



# EUROPE PREDICTIONS 2025

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## 1. France: Foreign insurers must take note of rigorous French policy wording requirements

When foreign insurers cover risks that are likely to give rise to litigation in France, they must be particularly attentive to the rigour imposed by the Cour de cassation (Supreme Court) on the drafting of policies. For example, in June 2023, the Cour de cassation ruled that the provisions of articles L.112-4 and L.113-1 of the French Insurance Code constituted overriding mandatory provisions binding on the French courts, regardless of the law designated by the policy. These articles stipulate that exclusion clauses must be written in highly visible terms and must be formal and limited (i.e. they must not empty coverage of its substance and it must be possible to determine by simply reading the clause what is covered and what is not). In the absence of such compliance, exclusion clauses will not be enforceable.

## 2. France: New developments on European group actions will significantly impact insurers

Insurers will need to adapt to the introduction of the new European-style group action in France. On 25 November 2020, Directive 2020/1828 on representative actions was passed, to be applied by 25 June 2023. A number of countries, including France, have yet to transpose the Directive into national law. The Directive requires all EU countries to have in place a mechanism for representative actions, with Member States providing for cross-border representative actions; introduces a compulsory system for the disclosure of evidence held by the defendant or a third party for the benefit of victims; and provides that all the costs of the action are to be borne by the unsuccessful party (the 'loser pays' principle). The French reform also intends to allow civil penalties to be imposed. The introduction of such a European group action will inevitably have a significant impact on the cost of this type of lawsuit.

## 3. France: The AI risk landscape is taking shape within the European Union

Given the absence of texts devoted to artificial intelligence (AI) in the legislation of Member States, the European Union has taken up the issue by means of three texts: the AI Act (adopted on 13 June 2024), establishing harmonised rules on artificial intelligence; the AI Liability Directive proposal, which introduces for the first time specific rules on damage caused by AI systems; and the updated Directive on Liability for Defective Products, which amends the framework laid down by the current Directive on Liability for Defective Products, adapting it to developments linked to new technologies, including AI. The AI Act aims to prevent risks and harm, and intervenes upstream of the damage, whereas the Directives aim to provide a framework for compensation in the event that the damage occurs.

## 4. France: Liability for defective products is adapting in line with new technologies

Liability for defective products is being reformed into a legal framework that recognises today's realities, and which favours the victims. On 28 September 2022, the European Commission tabled an initial proposal for an updated Directive on Liability for Defective Products. Following negotiations between the EU institutions, the agreed text for the Directive has now entered into force, giving Member States until late 2026 to arrange for transposition into national law. This Directive extends the concept of product to new technologies and makes it easier for the plaintiff to prove the losses by asking the court to order the producer to disclose relevant information. Under certain conditions, there will be a presumption that the product is defective and/or that there is a causal link between the defect and the damage suffered, and Member States will no longer be able to introduce an exemption for "state of the art" development.



## 5. France: Beware the two-year limitation period under the French Insurance Code!

Insurers need to be extremely careful about limitation periods when their policies are subject to French law. Article L.114-1 of the Insurance Code introduces a two-year limitation period for all actions arising from an insurance contract. Article R.112-1 of the Insurance Code requires most policies to indicate the two-year limitation period. This requirement has been extended by the Cour de cassation, which holds that the insurer is required to set out in the insurance contract the two-year limitation period, its starting points, the specific grounds for interrupting the limitation period set out in article L.114-2 of the Insurance Code, and the ordinary grounds for interrupting the limitation period set out in the Civil Code. Insurers must refer in full to the texts of the Insurance Code and the Civil Code, failing which the two-year limitation period will be unenforceable against the insured.

