DataJust: Towards a predictive Justice?

Decree of March 27, 2020[1] provides for the implementation of an algorithm called *DataJust* for a period of two years. This algorithm aims in particular at developing an indicative baseline of compensation for personal injuries.

This baseline system will be made available not only to judges, but also to lawyers, insurers and, above all, victims, in order to assess the amount of compensation to which the latter may be entitled, with the aim of encouraging out-of-court settlements.

Under the cloak of predictivity and reduction of the number of disputes brought to court, the implementation of the *DataJust* algorithm will, among other things, make it possible to develop a database grouping together allocated compensation amounts according to the type of injury/damage suffered and their seriousness. It is primarily designed as a tool for analyzing case law data, originating whether from judicial or administrative courts, relating to compensation for personal injuries.

The aim of this baseline system is to offer judges, insurers, lawyers, compensation funds and victims not only a better financial assessment of personal injurie but also a guarantee of equal and fair treatment of personal injury compensation claims.

The team of "*general interest entrepreneurs*" entrusted with the project by the Civil Affairs and Seals Directorate of the French Ministry of Justice[2] indicated that, thanks to this algorithm, victims "*would be able to compare, with full knowledge of the facts, the compensation offers of insurers and the amounts they could obtain in court; lawyers would have reliable information enabling them to advise their clients; magistrates would have a tool to help them quantify the damages thanks to an easier access to finely targeted case law data.*"

The Decree provides that the data to be included in the *DataJust* database will be extracted from appellate court decisions handed down between January 1, 2017 and December 31, 2019, by both administrative and civil courts in disputes relating solely to compensation for personal injuries. Various information may then be

---

extracted, in particular the last names and first names of the natural persons mentioned in the decision, certain identification elements such as gender, date of birth or place of residence, but above all data and information relating to the injuries suffered.

What are the risks associated with the implementation of such an algorithm?

First of all, the benefits that such system may have should be stressed, the most obvious one being the reduction of the number of disputes brought to court and, as a result, the unclogging of courts which are increasingly suffering from a lack of resources at their disposal. One can also legitimately hope that the development and use of this database will lead to fairer, more egalitarian and less fluctuating compensation from one individual to another, but above all from one court to another. Indeed, research carried out under the auspices of the so-called Law and Justice Research Committee[3] had established that French courts had various decision-making tools at their disposal in the interests of harmonization in a given court, but that these tools were not shared and applied by all courts, thereby giving rise to discrepancies in decisions from one court to another.

However, while the reduction of the number of disputes brought to court is a good thing, particularly in terms of court congestion, it is not always desirable. Keeping potential litigants away from the administrative and judicial courts also means leaving them alone in their compensation negotiations with the insurers. This clearly unbalanced relationship is likely to be much less favorable for the relevant individuals compared to the guarantee offered to them by submitting their claim to an impartial third party.

While it is impossible to assess at this stage the consequences that the introduction of such a system will have, it should nevertheless be viewed as a step to modernize justice while ensuring however that modernization does go hand in hand with protection of all potential litigants...

---

[1] Decree No.2020-356 of March 27, 2020 for the creation of an automated processing of personal data called *"DataJust"*

[2] https://entrepreneur-interet-general.etalab.gouv.fr/defis/2019/datajust.html

[3] Mission de recherche Droit et Justice: https://halshs.archives-ouvertes.fr/halshs-02283040v2/document

For more information, please visit us at www.soulier-avocats.com.

This material has been prepared for informational purposes only and is not intended to be, and should not be construed as, legal advice. The addressee is solely liable for any use of the information contained herein.