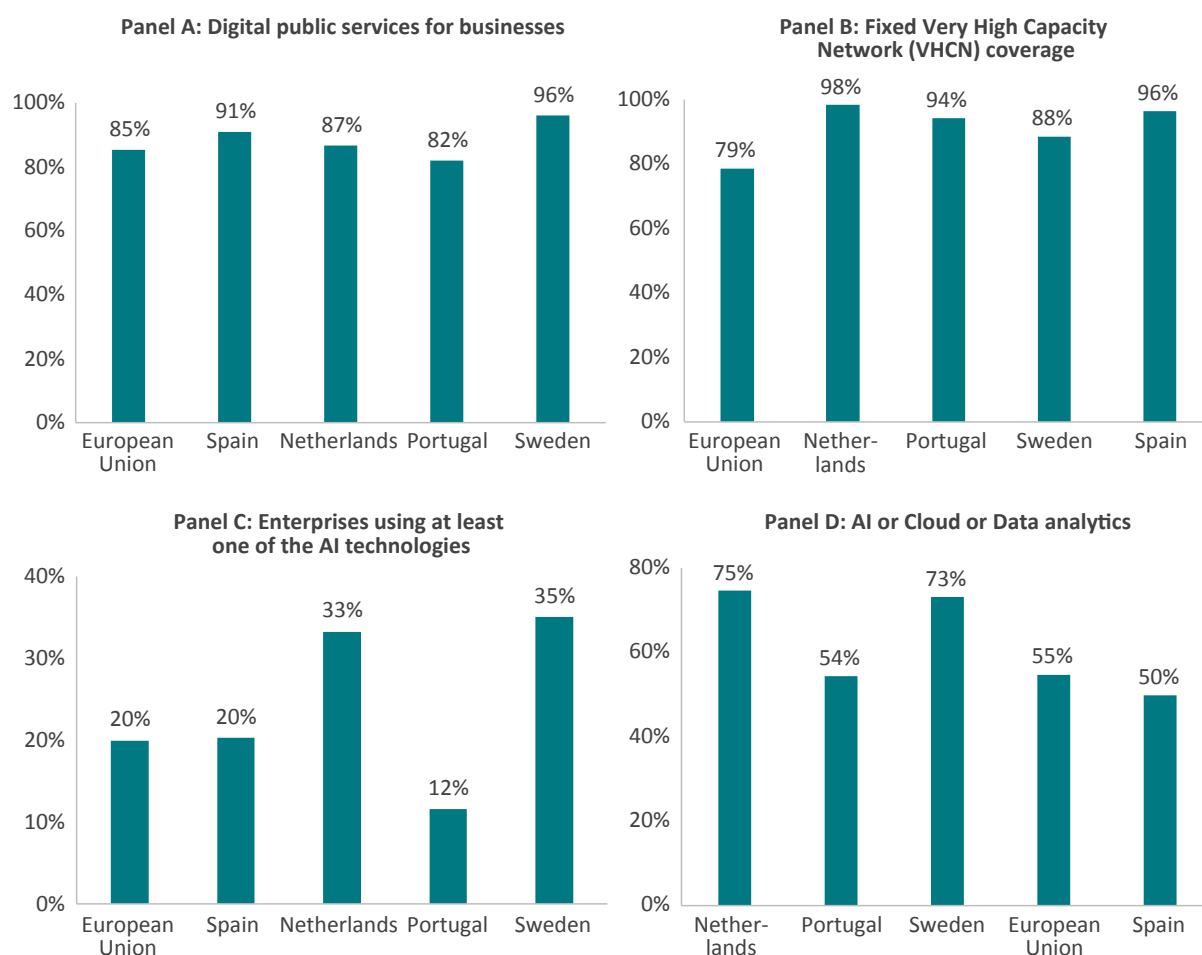
⁹ This indicator measures the percentage of households covered by any fixed VHCN. Technologies considered include FTTH and FTTB for the 2017–2018 period, with the addition of Cable DOCSIS 3.1 for 2019 onwards. Data is sourced from the Broadband coverage in Europe studies conducted for the European Commission by Omdia and Point Topic.

¹⁰ This metric tracks the share of enterprises using artificial intelligence technologies, purchasing sophisticated or intermediate cloud computing services, or performing data analytics. Data is sourced from Eurostat (Table ISOC_EB_AI: Artificial intelligence).

technology.¹¹ The first two indicators reflect public sector digital infrastructure and e-government efforts, while the latter two measure private sector digital adoption.

The data proves the success of Portugal's public sector in advancing e-government and deploying robust telecommunications networks. In these areas (Panels A and B), Portugal performs on par with or above the EU average, closely trailing neighbouring Spain and digital frontrunners like Sweden and the Netherlands. In contrast, Portugal lags behind its peers and the broader EU average regarding private-sector technology adoption. As shown in Panels C and D, only 12 per cent of Portuguese companies use at least one AI technology, compared to the EU average of 20 per cent and 35 per cent in Sweden. Similarly, half of Portuguese enterprises integrate AI, Cloud, or Data Analytics, well below the adoption rates in the Netherlands and Sweden, which both exceed 70 per cent. This data confirms that while the digital transformation is real, it remains at an early stage, and the country requires continuous efforts to consolidate this progress.

FIGURE 3: PORTUGUESE DIGITALISATION PROGRESS



Source: European Commission.

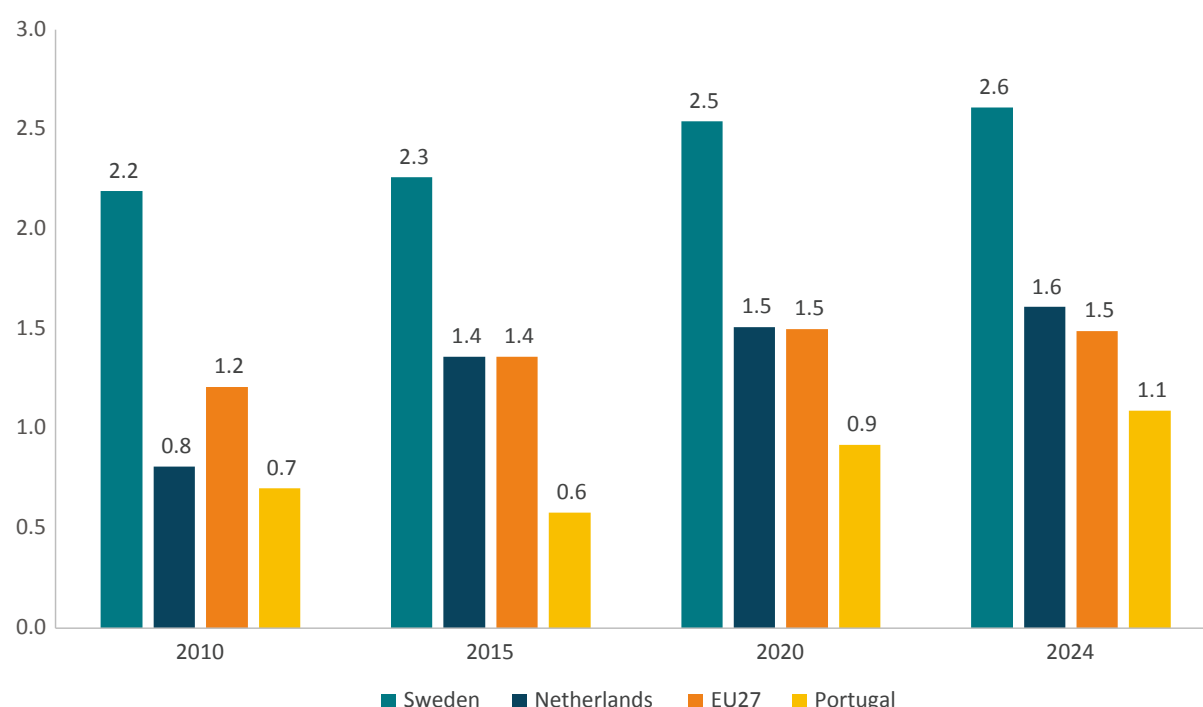
¹¹ This encompasses enterprises using one or more of the following artificial intelligence technologies: text mining, speech recognition, natural language generation, image/video/audio generation, image recognition and processing, machine learning (e.g., deep learning) for data analysis, AI-based software robotic process automation, and technologies enabling autonomous physical movement by machines. Data is sourced from Eurostat: Use of artificial intelligence in enterprises. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Use_of_artificial_intelligence_in_enterprises

2.3 The Vulnerability of a ‘Catch-Up’ Innovator

Unlike the Netherlands or Sweden – countries with deep technological legacies, established R&D ecosystems, and globally recognised innovative companies – Portugal is a ‘catch-up’ innovator. It is building its tech-intensive economy from a lower base, which means it has less resilience to policy shocks and must work harder to attract and retain internationally mobile capital.

Figure 4 illustrates Portugal's vulnerability by comparing Portuguese Business Expenditure on R&D (BERD) as a percentage of GDP to the EU average, Sweden, and the Netherlands across the years 2010, 2015, 2020, and 2024.¹² Despite significant strides in increasing R&D spending, Portugal's BERD remains below the EU average and far below those of Sweden and the Netherlands.

FIGURE 4: BUSINESS ENTERPRISE EXPENDITURE ON R&D (BERD) AS A SHARE OF GDP (2010-2024)



Source: Authors' calculations based on Eurostat data.