## 6. France: The US Environmental Protection Agency is taking far-reaching measures on PFAS

PFAS is currently a hot topic worldwide, worrying both society as a whole and the insurance industry in particular. As the underlying litigation expands around the world, regulations evolve in parallel. In the US, federal agencies are continuing to initiate PFAS regulatory actions that will pose compliance challenges. The US Environmental Protection Agency (EPA) intends to require all manufacturers of PFAS since 2011 to provide information on PFAS-containing products as of July 2025. The EPA is also proposing greater access to data on over 100 PFAS chemicals, and information will be added to the Toxics Release Inventory (TRI), aiming to increase transparency and public awareness. This will address growing concerns about the environmental and health issues linked to these chemicals. The risks posed by these changes to companies that manufactured or sold PFAS-containing products is clear. With the increased litigation risk comes the increased need to secure insurance cover, where much will turn on the specific facts and language of the policies at issue.

## 7. Germany: Expect new cyber challenges and opportunities

The ongoing race between IT security on the one hand and attackers seeking to exploit fresh vulnerabilities on the other will continue in 2025. Ransomware attacks will continue to be one of the most impactful cyber attack types for companies and their cyber insurers. We predict that cyber insurers will increasingly turn their attention to the investigation and pursuit of subrogated recovery actions. Recourse will not be against ransomware groups, but rather the policyholder's outsourced service providers in failing to ensure the security of the policyholder. These recoveries can, however, be technically and legally challenging, as the responsibility and contractual limitations of service providers vary on a case by case basis.

## 8. Germany: Cyber insurance will be key in embedding stronger security regulation

The increasing importance of cyber resilience is emphasised by a number of new legislative proposals and wider developments, such as technical requirements for IT security as part of the implementation of the EU NIS2 Directive. More and more companies will be forced to assess their existing IT security measures and to adapt their cybersecurity strategies as legal requirements expand their scope. EU NIS2 Directive, for example, expands requirements beyond the traditional critical national infrastructure companies.

## 9. Germany: Data breach claims will increase

Due to an increase in cyber incidents, we predict a similar rise in data breach claims. Although the European High Court has restricted the ability to claim for damages from cyber incidents as the data subject needs to show damage, it does not need to be material. The data processor needs to make sure it acts in line with data protection regulation. In addition to claims by data subjects, there is also the possibility of consumer protection authorities claiming against data processors in case of a data breach. Further, the ECJ has just acknowledged the possibility of a competitor claiming based on breach of GDPR regulation. This opens the door to different claims from different perspectives and requires even more attention on data processing compliance.



## 10. Germany: Expect an increase in transactional risk claims

The transactional risk insurance market has been very competitive over the last few years due to relatively low deal flow and new insurers and MGAs in the German market. This has led to falling premiums, lower retentions and broader coverage. As a consequence, an increase in claims is expected. In turn, this should lead to rising premiums, as it is likely that the broader coverage will remain. Irrespective of this, the steadily growing range of warranty and indemnity/transactional offerings in Germany shows that the market remains attractive for insurers. This will be all the more true if, as expected, the M&A market in Germany becomes more dynamic again.

## 11. Germany: Insolvencies will spark increase in D&O insurance claims

There was a significant increase in corporate insolvencies in 2024. According to the Federal Statistical Office, corporate insolvencies rose by 24.9% in the first half of 2024 alone, compared to the same period in the previous year, with the number of major insolvencies rising even more sharply. Companies from the construction industry, fashion retail and, increasingly, the automotive sector are particularly affected. With a slight time lag, this will be accompanied by an increase in large D&O insurance cases, as insolvency administrators have long since discovered existing D&O insurance cover as a means of increasing the insolvency estate. Of particular relevance in this context is the liability of directors for payments made after insolvency, which has been a significant driver of major claims for years.

## 12. Germany: There is a harder D&O market on the horizon

After a brief hardened market around the pandemic, things went back to normal. Prices went down, clauses vanished. But due to the increasing claims risk in a weakening economic environment, there are clear indications visible that a harder market is again in sight. D&O premiums will go up and also stricter wordings are expected.

