

# Impact Assessment of the “Damages Directive”: Abuse of Dominance cases

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## 1. Context

Adopted in 2014, the EU Damages Directive (2014/104/EU) aims to remove barriers to effective compensation by improving access to evidence, quantification of harm, and procedural rules.

Unlike cartels (Article 101 TFEU), no presumption of harm applies to abuse of dominance (Article 102 TFEU), making these cases more complex.

The study focuses on stand-alone actions (brought without prior public enforcement action by competition authorities) as they face the greatest legal and evidentiary hurdles and are the most likely to benefit from the Directive.

## 2. Objectives

This study assesses whether the EU Damages Directive improved the success rate of private damages actions for abuse of dominance.

Specifically, it aims to:

- Identify the causal effect of the Directive on case outcomes.
- Assess the Directive's role in strengthening the right to compensation across national legal systems.

## 3. Data and Method

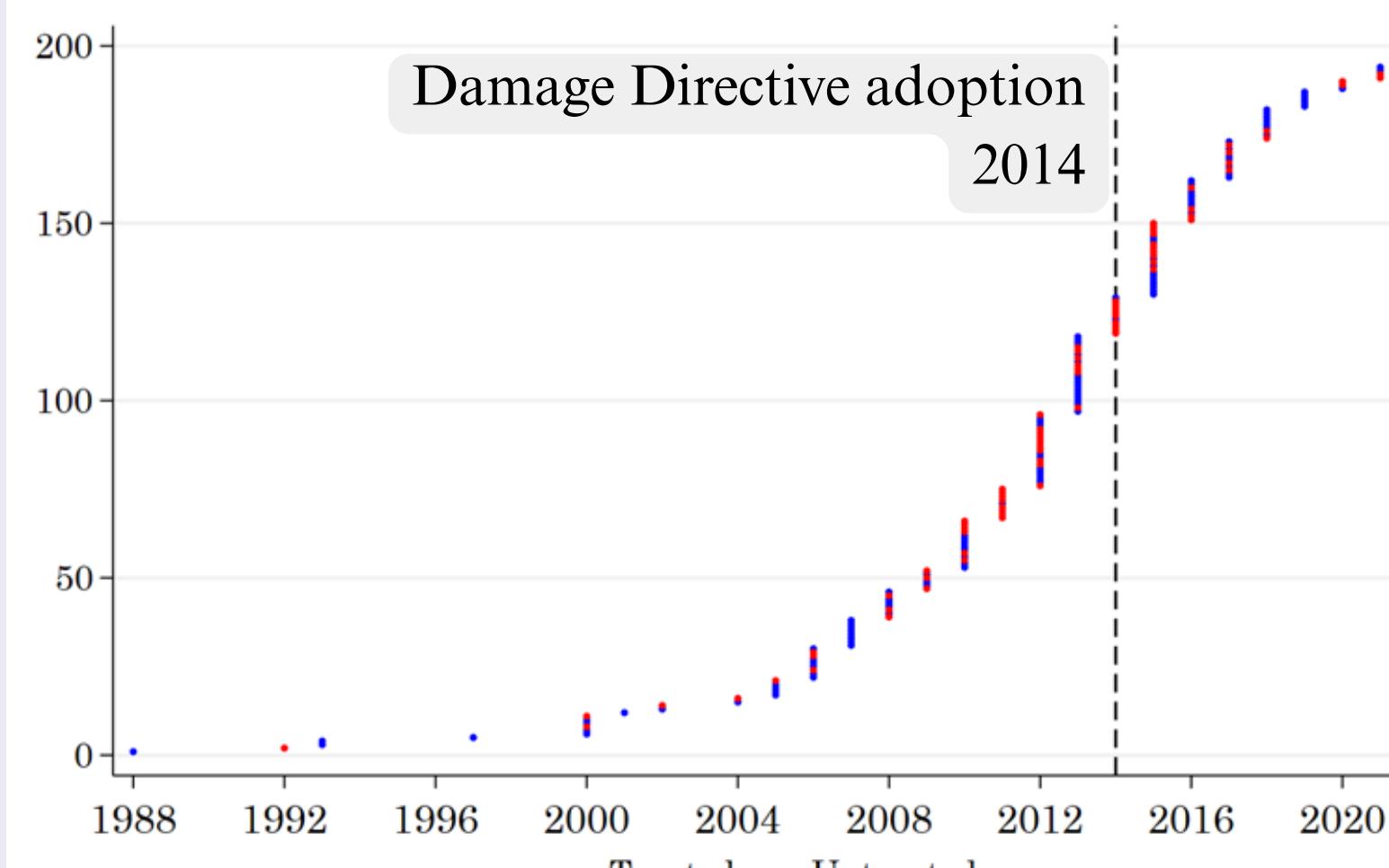


Fig. 1 Cumulative number of cases by treatment group over time

We build an original dataset of 194 cases from private damages actions for abuse of dominance, between 1988 and 2022 in France, Italy, and the UK. Each case includes information on type of action (stand-alone vs. follow-on), claims for damages, case outcomes, duration, and procedural characteristics.

### Identification strategy

The adoption of the EU Damages Directive in 2014 provides an exogenous shock. We classify stand-alone cases with damages claims as the ‘treated’ group, while follow-on cases or those without damages claims serve as the control group.