This gap reflects a thinner ecosystem of innovative firms, pointing to a defining feature of the Portuguese economy. Due to its size and fiscal position, the success of Portugal's economic transformation relies much more on the ability to attract and retain FDI in the technology sector and to provide incentives for the private sector to upgrade rather than relying on public subsidies.

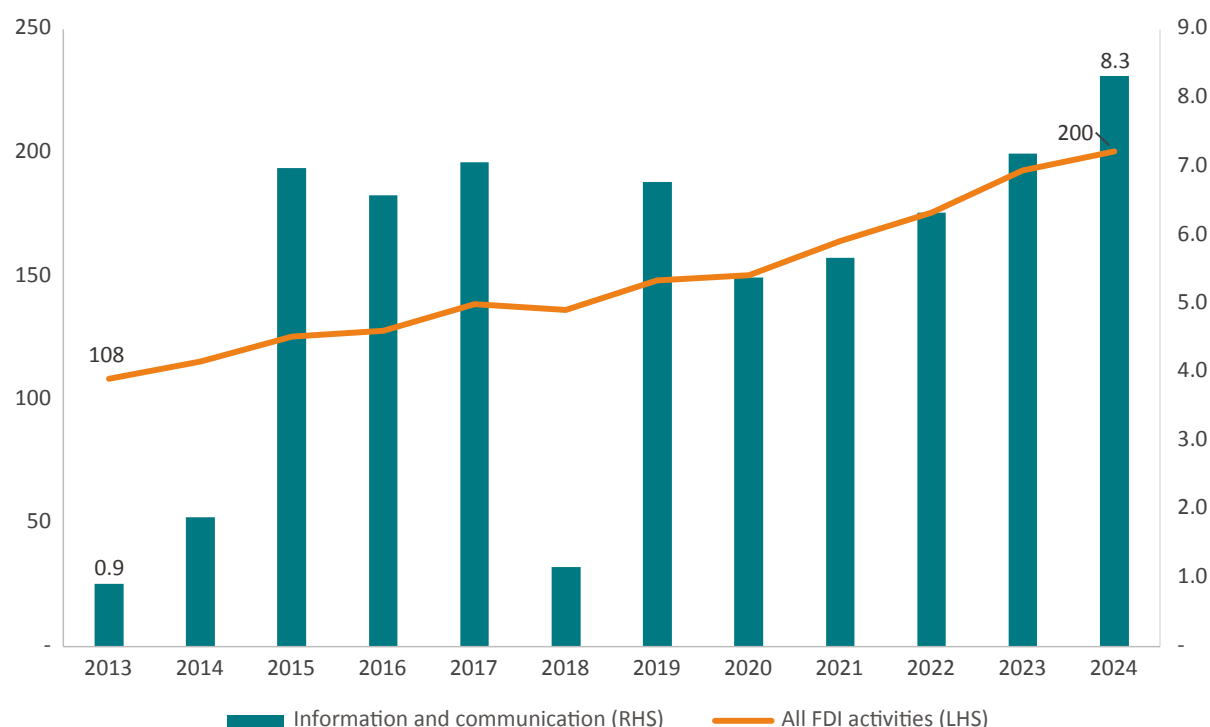
Figure 5 presents inward FDI in Portugal between 2013 and 2024, comparing the total economy with the information and communication sector.¹³ The data illustrates how FDI has grown steadily

¹² Eurostat (2026). BERD by NACE Rev. 2 activity [Data set]. Available at: https://doi.org/10.2908/RD_E_BERDINDR2

¹³ Eurostat. (2026). EU direct investment positions by country, ultimate and immediate counterpart and economic activity (BPM6) [Data set]. Available at: https://doi.org/10.2908/BOP_FDI6_POS

over the years as Portugal has become a more attractive investment destination. While investment in the information and communication sector has naturally been more volatile than in the broader economy, both series exhibit a positive trend. Since 2013, total FDI in Portugal has increased by 36 per cent. Meanwhile, FDI in the information and communication sector has recorded five consecutive years of growth, reaching its highest level in the latest available year.

FIGURE 5: INWARD FDI IN PORTUGAL: TOTAL ECONOMY AND INFORMATION AND COMMUNICATION SECTOR (BILLION EUR, 2013-2024)

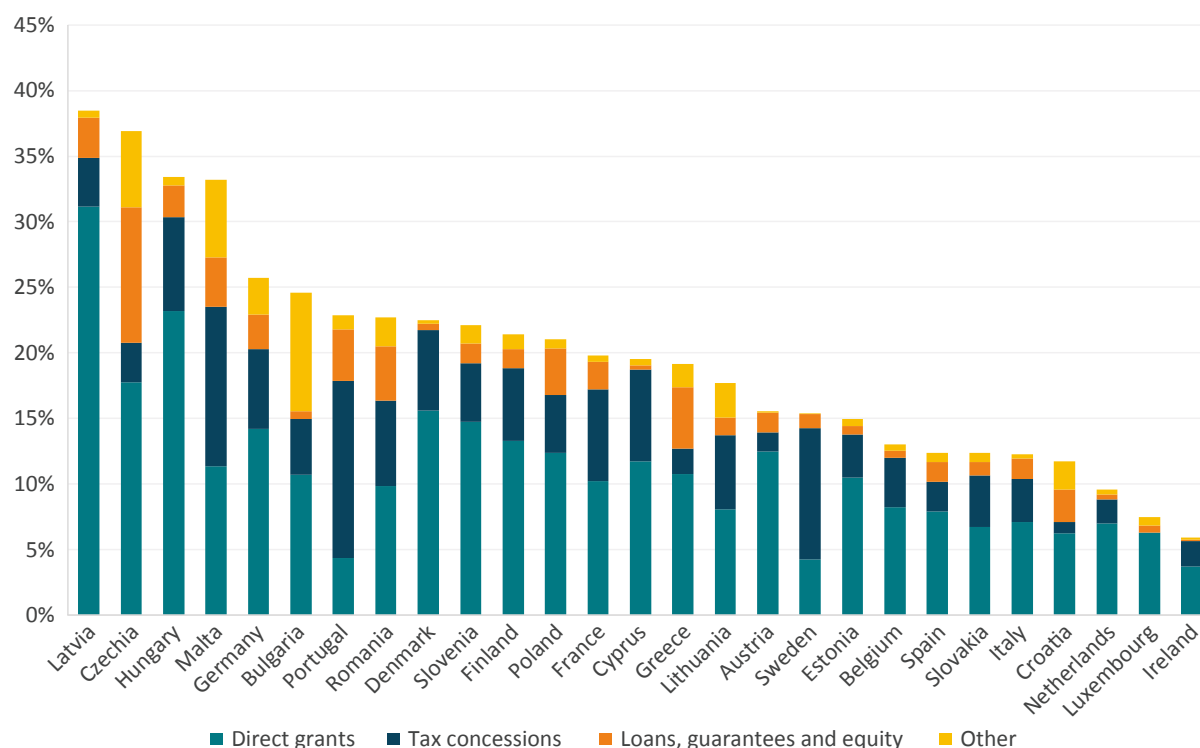


Source: Authors' calculations based on Eurostat data. Nominal figures deflated using Portuguese GDP (GDP deflator, 2015 = 100).

A critical distinction between Portugal and other EU countries lies in the governance of innovation financing. While most EU countries typically drive digital transformation through direct state funding, Portugal's fiscal constraints compel it to rely on alternative models. For instance, by 2019, tax incentives represented 83 per cent of all government support for business R&D, rising from just EUR 13.5 million in 2000 to EUR 429.7 million (in 2019).¹⁴ Figure 6 illustrates a similar point by comparing state aid expenditure across various instruments – direct grants; tax concessions; loans, guarantees and equity; and other categories – across EU member states. The chart clearly shows that Portugal, alongside Sweden, stands out for its reliance on tax concessions as its most important public policy tool for state aid.

¹⁴ Rothstein, S. A. (2024). Transnational governance of digital transformation: financing innovation in Europe's periphery. *New Political Economy*, 29(2), 227–239. Available at: <https://doi.org/10.1080/13563467.2023.2240236>

FIGURE 6: CUMULATIVE STATE AID EXPENDITURE BY BROAD INSTRUMENT CATEGORY AS A SHARE OF GDP (EU-27 MEMBER STATES, 2000-2022)



Source: Authors' calculations based on European Commission State Aid Scoreboard data. Note: The four broad categories of state aid instruments presented here were developed by ECIPE through the grouping of a more extensive set of items categorised by the European Commission.

Portugal's economic strategy, reliant on attracting FDI through tax incentives, is fundamentally dependent on legal predictability. Because foreign capital is highly mobile, an unpredictable liability environment can quickly offset the financial benefits of targeted tax breaks. Therefore, legal certainty acts as a prerequisite for technology companies when choosing where to locate, invest, and develop products.¹⁵ For companies whose core assets are software, digital services, and AI systems – precisely the products now brought within the scope of strict liability under the revised PLD, as explained in Chapter 4 – the prospect of mass litigation is a material business risk that affects compliance costs and capital allocation.