## 13. Germany: The property and construction picture is evolving significantly

The global political upheaval is leading to geopolitical risk scenarios that will influence the scope of cover. The risk scenarios are diverse and differ not only according to the dimension of the violence exercised and the possible political objectives associated with it. General exclusions for war, sanctions clauses and territorial exclusions are becoming more relevant, including for business interruption and contingent business interruption. Climate change and natural hazards will also influence the claims picture, with legislative changes on climate-neutral transformation having a significant impact on risk and regulation. Inflation and rising prices are also causing insurance values to increase significantly, requiring adjustment to sums insured (to avoid underinsurance), limits, business interruption periods and premium increases.

## 14. Germany: Renewable energy ambitions will bring added risks

Germany will be climate-neutral by 2045, according to the Federal Ministry for Economic Affairs and Climate Protection. As a result, it is in the process of reorganising its energy production and the most important goals include: maintaining security of supply, favourable prices for households and companies, and climate-friendly generation without nuclear power and fossil fuels. Such new energy arrangements form the basis for many investment decisions, from grid expansion and the construction of wind and solar plants to the promotion of hydrogen projects. With these come a number of risks. For example, technical and operational risks can arise from wind turbines and solar installation maintenance issues. Environmental and health risks may occur from spills of chemical substances that could contaminate soil and water. Older turbines and/or those in remote areas where access is difficult increase financial risks. Renewable energy systems also contain materials that can be hazardous to the environment and recycling can be challenging.



## 15. Germany: Recycled parts in vehicle repairs will cut costs and emissions

Motor insurers in Germany will begin adopting the use of recycled parts in vehicle repairs. This practice is already established in countries like the UK, the Netherlands and France. For vehicles between three and eight years old, quality-tested second-hand components sourced from total loss vehicles will be used. This approach can significantly reduce repair costs and lower CO<sup>2</sup> emissions by avoiding the production of new parts. Safety-critical elements such as steering systems or wheels will not be reused, to maintain safety standards. As insurers face rising costs due to expensive new replacement parts, embracing recycled components offers a viable solution to mitigate financial deficits while promoting environmental sustainability. We anticipate that this practice will become more widespread in Germany, leading to more sustainable and cost-effective motor claims handling in the coming year.

## 16. Germany: The green deal will change the landscape in product recall claims once again

There were times when recalls were the final means of mitigating risk to life and limb, but those times seem gone. Art. 35 of the General Product Safety Regulation (GPSR) install a 'right to remedy' so that consumers have to be offered an "effective, cost-free and timely remedy" consisting of repair, replacement or even refund of the value of the recalled product from 13 December 2024 onwards. As inconsistent with warranty rules as it is, Art. 35 GPSR is founded on an existing safety risk. EU Green Deal law such as the EU Deforestation Regulation will invoke a necessity for recalls upon violation of ESG-driven criteria, no matter whether that establishes a safety risk or not (the latter being the case in the majority of violations). Recall insurers will have to decide whether they want to cover these (pure business) risks, even though products are non-defective and safe, and thus take up what looks like a D&O risk.

## 17. Germany: PFAS 'forever' chemicals litigation will increase across Europe

While PFAS litigation in the US has been rolling for over a decade, it has turned from an unknown abbreviation in Europe to one of the largest, if not the largest risk for product liability and environmental insurers in recent years. Their versatility propelled them to an extensive use in products in virtually every area of life, including personal use, from cookware and fabrics to personal care products. The widespread use also meant PFAS entered the food chain, not only posing a health threat, but impacting the sale of food, raw materials and animal feed as well. Together with mechanisms for mass litigation, we predict we will see a rise in 'forever' chemicals litigation. In addition, PFAS contaminations of soil and water may trigger environmental liability policies far more often than insurers have experienced over recent years.

## 18. Ireland: Insurance consumers in Ireland will benefit from increased protections

The Central Bank of Ireland has proposed changes to the consumer protection code which will likely mean that more business will be protected by consumer legislation. More businesses would qualify as a "consumer", the current turnover threshold increasing from €3m to up to €5m. Further, other proposed changes would result in more vigorous standards for insurers in ensuring fair outcomes are achieved for consumers. Insurers will likely be obliged to adopt a wider customer first approach in future, particularly where there are ambiguities in relation to cover.



