

# 3 Special Report

## Legal Services

### ESG, Sanctions Keeping Budapest Law Firms Busy

Following a long-standing tradition, we asked a number of leading law firms to give us their take on the legal market in Hungary, addressing the critical themes affecting their work and their clients.

BBJ ROBIN MARSHALL

**BBJ:** How would you describe the state of the legal market in Hungary today, and how has this changed? Is the market stable now, or might we see either consolidation or new entrants?

**Erika Papp:** We have seen some new foreign investors enter the Hungarian market in the last year, and Asian investors are showing greater interest in the country. In addition, the energy market has soared while the number of restructurings fell short of expectations. Applied legal tech services are highly sought after by clients, and typically, law firms like CMS, with an extensive multinational network, have the apparatus that allows them to be a leader in the legal tech world.

**Gábor Király:** Anticipated economic turbulence is expected to drive consolidation within the legal market. In parallel with this, specific segments of legal practice, such as restructuring and dispute resolution, will gain momentum, offering new opportunities for market players.

**Ákos Fehérváry:** There were no significant changes in the last few years. The effects on the Hungarian market of the fresh A&O Shearman merger are yet to be seen, but I do not expect significant shifts in the market in the near future.

**Kristóf Ferenczi:** The Hungarian legal market is stable and predictable, while smaller boutique firms continue to emerge. In this highly competitive environment, we do not expect significant new entrants other than looking with interest at the contemplated

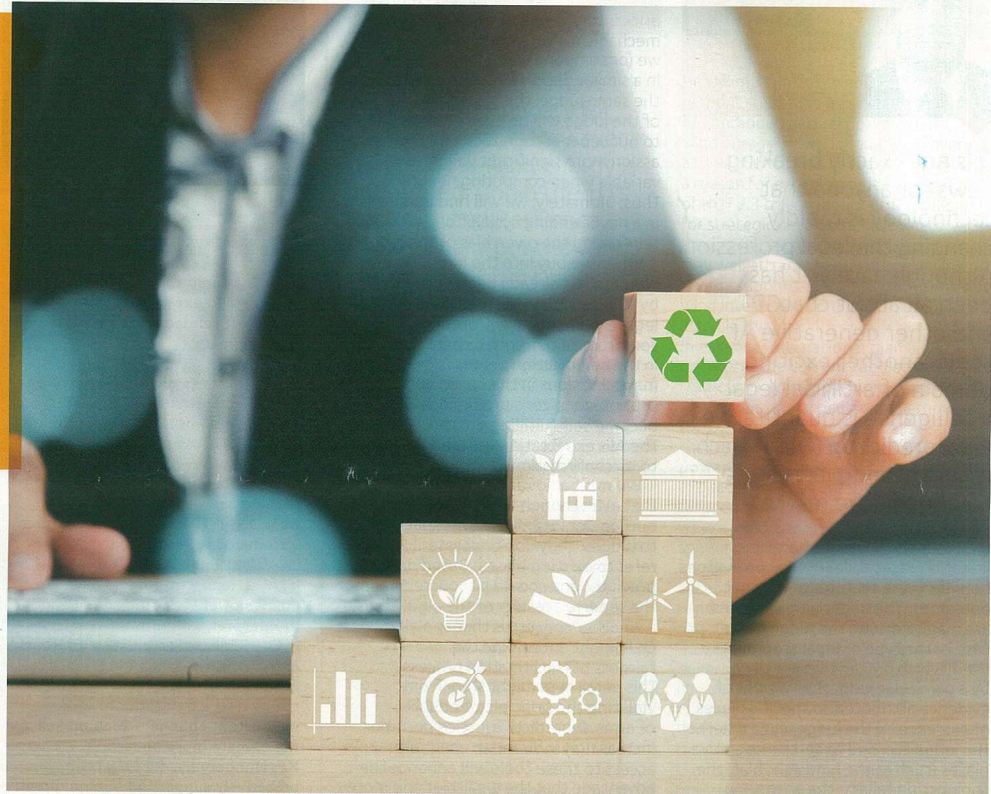


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creation of A&O Shearman.