Economic research confirms the centrality of policy stability for Portuguese companies. When the Economic Policy Uncertainty (EPU) index spikes, capturing moments of political crisis or budget rejections, firms immediately adopt a 'wait-and-see' approach, delaying long-term production and investment projects. These delays result in a measurable decline in industrial output and a rise in

¹⁵ There is robust empirical evidence demonstrating that institutional quality and legal predictability are primary drivers of foreign direct investment, corporate R&D, and technological innovation. For example, see Ali, F. A., Fiess, N., & MacDonald, R. (2010). Do institutions matter for foreign direct investment? *Open Economies Review*, 21(2), 201-219. <https://doi.org/10.1007/s11079-010-9170-4>; Julio, B., & Yook, Y. (2012). Political uncertainty and corporate investment cycles. *The Journal of Finance*, 67(1), 45-83. <https://doi.org/10.1111/j.1540-6261.2011.01707.x>; Bessen, J., & Meurer, M. J. (2008). *Patent failure: How judges, bureaucrats, and lawyers put innovators at risk*. Princeton University Press.

unemployment, demonstrating that the Portuguese economy is acutely sensitive to its regulatory and policy environment.¹⁶

3. THE PORTUGUESE LEGAL FRAMEWORK FOR MASS LITIGATION

Collective actions (ação popular) have long been recognised in Portugal. Article 52(3) of the Constitution of the Portuguese Republic establishes popular action as a mechanism to defend diffuse interests.¹⁷ While historically collective actions have seen limited uptake, recent developments have transformed Portugal into a favourable jurisdiction for mass litigation. This transformation is driven by four primary features:

3.1 Asymmetric and Low-Cost Litigation

A defining feature of the Portuguese collective action system is the comparatively low cost of initiating litigation. The procedural framework establishes an asymmetric cost structure that significantly limits the downside risk for claimants while preserving the potential for substantial financial recovery. Court fees are modest, with the initial fee capped at EUR 1,632 (as of May 2026). Crucially, claimants bringing collective actions are generally exempt from paying this initial fee altogether.

Although additional costs may arise at later stages of the proceedings, the system provides multiple mechanisms to mitigate these burdens. Claimants frequently benefit from fee exemptions in cases of partial success, and Portuguese courts retain broad discretion to reduce or waive fees even when claims are ultimately unsuccessful. This cost architecture fundamentally alters the economic calculus of litigation. By insulating claimants and their financial backers from the traditional 'loser pays' risks that deter mass litigation in other European jurisdictions – while simultaneously capping the amounts defendants can recover – the Portuguese system lowers the barriers to entry, creating an environment where large-scale claims are comparatively easy and inexpensive to initiate.

3.2 The Power of the Opt-Out Mechanism

The Portuguese system is claimant-friendly due to its reliance on the 'opt-out' mechanism.¹⁸ Under this model, all affected individuals are automatically included in the represented class unless they take explicit action to exclude themselves from the proceedings. This procedural design enables

¹⁶ Morão, H., (2024). An Economic Policy Uncertainty Index for Portugal. *International Economics*, 178 (100148). <https://doi.org/10.1016/j.inteco.2024.100481>

¹⁷ The regime is primarily governed by Law No. 83/95 of 31 August (as amended by Decree-Law No. 214-G/2015 of 2 October) and applies across multiple areas of law, including consumer protection (Law No. 24/96 and Decree-Law no. 114-A/2023 of 05 December, which transposed the Representative Actions Directive (Directive (EU) 2020/1828)), competition law (Law No. 23/2018), as well as environmental and financial matters. The laws and provisions referred previously contain specific rules applicable to collective actions but there is no particular type of action or procedure specifically applicable to class actions: a class action may be brought under and follow the procedure of any of the types of actions foreseen in the Portuguese Code of Civil Procedure and in the Code of Administrative Procedure.

¹⁸ Decree-Law no. 114-A/2024 maintained the opt-out regime set out in Law no. 83/95, with one exception: consumers without habitual residence in Portugal will have to opt-in, by expressly stating their willingness to be represented in the collective action for this to happen.

representative entities to aggregate massive groups of claimants without the financial burden of identifying, contacting, and recruiting each affected consumer. This feature not only increases the leverage of claimant organisations against defendants, but also makes Portuguese collective actions highly attractive to third-party funders, whose business models rely on the economies of scale generated by aggregating claims into a single lawsuit.

3.3 Consumer Associations, Qualified Entities and the Role of Third-Party Litigation Funders (TPLF)

Consumer associations occupy a central role in Portugal's collective action system. They hold broad standing to initiate popular actions on behalf of diffuse groups of consumers and, following the transposition of the Representative Actions Directive (RAD), their institutional stature has grown considerably. This has professionalised the claimant side of the market: organisations now actively monitor corporate conduct, identify potential infringements, and initiate litigation across competition, consumer and environmental protection, and digital rights. The result is a structured and increasingly sophisticated enforcement ecosystem operating in parallel to public regulators.

However, despite the relatively lower costs of litigation and the 'opt-out' system in Portugal, mounting a collective action is resource-intensive. Legal fees, expert witnesses and case management generate substantial upfront costs that consumer associations and Qualified Entities (QEs) cannot absorb independently.

This is where Third-Party Litigation Funders (TPLF) become indispensable. Funders provide the capital required to pursue high-value claims in exchange for a share of the eventual recovery. The arrangement is mutually reinforcing: consumer associations and QEs supply the legal standing and public-interest mandate that legitimises the claim, while funders supply the financial firepower to sustain it. Portugal's formal recognition of TPLF under Decree-Law No. 114-A/2023 has further cemented this relationship, making the consumer association-funder partnership one of the operational engines of mass litigation in Portugal.¹⁹

Before the entry into force of the Decree-Law, TPLF was not regulated in Portugal, and there was no consensus as to whether the financing of class actions by third parties was even permitted under national law. The Decree-Law therefore represents a dual development: it formally recognised TPLF for the first time while simultaneously establishing admissibility requirements that had previously been entirely absent.

TPLF is now subject to specific requirements in the context of representative actions for redress measures. These requirements concern, in particular, disclosure and confidentiality, claimant independence and conflicts of interest, limits on funder control and remuneration, and inadmissibility where conflicts exist. Moreover, the claimant must make the funding agreement available to the court, the agreement must guarantee the independence of the claimant and the

¹⁹ Coder Meira, T. (2026, April 30). As "class actions" para proteção de interesses coletivos de consumidores em Portugal. SRS Legal. Available at: <https://jornaleconomico.sapo.pt/noticias/as-class-actions-para-protecao-de-interesses-coletivos-de-consumidores-em-portugal/>

absence of conflicts of interest, and the funder's remuneration is treated as an expense incurred by the claimant for the purpose of allocating unclaimed damages. Where these requirements are not met, the court may order the claimant to refuse or modify the third-party funding agreement to ensure compliance.²⁰

That said, the Decree-Law's scope is limited: TPLF is expressly regulated only for consumer representative actions seeking redress measures, and there remains no general TPLF regime applicable to all types of proceedings. Nor is there any comprehensive EU-level framework to fill that void: the European Parliament's 2022 resolution²¹ calling for binding TPLF regulation has not yet produced legislation, leaving funders free to operate across most Portuguese proceedings without mandatory disclosure, capital-adequacy requirements, or enforceable conflict-of-interest rules.

3.4 Cross-Border Reach and Forum Shopping

The combination of an opt-out mechanism (except for non-residents), low costs, and accessible funding makes Portugal a uniquely attractive destination for cross-border litigation, raising significant concerns regarding forum shopping. The Portuguese procedural configuration allows representative entities to bring claims on behalf of a large group of consumers, framing the disputes as public-interest actions. This approach can potentially circumvent the protective jurisdictional scheme of the Brussels I Recast Regulation, which generally anchors jurisdiction in the defendant's or individual consumer's domicile.

Claimants frequently leverage Article 7(2) of the Regulation – the “place where the harmful event occurred” – to concentrate EU-wide claims in Portuguese courts, arguing that damage was suffered in Portugal even if only a fraction of the affected consumers reside there. In digital or mass harm contexts where damage is inherently dispersed, this broad interpretation of territorial nexus allows litigants to aggregate cross-border claims into a single, highly favourable forum. This strategic forum selection creates incentives for a procedural ‘race to the courtroom’ under *lis pendens* rules – where EU law grants jurisdictional priority to whichever court receives the first filing.

3.5 From Theory to Practice

Recent high-value cases illustrate the rapid evolution of the system. In two mass litigations initiated by *Ius Omnibus*, claims of approximately EUR 400 million each have been brought against Mastercard and Super Bock Group. The status of these cases is still on-going. Moreover, the Portuguese Competition Court's approval of a settlement in one of the cases brought by *Ius Omnibus* against the National Association of Land Surveyors (ANT) marks a landmark development in the private enforcement of competition law in Portugal.