## 19. Ireland: Claimant legal costs will continue to rise in Irish casualty litigation in 2025

The volume of claims has reached its highest level since the introduction of the Personal Injuries Guidelines in 2021. The Guidelines may have prompted a downward recalibration of general damages but this has been accompanied by significant inflation in claimant legal costs and special damages, fuelled by rises in healthcare and living costs. Increases in both population and employment levels over the course 2023/2024 means we can expect annual new claim numbers to rise to approximately 25,000, with the legal costs associated with circuit court claims in particular increasing. Although overall claim numbers will remain below the pre-pandemic average of 33,000, we expect that in 2025 claims settled via litigation will continue to represent the largest proportion of total liability claims costs to insurers in Ireland.

## 20. Ireland: The Product Liability Directive will lead to an increase in product liability claims in the medical sector

Following negotiations between the EU institutions, an updated text for the Product Liability Directive has now been agreed, giving Member States until late 2026 to arrange for transposition into national law. The Directive expands the current definition of a product to include software. Therefore, claims for damage allegedly caused by AI-enabled digital health products and services will fall within the scope of the Product Liability Directive, leading to an increase in product liability claims in the medical sector. Digital health products and services delivered using AI-enabled technologies, such as wearable devices, telemedicine platforms, scan interpretation software and health apps will be very significantly affected, from a potential liability perspective. Most significantly, this will have a substantial impact on insurers and insured hospitals and healthcare settings/clinics which are using and/or investing in AI devices, platforms and software.

## 21. Ireland: The Patient Safety Act will bring openness and transparency to health system in Ireland

The commencement of the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 in September 2024 provides for mandatory - as opposed to voluntary - open disclosure. This marks a major development for the Irish healthcare sector. The overarching purpose of the Act is to improve the health service's management of patient safety incidents and, consequently, improve the safety of patients. The aim of this legislation is to bring about a cultural shift towards openness and transparency. This landmark legislation could lead to a reduction in medical negligence claims over time.

## 22. Ireland: European Health Data Space will be a major step forward in digital healthcare

MEPs approved the establishment of a European Health Data Space, improving EU citizens' access to their health data and enabling secure sharing for public benefit. The agreement allows patients to gain access to their electronic health records, including prescriptions, medical imagery, patient summaries and lab results, from any EU country. The law will make it possible to transfer data safely via the MyHealth@EU infrastructure, which is particularly useful when EU citizens relocate. The Health Data Space will also facilitate research using anonymised health data, while prohibiting commercial use for advertising or insurance purposes. The law will allow patients to retain control over their data, with rights to opt-out and be informed of access. The provisional agreement awaits formal approval by the Council and will take effect within two years.



### 23. Ireland: Pre-Action Protocols and measure to reduce the cost of health-related claims

On 19 September 2024, the Minister for Health published the Report of the Interdepartmental Working Group on the Rising Cost of Health-Related Claims. The Report identifies six strategic priorities in achieving its objectives. One of these is the faster and more efficient resolution of claims. The Group recommends the implementation, without delay, of recommendations made in a number of previous reports, along with some additional recommendations advocating changes and improvements to the management of clinical negligence claims. These include: the introduction of a pre-action protocol with sanctions for a party who fails to adhere to the protocol; the facilitation of earlier mediation, where possible; amendments to case management Rules of Court, including the use of joint expert meetings (hot-tubbing); a dedicated court list, with judges in place with specialist knowledge of medical negligence litigation. This latest Report brings Pre-Action Protocols to the forefront once again in improving efficiencies and costs in relation to healthcare litigation.

### 24. Ireland: There is certainty on the horizon on the discount rate

Recommendations of an expert group suggesting that there be no change to the discount rate in catastrophic injuries cases in Ireland have been accepted by the Minister for Justice. The discount rate will remain at 1% for future care costs and 1.5% for future financial loss. Work is underway on drafting regulations to officially set the discount rate at these levels, providing much needed certainty to all interested parties going forward.