**Katalin Szamosi:** The economic crisis and the high inflation have a very adverse effect on companies' financial situations. Therefore, the available funds for legal expenses are decreasing, and managers consider thoroughly if they want to engage lawyers. This means fewer mandates and reduced fees. Law firms have to cut their spending because, besides the reduced income, the crisis affects them too.

**András Szecskay:** We see a growth opportunity in ESG work because the scope of the developing EU regulation framework now extends not only to financial institutions and listed companies but also to their suppliers. Therefore, we see a lot of potential enforcement against clearance/greenwashing/social washing claims. Also, we expect more work related to supply chain contracts.

**Zoltán Faludi:** The legal market concerning international players has

been very stable for the past few years, and I don't anticipate any change in this respect. There have been, of course, a few boutique and local firms popping up or closing, but these have no significant effect on our clientele or workload.

**BBJ:** What percentage of your workload is taken up with ESG compliance, and how do you see this developing?

**Csongor Tompa:** ESG is very important for our law firm, especially regarding green financing, green bonds, etc. Generally, we see more ESG-related work, but the market is still forming.

**EP:** ESG compliance accounts for 10-15% of our aggregate compliance and regulatory-related workload. However, ESG will increasingly influence companies and decision-makers due to the recently adopted corporate sustainability reporting directive (CSRD) to be implemented into Hungarian law in 2024. Furthermore, as the corporate

sustainability due diligence directive (CSDD) moves towards official adoption, we expect increasing client requests to help with ESG compliance.

**GK:** Due to new EU-wide regulations, ESG compliance work is gaining significance in the legal market, especially in the real estate and financing sectors. The regulatory landscape surrounding ESG is evolving swiftly, with a steady stream of new mandates being introduced; therefore, ESG issues are now at the forefront of corporate thinking, presenting risks and opportunities.

**ÁF:** ESG is one of the current hot topics, which affects every industry and practically every field of the law. Some sectors and clients are more advanced in this process, while others are currently picking up, and we lawyers must help clients understand where, why, and how ESG may be relevant for them.

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INSIDE VIEW

# Do Androids Dream of Biased Judges? Self-fulfilling Prophecies in AI Litigation Prediction



**Dr. János Vajda**  
Attorney at Law and cognitive psychologist, Partner  
Szecskay Attorneys at Law

It is not exactly breaking news for anyone that technology is rapidly changing the legal profession. Although, lately, it has been all about chatGPT and other generative AI tools, another exciting domain of artificial legal intelligence is quantitative legal prediction (QLP) which is also gaining increasing traction in the market.

QLP uses the dataset of previous litigation cases to learn the correlations between case features and target outcomes. The underlying variables are manifold: who the judge in the case is; the type of legal arguments used; which precedents are cited by a particular judge; the weight of evidence attributed to specific pieces of evidence by the judge, even whether the judge is prone to certain cognitive biases (such as the hindsight bias, the conjunction fallacy, the anchoring effect, framing bias, and confirmation bias). The legal counsel can then use the result of this calculation to make predictions concerning the case and make strategic decisions within the adjudication process.

As a result, QLP can identify the personal tendencies of particular judges that would otherwise be invisible to lawyers. Nevertheless, there is growing concern that AI systems learn and exaggerate human cognitive biases.

One way bias can creep into algorithms is when AI systems learn to make data-based decisions, including biased human choices. If the algorithm is based on biased human decisions, then inevitably, the AI will also reflect such biases, and most likely, it will even exaggerate these biases by holding them true for its future decisions and our outcome predictions.

Even though our decisions based on the AI's conclusions seem reasonable, they might be profoundly flawed if we put them in a broader perspective. Assuming that our super recognizers'

conclusion is on point and has pinned a judge's bias right, and we decide not to fight for our case and indirectly against this bias, we have just put one more brick into the wall of the justification mechanism. Worse yet, when we (or someone else) find ourselves in a similar decisive situation with the same judge, the biased pattern of the judge will be even more visible to our super-recognizers, and they will assign more significant weight to this variable when computing next time. Thus, ultimately, we will find ourselves in a never-ending cycle of our AI reinforcing the given bias of the judge.