²⁰ Gomes, S. R., Carreira, P., & Jerónimo, B. M. (2025, November 6). Collective redress & class actions 2025: Portugal. Chambers and Partners. Available at: <https://practiceguides.chambers.com/practice-guides/collective-redress-class-actions-2025/portugal>

²¹ Responsible private funding of litigation European Parliament resolution of 13 September 2022 with recommendations to the Commission on Responsible private funding of litigation 2020/2130(INL)). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022IP0308>

The scale and ambition of Ius Omnibus have grown substantially since its founding in 2020. In 2025 alone, the association filed multiple high-value claims across several strategic sectors: two actions against Google alleging data protection violations, seeking more than EUR 8 billion in compensation; two actions against Meta on similar grounds, with claimed damages exceeding EUR 7 billion; actions against several pharmaceutical companies regarding the alleged lack of efficacy of certain medicines; and a series of lawsuits against car manufacturers in the automotive sector. Ius Omnibus has also publicly stated its intention to extend its operations beyond Portugal and its articles of association explicitly authorise it to bring actions in other EU member states.²²

These developments signal a broader transformation of the Portuguese collective redress landscape. Traditionally characterised by limited uptake and judicial scepticism, the system is increasingly accommodating large-scale, high-value claims and demonstrating greater openness to settlements. This reflects a shift toward a mature, operational model of private enforcement, in which collective actions are not only more frequently initiated but also more likely to produce tangible, lucrative outcomes.²³ Consequently, third-party funders are showing sustained and growing interest in the jurisdiction.²⁴ Empirical data supports this trend: between 2023 and 2025, Citizens' Voice entered into fifteen TPLF agreements with Justice4All, Lda., totalling EUR 4,459,500 as of December 31, 2025. With capital flowing directly to legal professionals and experts to cover both litigation and advisory work, it is evident that a well-capitalised litigation infrastructure is now firmly established in Portugal.²⁵

3.6 A Comparison with the EU

Portugal's attractiveness as a mass litigation hub is reflected in ECIPE's Institutional Framework for Mass Litigation (IFML) Index, which assesses how conducive national systems are to collective actions based on institutional and legal factors.²⁶ According to the IFML Index, the Netherlands and Portugal rank highest due to strong collective action regimes and the absence of restrictive features.

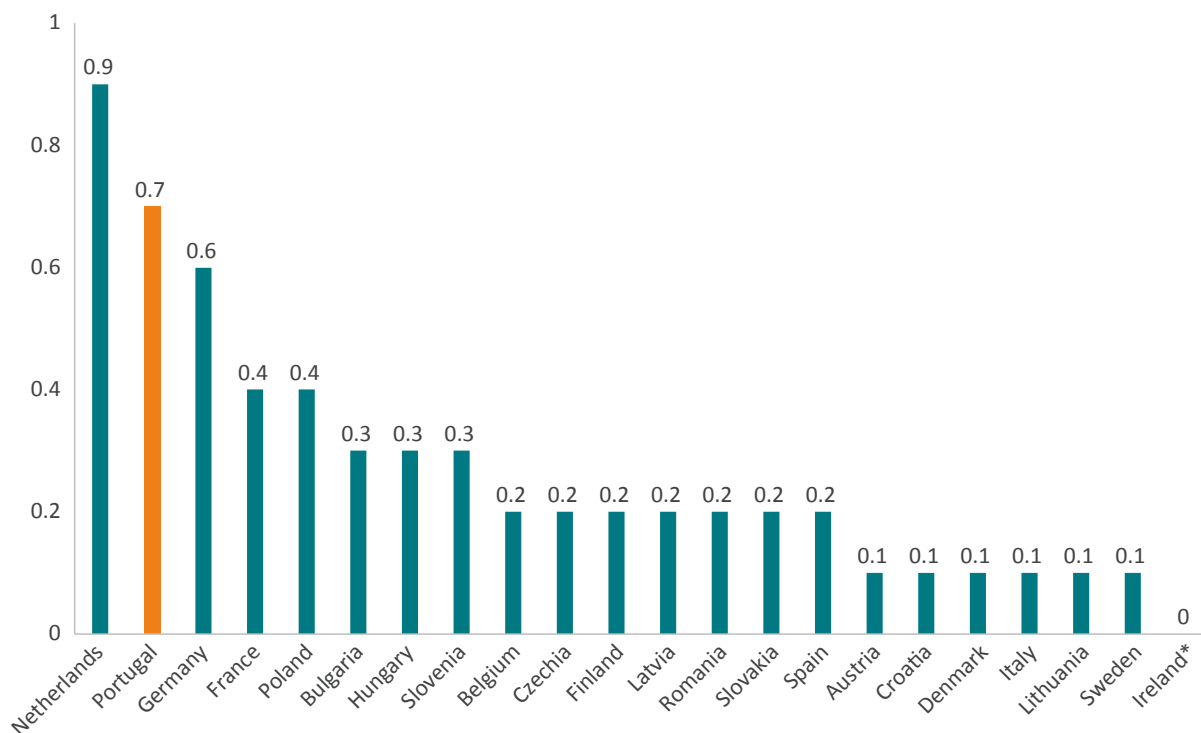
²² Ferreira, F. B., Silva, M. P., Castro, R. N., & Oliveira, C. F. (2026, April 2). Year in review: class actions in Portugal. Cuatrecasas; Lexology; and Ius Omnibus. (n.d.). Home. "This designation allows us to carry out collective actions in other member states of the European Union." Retrieved May 14, 2026, from <https://iusomnibus.eu/>

²³ Pereira, M. M., Marcelino, C., & Torres, R. P. (2021, November 16). Competition law class actions in Portugal: First court-approved settlement. Kluwer Competition Law Blog. Available at: <https://legalblogs.wolterskluwer.com/competition-blog/competition-law-class-actions-in-portugal-first-court-approved-settlement/>

²⁴ CMS (law firm). (n.d.). CMS expert guide to European class actions: Portugal. CMS Expert Guides. Available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-to-european-class-actions/portugal>

²⁵ LobbyFacts.eu. (n.d.). Citizens' Voice – Consumer Advocacy Association. Available at: <https://www.lobbyfacts.eu/datacard/citizens-voice---consumer-advocacy-association?rid=892234752282-03>

²⁶ For an extended explanation of the IFML Index, see: Erixon, F., Guinea, O., Pandya, D., Sharma, V., Sisto, E., du Roy, O., Zilli, R., & Lamprecht, P. (2025). The impact of increased mass litigation in Europe. ECIPE Occasional Paper. Available at: <https://ecipe.org/publications/impact-of-increased-mass-litigation-in-europe/>

FIGURE 7: INSTITUTIONAL FRAMEWORK FOR MASS LITIGATION (IFML) INDEX

Source: ECIPE.

Taken together, the features described in this chapter create a legal environment uniquely hospitable to high-volume, high-value litigation. Each element lowers a specific barrier: the opt-out mechanism maximises the claimant pool without requiring individual consent, while TPLF removes the financial constraints of bringing speculative claims. These conditions are actively exploited by well-resourced, activist consumer associations whose business models depend on generating a steady pipeline of litigation. For companies operating in Portugal, this confluence of factors amounts to a 'perfect storm' – a threat that will only be accelerated by the compounding effect of the PLD, as detailed in the next chapter.

4. THE NEW PLD AND THE ACCELERATION OF COLLECTIVE ACTION

The revised EU PLD, alongside the EU RAD, creates a framework that is likely to facilitate the growth of collective redress in Portugal. While the PLD expands the scope of liability and lowers evidentiary barriers, the RAD provides the procedural vehicle through which such claims can be aggregated and pursued at scale.

This reduction in evidentiary barriers is most evident in new provisions that broaden the basis for establishing defectiveness. Under Article 7, defectiveness may now be inferred from product recalls or other safety-related interventions by competent authorities or economic operators. While intended to strengthen consumer protection, this approach creates acute

legal uncertainty for manufacturers, as responsible precautionary actions can be weaponised in subsequent litigation.

These lowered evidentiary thresholds will act as a multiplier for litigation frequency and further incentivise the growth in the number of collective actions in Portugal. By permitting defectiveness to be inferred rather than proven by the claimant at the outset, the PLD fundamentally alters the balance between the parties at court. Moreover, it restricts the ability of the judiciary to swiftly dismiss speculative or weakly substantiated claims early in the proceedings. Defendants will increasingly face protracted litigation and the associated pressures to settle, regardless of the underlying merits of the case.

In addition, the PLD vastly expands the potential pool of claims. The removal of the EUR 500 threshold for property damage opens the door to mass, low-value claims, which are particularly suited to collective redress mechanisms. In addition, the Directive broadens the category of potential claimants by allowing actions to be brought by parties subrogated to the rights of injured individuals, including QEs. This facilitates more organised and professionalised litigation, where claims may be driven by well-resourced entities on behalf of groups of consumers. For injunctive measures, QEs are not required to obtain an express mandate from affected consumers, lowering the threshold for initiating collective actions.

The revised PLD drastically expands what can be targeted, specifically to reflect the digital economy. Software, including embedded, standalone, and AI-enabled systems, as well as IoT devices and certain digital services, now fall within the scope of the Directive. Under Articles 4 and 8, liability is no longer limited to manufacturers but may extend to authorised representatives, fulfilment service providers, and online platform providers. Furthermore, under Article 6 and Recitals 20-21, the concept of compensable damage has been broadened to include loss or corruption of personal data and medically recognised psychological harm, even in the absence of physical injury.

Bringing digital products into this liability framework introduces unique operational paradoxes. For example, post-market software updates, while often implemented as responsible safety improvements, may be invoked by claimants as evidence of prior defectiveness. Although the PLD seeks to clarify that the existence of an improved version does not in itself establish a defect, the distinction between product evolution and proof of defect may be difficult to maintain in practice. This creates a potential disincentive for proactive product updates and risk mitigation.