### 25. Ireland: Revised Periodic Payment Orders scheme will provide more settlement options

The Civil Liability (Amendment) Act 2017 addressed concerns around the deficiencies in the lump sum system by introducing Periodic Payment Orders (PPOs). When resolving catastrophic injury claims, PPOs provide an alternative to single lump sum payments, offering an ongoing annual payment over the lifetime of the injured person. In 2019, the High Court found that PPOs using the legislative indexation alone would lead to under-compensation. Following a Report of the Inter Departmental Working Group, the Minister for Justice has accepted that the PPO indexation rate should be based on a combination of the Harmonised Index of Consumer Prices (HICP) and Annual Rate of Change (ARC) in nominal hourly health earnings. Work is now underway on drafting regulations which will facilitate a revised and dynamic PPO scheme which assesses healthcare costs and future inflation.

### 26. Italy: New corporate sustainability reporting rules will significantly impact D&O liabilities

Substantial new corporate sustainability reporting duties now apply to certain categories of Italian companies (including insurance companies) following the enactment of Legislative Decree No. 125/2024, implementing Directive 2022/2464/EU. We expect there to be a significant effect on D&O liabilities, particularly concerning Environmental, Social, and Governance (ESG) risks. Directors must ensure that accurate ESG information is provided in compliance with the regulations, which introduce the possibility of administrative sanctions in case of breach. Each company must then monitor compliance with the provisions and report in its annual shareholder meeting. Internal and external analysis requires companies to monitor not only the impact of their activities externally on stakeholders but also the risks posed by external factors, such as climate change, on the company's financial performance. The implementation of this decree could therefore increase legal actions against directors, especially for greenwashing charges and ESG transparency violations. Directors will need to update governance practices and policies to avoid potential sanctions and reputational damage, proactively managing sustainability within the company's strategy. These new provisions require a careful review of policy wordings to take into account the risk of new liabilities towards third parties and/or company shareholders.





## 27. Italy: Direct action against insurers in medical malpractice claims is finally in sight

After a long wait, the implementing decree to give effect to the Gelli Law allowing direct action against the insurance company of a healthcare facility or individual healthcare professional is available. Once it comes into force, the innovative law will be definitively integrated into the legal system. The injured party's direct action will be subject to the same statute of limitations as the action against the public or private healthcare facility or healthcare professional. Such direct action will require a substantial update to current policy wordings in order to make them fully compliant with the new regulations. Insurers will also now need to prepare themselves for managing disputes made directly against them by the injured party, within restrictions on the enforceability of insurance exclusions.

## 28. Italy: Increased scrutiny over PFAS contamination and an increase in claims are likely

Awareness over PFAS contamination is rising in Italy, especially after the criminal proceedings brought against a number of executives of a major chemical company in the Veneto region, following one of the largest contamination incidents in Europe that affected the local water system across over 200 km<sup>2</sup> and up to 350,000 residents. An increase in criminal proceedings is likely, together with claims for damages in the future. Such claims may come from private businesses and corporations, public entities (an example of this is the claim brought by local water companies for the costs for preventing and avoiding further pollution) and consumers alike. It is also expected that this is a development where the recently enacted collective redress system will ultimately contribute to an increase in litigation. It is no coincidence that PFAS exclusions have already been introduced into policy wordings or are being (or should be) carefully considered by underwriters across a wide range of lines of business.

## 29. Nordics: PFAS-litigation will increase and broaden

The Swedish Supreme Court recently found a municipal water company, which had delivered PFAS-contaminated water to the municipality's inhabitants, liable for bodily deterioration due to elevated PFAS blood levels. Following the ruling, we foresee a rise in similar bodily injury claims, but also proceedings against governmental bodies and companies where the relief sought is an injunction or an order to sanitise. Insurers in the Nordics are already looking at including general exclusions for PFAS in their policies, but many claims will likely be allocated to policy periods without such exclusions.