Tab. 1 Comparison table between treated and untreated groups

Type of case	Success rate before Directive	Success rate after Directive	Difference before and after
Stand-alone with Demand of Damage (Treated)	0.549	0.805	0.256***
Follow-on or Stand-Alone without Demand of Damage (untreated)	0.468	0.416	-0.0514
Difference between treated and non-treated	0.081	0.388***	0.3014***

## 4. Results

We calculate the evolution of success rates in cases affected by the Directive (treated group) to those in unaffected cases (control group), before and after 2014. This *Difference-in-Differences* approach identifies the causal impact of the Directive on case outcomes by attributing any additional improvement in the treated group to the reform itself, while accounting for differences across countries, sectors, and case characteristics such as duration and collective vs. individual actions.

On average, the Directive is associated with a **+30.8 percentage point** increase in the probability of success for treated cases, compared to others.

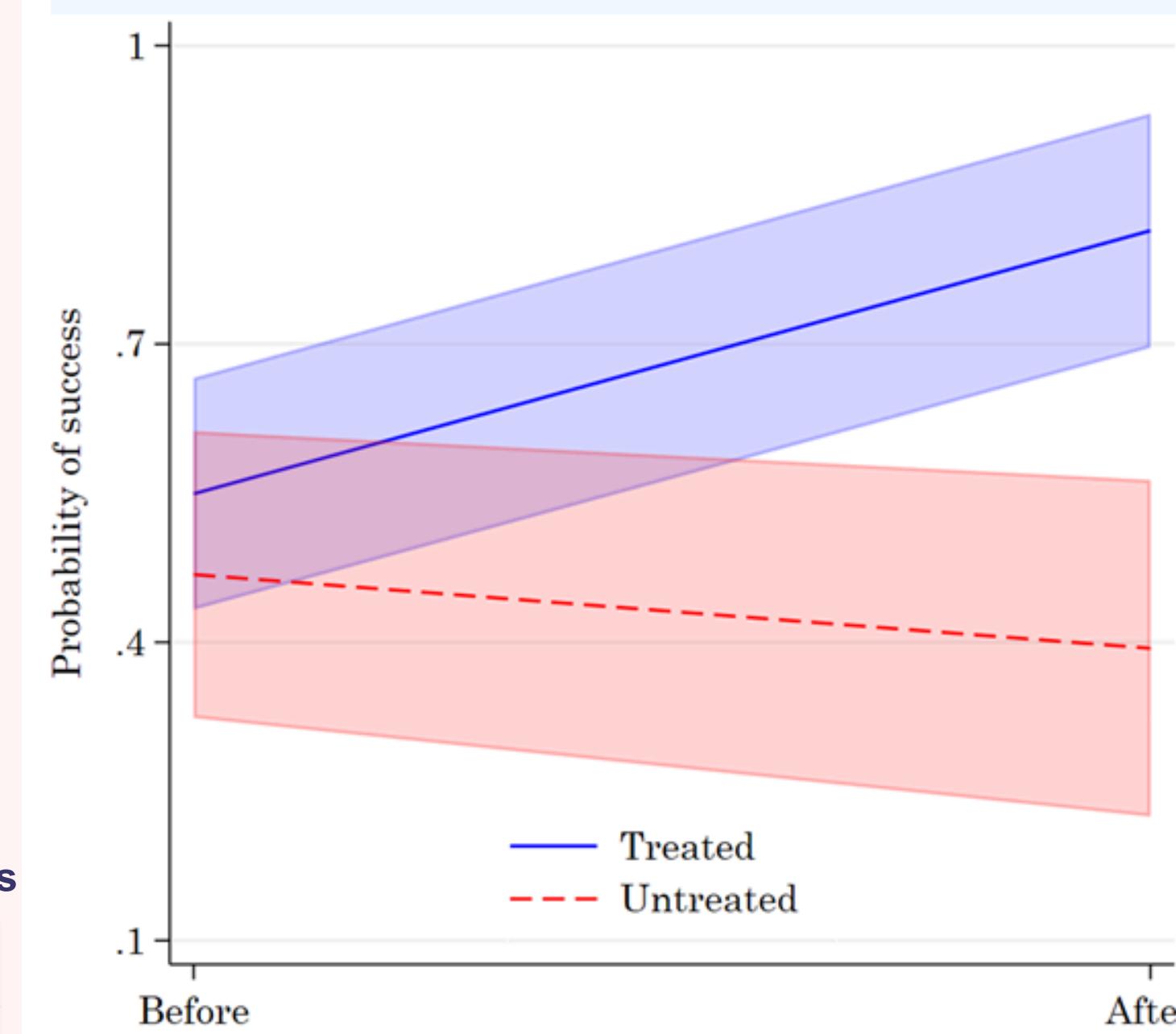


Fig. 2 Evolution of likelihood of success before and after the adoption of Directive

Placebo tests using pre-2014 periods confirm that no comparable divergence existed before the Directive, strengthening the interpretation of the reform as the main driver of the observed improvement.

## 5. Contributions and Policy Relevance

We use an original database of 194 abuse of dominance cases (France, Italy, UK, 1988–2022). While prior work focused on cartels, it provides the **first cross-country causal analysis** of this underexplored area. We **isolate the causal impact** of the Damages Directive, with placebo tests confirming that results are not driven by pre-existing trends.

From a policy perspective, these findings:

- validate the Directive's effectiveness, by improving access to compensation for victims of anti-competitive practices.
- strengthen private enforcement, making stand-alone actions more effective for deterrence and detection, while complementing public enforcement.
- contributes to the broader debate on evaluating EU legal instruments, showing how counterfactual methods could guide both future impact assessments and potential policy adaptations.