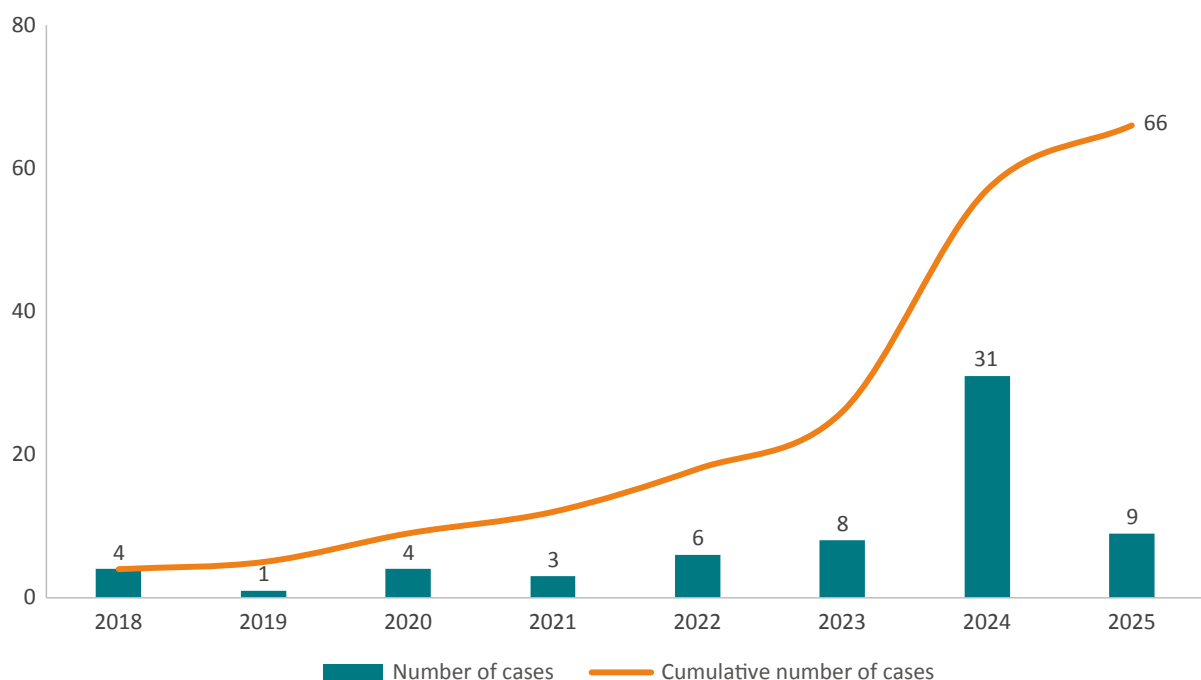
Ultimately, the convergence of these substantive and procedural expansions will have profound commercial implications. As the risk of both individual and collective litigation increases, businesses may face higher compliance and litigation costs, greater pressure to secure comprehensive insurance coverage, and more stringent contractual risk allocation across supply chains. In turn, this may contribute to a recalibration of risk within the insurance market, with insurance premiums increasing by 40 per cent for sectors newly brought within the scope of the revised PLD, and by up to 10 per cent for those already covered under the previous framework. As a result, the total economic burden of the Directive is estimated to reduce EU

GDP by between 0.17 and 0.24 per cent, a contraction that exceeds the estimated gains from several of the EU's most significant recent free trade agreements.²⁷

5. THE GROWTH AND THE CONCENTRATION OF MASS LITIGATION ACROSS STRATEGIC SECTORS

In the absence of a centralised national registry for collective actions in Portugal, case data must be compiled from alternative sources, primarily the public websites of Portuguese and EU consumer associations (detailed in Annex 2). The data clearly shows the upward trajectory of collective actions in Portugal, a trend further corroborated by other analyses.²⁸ Figure 8 illustrates this sustained growth in litigation. Between 2018 and 2025, our dataset captures a total of 66 cases. Case volume increased steadily over this period before surging dramatically in 2024, which saw a record 31 filings. While the number of new cases declined to 9 the following year, this still represents the second-highest annual figure within the observed timeframe. This surge in cases has transformed Portugal into a central hub for mass litigation in Europe. Previous analysis indicates that, in recent years, the country has recorded one of the highest volumes of collective actions in the EU, both in absolute terms and on a per capita basis.²⁹

FIGURE 8: ANNUAL AND CUMULATIVE NUMBER OF COLLECTIVE ACTIONS IN PORTUGAL (2018-2025)



Source: ECIPE database of collective action lawsuits.

²⁷ Erixon, F., Guinea, O., Lamprecht, P., Pandya, D., and Sharma, V. (2026). The Economic Burden of the PLD on EU and Non-EU Countries. ECIPE Occasional Papers. Available at: <https://ecipe.org/publications/economic-burden-revised-pld/>

²⁸ CMS. (2025). European class action report 2025. Available at: <https://cms.law/en/content/download/727370/file/European%20Class%20Action%20Report%202025.pdf?v=3>

²⁹ Erixon, F., Guinea, O., Pandya, D., Sharma, V., Sisto, E., du Roy, O., Zilli, R., & Lamprecht, P. (2025). The impact of increased mass litigation in Europe. ECIPE Occasional Papers. Available at: <https://ecipe.org/publications/impact-of-increased-mass-litigation-in-europe/> indicate that Portugal is one of the EU countries with the highest number of collective actions per capita in the EU.

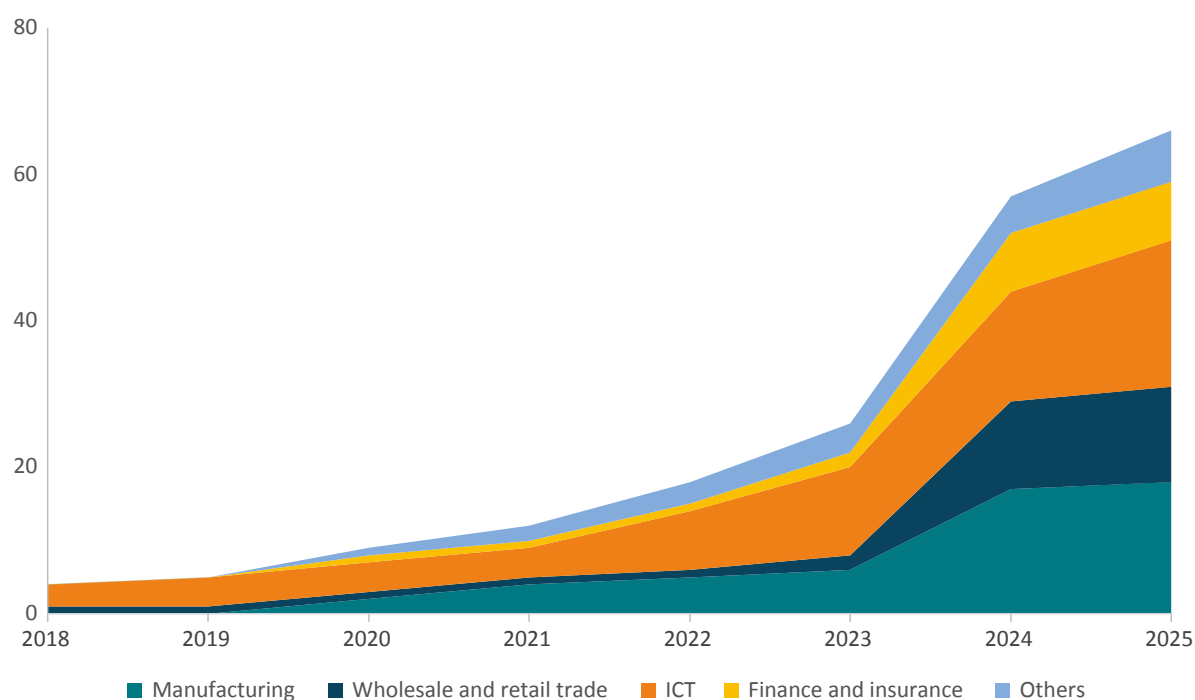
A second central finding of our analysis is that the sectors most heavily targeted by collective litigation in Portugal since 2018 align closely with Portugal's economic priorities outlined in Chapter 2. As shown in Table 1, between 2018 and 2025, the ICT sector faced the highest volume of litigation, accounting for 29 per cent of all cases (20 actions). This was closely followed by manufacturing at 26 per cent (18 cases) and wholesale and retail trade at 19 per cent (13 cases). The finance and insurance sector also sustained a significant share of the litigation burden (12 per cent). Moreover, an analysis of the chronological distribution of these cases in Figure 9 shows that the ICT sector has absorbed a growing share of the total litigation risk.

TABLE 1: COLLECTIVE ACTION CASES IN PORTUGAL BY ECONOMIC SECTOR (2018-2025)

Sector	Total number of cases	Percentage of cases
ICT	20	29%
Manufacturing	18	26%
Wholesale and retail trade	13	19%
Finance and insurance	8	12%
Others	7	13%

Source: ECIPE database of collective action lawsuits.

FIGURE 9: CUMULATIVE NUMBER OF COLLECTIVE ACTION CASES IN PORTUGAL BY ECONOMIC SECTOR (2018-2025)



Source: ECIPE database of collective action lawsuits.