*[With thanks to Nordia for submitting this prediction.]*

## 30. Nordics: Concerns sparked over climate-smart wooden modular houses

Fire has spread between the walls in climate-smart wooden modular houses, which has led to excessive damages. The Swedish National Board of Housing, Building and Planning now intends to change its rules so that it will not be permitted to build houses in such a way that fire can spread in hidden spaces. However, the new rules will not apply to houses that have already been constructed. Some insurance companies are now hesitating to insure wooden houses of this kind, due to the fire risk. Time will tell whether the revised building regulations will result in less extensive fires.

*[With thanks to Nordia for submitting this prediction.]*



### 31. Nordics: Law firms will increasingly use AI and digital technology as a tool

Swedish online providers of legal tools continue to release software programmes containing AI legal assistance, including legal research, drafting of legal texts and contract reviews. Discussions around AI-generated legal services have been on the table for a while and there will be a continued increase in the use of AI tools within the legal profession on a day-to-day basis. It will be vital to keep up the discussion on how such technology can be used safely, especially in sensitive areas of the legal profession. Several law firms are already hesitant about letting their lawyers use AI tools, and we predict an increase in claims over the disclosure of confidential information.

*[With thanks to Nordia for submitting this prediction.]*

### 32. Nordics: Climate change litigation will heat up in Sweden

Through the youth-led group Aurora, hundreds of youths have filed a lawsuit against the Swedish government alleging that they are not treating the climate crisis as a crisis. At present, procedural issues as to whether the case is admissible or not have been elevated to the Supreme Court. The Aurora case is one of the first climate change cases in Sweden. While we cannot predict the outcome of the case, it is clear we will see more of these type of cases in the future in Sweden and more broadly.

*[With thanks to Nordia for submitting this prediction.]*

### 33. Spain: Significant changes are coming to class actions in Spain

The current system of collective actions in Spain is used very infrequently. This traditional system is due to undergo major changes as a consequence of the implementation of the Collective Redress Directive, by means of a draft bill which has already been published. The key element of the draft bill is that representative actions would proceed on an opt-out basis as a general rule. As an exception, an opt-in system would apply to foreign consumers and, depending on the circumstances of the case, where the court considers it preferable (provided each represented claim amounts to at least €3,000). If the new system ultimately attracts the interest of consumer associations - and litigation funders - Spain may find itself as a new focus for collective actions, given the availability of an opt-out mechanism infrequently found in Europe.

### 34. Spain: Is PFAS litigation on the horizon in Spain?

While we are not aware of any current PFAS litigation in Spain, the potential for such litigation is not a risk we can ignore going forward, especially in light of developments in the USA and more recently in other European countries. As a result, the Spanish insurance market has recently introduced specific exclusions for PFAS in policies that could be of potential interest to claimants and insureds. Such litigation comes at the same time the significant projected change to collective actions in Spain, which would bind all potentially affected consumers except those who expressly declare their intention to be excluded.



### 35. Spain: The definition of 'an insured system failure' will become increasingly crucial in cyber risk policies

The CrowdStrike disruption reminds us that cyber risk underwriting faces new challenges and questions almost on a daily basis: did cyber underwriters intend to cover the consequences of negligent IT security (not an attack) by a third party that causes disruption to an insured's computer systems? Was the CrowdStrike incident unforeseen such that, due to a broad consideration of the concept of 'incident' or 'computer system', losses would be covered by the cyber policy even if they were not intended to be? Cyber insurance can, but does not always, include coverage for failures of the insured's systems that were not caused by a cyber attack. Underwriting processes therefore need to adapt to this increasingly complex and supply chain-dependent environment, while being careful to be explicit about what types of incident are intended to be covered.

### 36. Spain: Transactional liability policies will become increasingly popular in Spain


Transactional liability insurance is seeing an exponential take up in the Spanish market. While these policies were involved in around 15% of M&A transactions in 2014, in the last year this increased to about half of M&A transactions. In addition, transactional liability insurance is now not only being used in the most significant M&A transactions, but also in those under €50,000,000. This evolution is due to both greater interest in the commercialisation of the product (with traditional insurers starting to sell these policies as well as new specialist agents appearing) and greater competition triggering a reduction in premiums, making it more accessible. We expect this trend to continue in 2025.





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