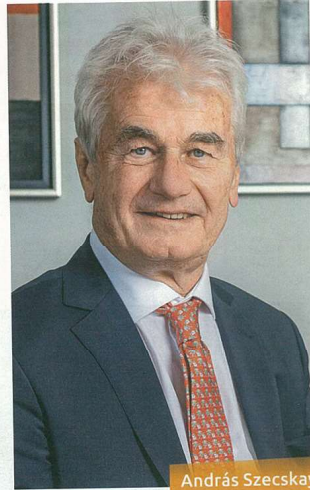
When we buy into the idea that our case has already been decided by a biased judge, disregarding our legal arguments, we profoundly compromise our right to participate in the adjudication process. If we make decisions in this spirit, our super-recognizer's predictions will become self-fulfilling prophecies. The AI's expectation will lead to its confirmation.

We must also remind ourselves that even though the algorithms can outline significant patterns specific to judges, they don't necessarily refer to existing biases. Based on the previous, one should not overestimate the reported results of the algorithms.

Another concern is that applying QLP might undermine the fairness of the litigation process. This unfairness might stem from violating the principle of equality of arms. If predictive justice becomes increasingly influential, unequal access to these tools will enhance the advantage that the wealthier and more powerful litigation parties have over those who cannot access QLP tools.

It is noteworthy that, for the above reasons, the French legislature introduced a controversial rule in 2019 that bans the use of QLP for outlining a judge's patterns and predicting case outcomes based on the prior behavior of the judge. Although the somewhat harsh legislation caused a severe backlash and was criticized by many scholars and free speech organizations, it can, in some ways, be considered an extension of the European concerns around the ethical use of AI. Hopefully, the soon-to-be-adopted and much-awaited AI Act of the EU will clarify the European rule maker's stance on this issue.

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András Szeckay

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We see a rapid increase in client interest and expect a significant volume of related work in the coming years.

**BBJ: 2022 was another record year for FDI inflows. How supportive is the Hungarian legal environment to foreigners for establishing and doing business here? Are there any bottlenecks you would like to see removed?**

**CsT:** The FDI screening mechanism introduced in response to the COVID-19 pandemic makes transactions with foreign investors much slower. The rules are difficult to interpret, and minimal case law is available, so we must be cautious. Also, with the state of emergency powers of the Hungarian government, the overall legal framework is in constant change, which makes the climate more uncertain.

**KF:** Hungary has for long been proactively supporting foreign direct investments, including providing

financial support measures, as well as special regulatory regimes to ease licensing and permitting procedures' burdens for projects of significance for the Hungarian economy. As a result, investments have been ramping up in, for example, the automotive, IT, and battery sectors. In our practice, we see a continued inflow of foreign investment from Southeast Asian countries, which we are responding to in part through our dedicated "Chinese desk." FDI control has become an active service line, where we see that under the current local FDI regime, approval requirements may arise for certain transactions even if the ultimate ownership structure does not otherwise change (e.g., in the case of certain intra-group restructurings). In such cases, approval requirements may create an additional administrative burden and delay the efficient implementation of reorganizations.



Katalin Szamos

**KSz:** We do not consider the years 2022 and 2023 suitable legal environment for foreign investments, except the ones classified as a priority investment by the government.

**ASz:** The legal environment is getting increasingly rigid in this regard, but this is not Hungary-specific. We see the same trend across Europe and overseas. In general, investors are welcome. But under the current political and economic framework, screening has become a necessity. The process could be improved with more transparency of the case handling, which would enable the parties to plan the transaction schedule better, and a pre-clearance or consultation options. Civil organizations and chambers of commerce are lobbying for greater transparency, but we must live with the fact that this is a screening process to protect national security. Therefore, the absence of complete legal certainty will always remain an issue.



Kristóf Ferenczi

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