The convergence of economic prioritisation and collective litigation activity suggests that these lawsuits are strategically concentrated in sectors characterised by high economic value and expanding regulatory frameworks. Crucially, these are the exact sectors where Portugal has actively courted foreign investment. As illustrated in Figure 5 (Chapter 2), FDI in the information and communication sector has grown significantly. Consequently, the primary targets of these collective actions now include major IT and telecommunications companies – such as Google, Apple, Amazon, Meta, and Vodafone – which have made substantial infrastructure investments within Portugal.³⁰

Table 2 details this trend geographically by comparing the number of collective actions filed against foreign-domiciled companies with the total FDI originating from their respective home countries (2018-2024). The data reveals a stark correlation: the top five countries facing the most collective actions also fall within the top ten largest providers of FDI to Portugal. For instance, Spanish companies are the largest FDI contributors to the Portuguese economy, but also face the second-largest volume of collective actions.

This concentration of litigation risk is highly problematic. As Figure 9 illustrates, the sectors absorbing this outsized legal burden – ICT and manufacturing – are the very engines of Portugal's recent economic transformation. By disproportionately penalising the companies responsible for deploying national fibre-optic networks and expanding cloud infrastructure, this dynamic creates a direct and quantifiable conflict between Portugal's economic ambitions and its permissive collective action regime.

TABLE 2: COLLECTIVE ACTION CASES BY COMPANY HEADQUARTERS (2018–2025) AND INWARD FDI FOOTPRINT (2024)

Country	Number of cases	Country ranking in inward FDI in Portugal
US	21	6
Spain	11	1
UK	9	2
Germany	7	8
France	3	3
Ireland	2	16
China	1	7
Japan	1	14
Netherlands	1	5

Source: Authors' calculations based on Eurostat data.

³⁰ Amazon Web Services. (2026). AWS launches AWS European Sovereign Cloud and announces expansion across Europe. Amazon Press Center. Available at: <https://press.aboutamazon.com/aws/2026/1/aws-launches-aws-european-sovereign-cloud-and-announces-expansion-across-europe>; Essential Business. (2019). Amazon and Google invest in Doppio. Available at: <https://www.essential-business.pt/2019/07/24/amazon-and-google-invest-in-doppio/>; Iberdrola. (2025). Iberdrola and Amazon further expand their global renewable energy partnership. Available at: <https://www.iberdrola.com/press-room/news/detail/iberdrola-amazon-expand-renewable-energy-partnership-aws>; Vodafone Portugal. (2015). Vodafone Portugal covers the country with Next Generation Fibre. Available at: <https://www.vodafone.pt/en/press-releases/2015/3/vodafone-portugal-covers-the-country-with-next-generation-fibre.html>

Furthermore, many collective actions in Portugal are brought as 'follow-on' damages claims, leveraging prior decisions by regulatory bodies such as the Competition Authority (AdC) and the Securities Market Commission (CMVM). By relying on these administrative findings, claimants successfully bypass the evidentiary hurdles³¹ and procedural inefficiencies that have historically hindered Portuguese collective litigation.³² However, because these lawsuits frequently build upon existing public penalties rather than addressing genuine enforcement gaps, they raise serious concerns regarding over-enforcement. Ultimately, this dynamic suggests that the current expansion of private regulatory enforcement through mass litigation may disproportionately amplify business risk rather than serving as a corrective tool.

6. THE DECOUPLING OF MASS LITIGATION FROM CONSUMER HARM

The rise in the number of collective actions presented in the previous chapter remains largely disconnected from the reality of Portuguese consumers. While product-related claims and consumer disputes clearly exist, the available evidence does not suggest that Portuguese consumers are exposed to unusually high levels of product risk or dissatisfaction.

For example, indicators of consumer market performance do not point to a high-friction or dysfunctional market.³³ According to European Commission consumer conditions data, confidence in retailers and service providers in Portugal is above the EU average (74 per cent compared to 70 per cent). At the same time, the proportion of consumers reporting problems is slightly below the EU average (23 per cent compared to 24 per cent), indicating that Portuguese consumers do not experience materially higher levels of harm in everyday transactions.

Product-safety data further reinforces this conclusion. Portugal records relatively low numbers of alerts in the European Commission's Safety Gate system, with notifications largely concentrated in traditional sectors such as motor vehicles.³⁴ Rather than indicating an elevated level of product risk, this concentration reflects a mature, well-coordinated administrative recall infrastructure. It can be argued that high follow-up action rates demonstrate that the safety system is functioning effectively, not that the market is flooded with defective goods.

Ultimately, the combined evidence from product-safety and consumer conditions data reveals a 'decoupling' between litigation activity and underlying market realities. If Portugal's emergence as a mass litigation hub were driven by genuine consumer harm, the data would point towards

³¹ For instance, in 2024, Ius Omnibus filed five popular actions before the Portuguese Competition Court seeking compensation from 12 banks operating in Portugal for damages arising from a cartel infringement previously established by the Portuguese Competition Authority. Ius Omnibus also initiated separate proceedings against Abanca, Barclays and Deutsche Bank on the same basis. Cuatrecasas. (2026). Year in review: class actions in Portugal. Lexology. Available at: <https://www.lexology.com/library/detail.aspx?g=628c6b9c-6d2d-40b1-892c-a85b1fdf6d54>

³² Correia, A. N., Silva, G. S., Malheiro, G., & Lourenço, L. C. (n.d.). Portugal: Class actions. In The Legal 500 country comparative guides. Legal 500. Available at: <https://www.legal500.com/guides/guide/class-actions/>

³³ European Commission, Directorate-General for Justice and Consumers. (2025). Consumer conditions scoreboard 2025 (p. 37). Publications Office of the European Union. Available at: https://commission.europa.eu/document/download/2816337b-4fd1-4db2-a71c-d14a206a5a93_en

³⁴ European Commission, Directorate-General for Justice and Consumers. (2025). Safety Gate: Rapid Alert System—2025 report. Publications Office of the European Union. Available at: <https://op.europa.eu/webpub/just/safety-gate-2025-report/en/>

spikes in safety alerts and widespread consumer dissatisfaction. The absence of such evidence indicates that the surge in mass litigation is not a demand-side response to market dysfunction. Rather, it is a supply-side phenomenon fuelled by the legal and institutional framework presented in Chapter 3.

7. QUANTIFYING THE ECONOMIC IMPACT OF MASS LITIGATION

7.1 Methodology

Portugal's economic strategy is predicated on a deliberate transition from traditional sectors to a tech-intensive, high-value economy. As explained in Chapter 2, this transformation depends critically on legal predictability: for technology companies, the certainty of the regulatory and judicial environment is a core determinant of where they choose to locate, invest, and develop products. The expansion of mass litigation, accelerated by the revised PLD, introduces a material source of legal uncertainty that risks undermining this strategy.

Empirical studies consistently demonstrate that the proliferation of private enforcement imposes substantial economic costs. While most of this literature focuses on the United States (US), it provides a robust empirical baseline for projecting how a comparable expansion of collective actions could affect the Portuguese economy. Using a scenario-based methodology, this chapter estimates the potential impact of mass litigation on two variables: Portugal's Gross Domestic Product (GDP) and the market capitalisation of its most innovative companies.

The US litigation model is structurally more aggressive than its European counterparts. It is characterised by extensive pre-trial discovery procedures, the use of juries in civil cases, the availability of punitive damages, and high contingency fees – features that tend to inflate both the volume and the value of claims. Portugal's legal system lacks these specific inflationary mechanisms, making it highly improbable that mass litigation costs in Portugal will reach US proportions. Our scenario analysis therefore adopts a conservative approach, assuming that the economic impact in Portugal will amount to only 10, 20, or 30 per cent of the effects observed in the US. This conservative range is not a prediction of inevitability, but an illustration of the economic stakes involved as private enforcement expands in Europe. A detailed explanation of the methodology is provided in Annex 3.³⁵

The three scenarios are defined as follows:

- **Low Growth Scenario:** assumes that the economic impact of mass litigation in Portugal will be equivalent to 10 per cent of the economic effects observed in empirical studies in the US.

³⁵ For an extended explanation of the methodology see Erixon, F., Guinea, O., Pandya, D., Sharma, V., Sisto, E., du Roy, O., Zilli, R., & Lamprecht, P. (2025). The impact of increased mass litigation in Europe. ECIPE Occasional Paper. Available at: <https://ecipe.org/publications/impact-of-increased-mass-litigation-in-europe/>

- **Medium Growth Scenario:** assumes that the economic impact of mass litigation in Portugal will be equivalent to 20 per cent of the economic effects observed in empirical studies in the US.
- **High Growth Scenario:** assumes that the economic impact of mass litigation in Portugal will be equivalent to 30 per cent of the economic effects observed in empirical studies in the US.

7.2 Impact on GDP

The aggregate cost of private enforcement through collective actions imposes a measurable drag on national economic output. To estimate the impact on Portugal's GDP, this study draws on research by McKnight and Hinton (2024) for the U.S. Chamber of Commerce Institute for Legal Reform, which found that the costs and compensation payouts of the US tort system amounted to approximately 2.1 per cent of US GDP in 2022.³⁶ This figure includes judgements, settlements, and the legal and administrative costs of adjudicating private claims, including the portion of liability insurance premiums used to cover administrative expenses.

Applying our conservative scenario parameters, the estimated cost of private enforcement is equal to 0.21 per cent (Low), 0.42 per cent (Medium), and 0.63 per cent (High) of Portugal's GDP. Based on a baseline GDP of approximately EUR 307 billion in 2025,³⁷ this translates to an absolute economic impact of EUR 640 million, EUR 1.29 billion, and EUR 1.93 billion, respectively. To put these figures into perspective, the cost of the Low Growth Scenario and the High Growth Scenario would be equivalent to 77 per cent, and more than twice Portugal's entire annual government R&D budget (EUR 837 million in 2024).³⁸ The estimates for the three scenarios are presented below.

TABLE 3: COST OF PRIVATE ENFORCEMENT AS A SHARE OF GDP

	Actual Value (EUR billion)	Low Growth Scenario (EUR billion)	Medium Growth Scenario (EUR billion)	High Growth Scenario (EUR billion)
Portugal	307	0.64	1.3	1.9

Source: Authors' calculations based on Eurostat data.

7.3 Impact on Innovation

A critical, yet often underestimated, consequence of mass litigation is its chilling effect on innovation. The academic literature consistently demonstrates that excessive liability pressure does not merely reduce total R&D spending; it fundamentally distorts its composition. Viscusi and Moore (1993) showed that product liability exposure shifts firm investment away from novel, high-

³⁶ McKnight, D. L., & Hinton, P. J. (2024), Tort Costs in America: Third Edition. U.S. Chamber of Commerce Institute for Legal Reform.

³⁷ Eurostat. Gross domestic product at market prices. Available at: <https://ec.europa.eu/eurostat/databrowser/view/tec00001/default/table?lang=en>

³⁸ Eurostat. (2026). GBARD by socioeconomic objectives [Data set]. Available at: https://doi.org/10.2908/GBA_NABSFIn07

risk technologies toward safer, incremental improvements.³⁹ Recent research by Galasso and Luo (2022) on the medical device industry found that firms facing heightened litigation risk significantly curtailed their patenting activity in affected technology areas, redirecting resources toward conventional products with lower legal exposure.⁴⁰ The true economic cost of mass litigation is therefore measured not only in legal fees and settlement payouts, but in the inventions, digital services, and product improvements that are never brought to market.

This dynamic directly threatens Portugal's strategic objective to elevate R&D expenditure to 3 per cent of GDP by 2030.⁴¹ As discussed in Chapter 2, Portugal's gross R&D expenditure stood at 1.7 per cent of GDP in 2024. The largest component of this was business enterprise expenditure on R&D (BERD), which accounted for 1.1 per cent of GDP (or 65 per cent of the national total). However, despite being the primary driver of research investment, Portugal's BERD remains significantly below the broader EU average and lags far behind digital frontrunners such as Sweden and the Netherlands (see Figure 4).

The negative impacts of collective action on innovation are aggravated by the direct hit to the market capitalisation of targeted companies. A fall in market valuation restricts a firm's ability to raise capital, undermines investor confidence, and can trigger a downward spiral in which reduced funding leads to diminished R&D capacity, which in turn further depresses valuations. To quantify this risk, we apply our scenario analysis to the findings of Kempf and Spalt (2023), who identified a 2.8 per cent decline in the market capitalisation of innovative US companies targeted by collective action lawsuits.⁴² Data on the market capitalisation of Portugal's most innovative companies is drawn from the EU's Joint Research Centre (JRC) 2024 EU Industrial R&D Investment Scoreboard.⁴³ The Scoreboard identifies two Portuguese companies – EDP and OutSystems⁴⁴ – with a combined market capitalisation of EUR 22.4 billion. Applying our conservative scenario parameters (10, 20, and 30 per cent of Kempf and Spalt's 2.8 per cent estimate), the projected fall in market capitalisation for these top R&D investors ranges from EUR 63 million in the Low Growth Scenario to EUR 188 million in the High Growth Scenario.

³⁹ Viscusi, W. K., & Moore, M. J. (1993). Product liability, research and development, and innovation. *Journal of Political Economy*, 101(1), 161–184. Available at: <https://doi.org/10.1086/261869>.

⁴⁰ Galasso, A., & Luo, H. (2022). When does product liability risk chill innovation? Evidence from medical implants. *American Economic Journal: Economic Policy*, 14(2), 366–401.

⁴¹ Fundação para a Ciência e a Tecnologia. (n.d.). Programming of investment in R&D foresees reaching 3% of GDP in 2030. Available at: <https://www.fct.pt/en/media/noticias/programacao-do-investimento-em-i-d-preve-atingir-3-do-pib-em-2030/>

⁴² Kempf, E., & Spalt, O. (2023). Attracting the sharks: Corporate innovation and securities class action lawsuits. *Management Science*, 69(3), 1805–1834

⁴³ Nindl, E., Confraria, H., Rentocchini, F., Napolitano, L., Georgakaki, A., Ince, E., Fako, P., Tuebke, A., Gavigan, J., Hernandez Guevara, H., Pinero Mira, P., Rueda Cantuche, J., Banacloche Sanchez, S., De Prato, G. and Calza, E., The 2024 EU Industrial R&D Investment Scoreboard, Publications Office of the European Union, Luxembourg, 2024. Available at: <https://iri.jrc.ec.europa.eu/data>

⁴⁴ The 2024 EU Industrial R&D Investment Scoreboard does not contain data on the market capitalisation for OutSystems. However, in 2021 its valuation was listed at \$9.5 billion. See: CB Insights. Funding, Valuation & Revenue. Available at: <https://www.cbinsights.com/company/outsystem/financials>

TABLE 4: REDUCTION IN MARKET CAPITALISATION FOR THE TOP TWO PORTUGUESE R&D INVESTORS

	Actual Market Capitalisation Value (EUR billion)	Low Growth Scenario (EUR million)	Medium Growth Scenario (EUR million)	High Growth Scenario (EUR million)
Portugal	22.4	63	126	188

Source: Authors' calculations based on European Commission (2024), The 2024 EU Industrial R&D Investment Scoreboard.

These estimates, however, are likely to understate the true exposure of the Portuguese economy. As demonstrated in Chapter 5, collective actions in Portugal are heavily concentrated in the ICT, manufacturing, and finance sectors. Beyond the two Portuguese firms that appear in the list of the global top 2,000 R&D investors, several of Portugal's most prominent companies, including Galp, Redes Energeticas Nacionais (REN), NOS, and Banco Comercial Portugues (BCP), operate in sectors that are frequently targeted by mass litigation. Indeed, our database already records collective actions filed directly against the telecommunications operator NOS.

8. CONCLUSION

Portugal's legal environment is moving in a direction that is fundamentally at odds with its economic ambitions. The country has worked hard to position itself as a competitive, investment-friendly destination for technology companies, and that effort has produced measurable results. Yet the same institutional features that make Portugal attractive – its openness, its reliance on private-sector dynamism and foreign capital – also make it acutely vulnerable to the distortions that mass litigation introduces. The costs of this tension are quantifiable, and they are growing.

This economic threat of mass litigation is driven by a highly favourable legal framework characterised by an opt-out mechanism, low barriers to entry, and the active involvement of third-party litigation funders. This environment is now being exponentially worsened by the revised EU PLD. By expanding strict liability to include software, AI systems, and digital services, and by lowering evidentiary barriers, the PLD acts as an accelerant, concentrating legal risks on the very companies driving Portugal's digital transition.

The empirical findings of this report highlight the scale of this challenge:

- **The Threat to Strategic Sectors and FDI:** Collective actions in Portugal are not distributed evenly across the economy. Between 2018 and 2025, the ICT sector faced the highest volume of litigation, accounting for 29 per cent of all cases. This directly targets the primary sources of FDI, with companies from the US, Spain, and the UK – Portugal's top investors – facing the highest number of lawsuits.
- **The Decoupling from Consumer Harm:** The surge in litigation is largely disconnected from actual consumer experiences. Indicators of consumer confidence in Portugal remain above the EU average, and product-safety alerts are

low. This decoupling indicates that the growth in collective actions is a supply-side phenomenon driven by legal and financial incentives, rather than a demand-side response to market dysfunction.

- **Impact on GDP and Innovation:** The macroeconomic costs of this litigation ecosystem are substantial. Under a conservative scenario, the aggregate cost of private enforcement could reach between EUR 640 million and EUR 1.93 billion, representing up to 0.63 per cent of Portugal's GDP. Furthermore, the threat of litigation exerts a chilling effect on innovation. For Portugal's top innovative companies, the resulting decline in market capitalisation could range from EUR 63 million to EUR 188 million, restricting their ability to raise capital and fund future R&D.

Without careful recalibration, the growth of collective actions risks unwinding Portugal's economic progress. The fear of mass litigation diminishes the country's attractiveness to foreign capital and penalises the innovation required for future competitiveness. It is central that Portuguese policymakers think carefully about the transposition of the PLD. Ensuring that the implementation of the Directive avoids further fuelling the unchecked growth of mass litigation is essential to protect the Portuguese economy and sustain its digital transition.

Portugal is not navigating this challenge in isolation. The Netherlands and the United Kingdom – two European jurisdictions with the highest volume of collective actions – share many of Portugal's permissive legal features. Tellingly, both jurisdictions are now actively reviewing their frameworks. In the UK, the Civil Justice Council published its final report on litigation funding in June 2025, recommending a shift toward statutory regulation.⁴⁵ Similarly, a formal evaluation of the Dutch WAMCA regime published in November 2025 urged policymakers to streamline procedures and strengthen judicial oversight.⁴⁶ The lesson for policymakers is clear: reform becomes considerably harder and more costly once a litigation ecosystem is fully entrenched. Portugal cannot afford to wait until the economic damage is done; it must intervene to limit the expansion of mass litigation now.

⁴⁵ Civil Justice Council. (2025, June 2). Review of litigation funding: Final report. Courts and Tribunals Judiciary. <https://www.judiciary.uk/wp-content/uploads/2025/06/CJC-Review-of-Litigation-Funding-Final-Report.pdf>

⁴⁶ WODC. (2025, November 19). 5 jaar WAMCA - Evaluatie Wet afwikkeling massaschade in collectieve actie 2020-2025. Wetenschappelijk Onderzoek- en Datacentrum. Ministerie van Justitie en Veiligheid. <https://repository.wodc.nl/>

ANNEX 1: CONSTRUCTION OF THE ECIPE TECHNOLOGY READINESS INDEX (TRI)

This annex details the methodology used to construct the ECIPE Technology Readiness Index (TRI), which is employed in this report to measure the adoption of digital technologies across economic sectors. The TRI was first introduced by Guinea, Sharma, van der Marel and du Roy (2025) to evaluate the relationship between digital technology adoption and sectoral economic performance.⁴⁷

A1.1 Data Sources and Components:

The TRI is designed to capture the multi-dimensional uptake of general-purpose digital technologies by enterprises. It relies on data sourced from the Eurostat Community Survey on ICT Usage and E-commerce in Enterprises. Rather than depending on a single proxy for digitalisation, the index aggregates the adoption rates of six distinct enterprise technologies, enabling robust cross-sectoral comparisons.

The six components of the TRI are:

- 1 Cloud computing: Purchase of cloud computing services over the internet.
- 2 Customer relationship management (CRM): Use of CRM software solutions to manage customer interactions.
- 3 Enterprise resource planning (ERP): Use of ERP software to integrate internal business processes.
- 4 Automated supply chain integration: Use of automated processes to link with suppliers or customers.
- 5 Electronic invoicing: Sending or receiving e-invoices suitable for automated processing.
- 6 Digital advertising: Use of pay-to-advertise processes on the internet.

Each component is measured as the percentage of enterprises within a specific country, sector, and year that have adopted the respective technology.

A1.2 Index Construction and Robustness:

The TRI is calculated as the simple arithmetic average of the adoption rates of the six technologies. This approach provides a transparent and easily replicable measure of digital diffusion. To account for variations in survey coverage across different years, the index is computed as the average over the available observations for each technology.

⁴⁷ Guinea, O., Sharma, V., van der Marel, E., & du Roy, O. (2025). Breaking barriers, boosting growth: Unlocking the power of digital technology for Europe's competitiveness ECIPE Policy Brief No. 14/2025. Available at: <https://ecipe.org/publications/breaking-barriers-boosting-growth-eu-digital-competitiveness/>

To ensure that the equal-weighting assumption of the arithmetic average does not introduce measurement bias, a Principal Component Analysis (PCA) was conducted as a robustness check during the initial development of the index. The PCA extracted a single dominant latent factor that explained nearly half of the total variance across the six technologies. The resulting data-driven index exhibited a near-perfect correlation ($r = 0.989$) with the arithmetic TRI. This strongly validates the use of the equal-weighting aggregation method, confirming that it accurately captures the underlying economic phenomenon of digital technology adoption without distortion.

ANNEX 2: DESCRIPTION OF THE PORTUGUESE COLLECTIVE ACTIONS DATASET

This database covers collective actions in Portugal over the period 2018-2025 and includes a total of 66 identified cases. Each case has been coded across three core dimensions: the name of the case, the year in which proceedings were initiated, and the relevant economic sector. The objective of the dataset is to provide an indicative overview of patterns in collective litigation in Portugal over time.

The data collection process was shaped by an important structural constraint: Portugal does not maintain a centralised or comprehensive public registry of collective actions. While civil proceedings are published on the Citius platform, this information is limited to newly allocated cases. As a result, it is not possible to construct a complete dataset relying exclusively on official court sources.

Data were therefore collected through a combination of publicly available court information, websites of Portuguese and EU consumer associations and qualified entities, and law firm publications and legal commentary. In addition, targeted keyword searches were conducted in both English and Portuguese in order to maximise coverage. These included terms such as 'class actions,' 'collective actions,' and 'popular actions,' as well as their Portuguese equivalents 'ações populares' and 'ações coletivas.' The searches were further refined by combining these keywords with the names of known consumer organisations and QEs, as well as specific years within the relevant timeframe. This approach was intended to capture cases that might not be systematically reported through any single source.

The resulting dataset includes cases at different stages of the legal process. Some actions are at a preliminary or filing stage, while others are more advanced or have reached judgment. Accordingly, the database reflects the existence and initiation of collective actions rather than their procedural outcomes. It should also be noted that not all cases carry the same legal or economic significance.

The data suggest that a significant proportion of collective actions in Portugal are directed at large corporate actors, particularly in consumer-facing sectors. More broadly, Portugal appears to generate a relatively high number of collective actions compared to other EU jurisdictions. As explained in Chapter 3, this may be linked to structural features of the system, including the opt-out mechanism, the comparatively low costs of initiating proceedings, and the active role of consumer associations and qualified entities. However, in the absence of a centralised registry, cross-jurisdictional comparisons should be treated with caution.

The data collection exercise is subject to several limitations. First, there is a risk of selection bias, as law firm websites and legal commentary tend to focus on high-profile or commercially significant cases. Second, information obtained from consumer association websites and similar sources is not always complete or up to date, particularly with regard to procedural developments, judgments, or appeals. Third, the inclusion of cases at different procedural

stages limits the comparability of observations across time. In addition, the presence of multiple actions concerning similar facts or the same defendant may result in a degree of overrepresentation. Given the limited accessibility of some of the sources, it has not been possible to independently verify or systematically incorporate all the cases available online. This discrepancy further highlights the structural challenges associated with data collection in this area and reinforces the likelihood that the dataset underrepresents the full universe of collective actions in Portugal. Therefore, the relatively small sample size means that the dataset should be understood as indicative rather than exhaustive.

ANNEX 3: SCENARIO-BASED ANALYSIS: METHODOLOGY

The methodology employed in this study uses three scenarios to assess the potential economic impact of an increase in mass litigation in Portugal. Because comprehensive empirical data on the macroeconomic costs of collective actions in Europe remains limited, the projections are anchored in established empirical studies of the US litigation system, which provides the most extensive and methodologically rigorous evidence base available.

The US litigation model is structurally more aggressive than its European counterparts. It is characterised by extensive pre-trial discovery procedures, the use of juries in civil cases, the availability of punitive damages, and higher contingency fees – features that tend to inflate both the volume and the value of claims. By contrast, Portugal's collective redress system operates under stricter procedural rules and lacks these inflationary mechanisms. Consequently, it is highly improbable that mass litigation costs in Portugal will reach US proportions. The 10-30 per cent scaling range used in the scenarios therefore represents a conservative estimate of the potential convergence between the two systems.

TABLE A3.1: SCENARIOS FOR ECONOMIC MODELLING

Scenario	Proportion of the effects in the US economy found in empirical studies applied to the Portuguese economy
Low Growth Scenario	10 per cent
Medium Growth Scenario	20 per cent
High Growth Scenario	30 per cent

The scenario analysis applies this proportional scaling to level estimates, used to calculate the impact on GDP and market capitalisation (innovation). For both variables, the methodology proceeds in two steps. First, we identify the relevant US estimate from the empirical literature. Second, we apply the scenario scaling factors (10, 20, and 30 per cent) to derive the equivalent Portuguese impact, which is then expressed in absolute terms using Portuguese national data.

For the GDP impact, we draw on McKnight and Hinton (2024), who found that the costs and compensation payouts of the US tort system amounted to 2.1 per cent of US GDP in 2022. Applying the scenario scaling factors, the estimated cost of private enforcement as a share of Portugal's GDP is 0.21 per cent, 0.42 per cent, and 0.63 per cent respectively. These percentages are then applied to Portugal's GDP to derive absolute cost estimates.

For the innovation impact, we draw on Kempf and Spalt (2020), who identified a 2.8 per cent decline in the market capitalisation of highly innovative US companies targeted by collective action lawsuits. Applying the scenario scaling factors, the projected decline in market capitalisation for Portuguese firms is 0.28 per cent, 0.56 per cent, and 0.84 per cent respectively. These percentages are applied to the aggregate market capitalisation of Portugal's top R&D investors as identified in the 2024 EU Industrial R&D Investment Scoreboard.

TABLE A3.2: DATA SOURCES: UNITED STATES

Variable	US estimate from literature	Source
Cost of private enforcement as share of GDP	Costs and compensations of the US tort system as a share of US GDP was 2.1 per cent	McKnight, D. L., & Hinton, P. J. (2024)
Cost on innovation	Drop in market value of innovative companies after the filing of a class action suit was 2.8 per cent	Kempf, E., & Spalt, O. (2020)

TABLE A3.3: DATA SOURCES: PORTUGAL

Variable	Source
GDP	Eurostat 2025
Market value of innovative companies	EU JRC: The 2024 EU Industrial R&D Investment Scoreboard

It is important to note that this study uses 2022 US data from McKnight and Hinton (2024), whereas an earlier ECIPE study (Erixon, F., et al. (2025). The Impact of Increased Mass Litigation in Europe) used 2011 US data from McKnight and Hinton (2013). This methodological difference explains any divergence in results for Portugal between the two studies.