illn.eu

INTERNATIONAL LABOUR LAW NETWORK

the

INTERNATIONAL LABOUR LAW NETWORK NEWSLETTER

NOVEMBER 2026

ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW IN THE EUROPEAN UNION MEMBER STATES AND IN SWITZERLAND AND IN THE UK

This issue focuses on the impact of Artificial Intelligence on employment law, examining how employers adopt and use AI-driven technologies in the workplace, the legal implications of automated decision-making and employee monitoring, and the extent to which existing employment regulations address the challenges arising from the increasing use of AI across selected EU Member States, Switzerland and the UK. While the legal frameworks, regulatory approaches and safeguards governing the use of AI in employment relationships vary considerably between jurisdictions, a common thread runs through each contribution: the need to strike a proportionate balance between employers' legitimate interest in leveraging technological innovation to improve efficiency and organisational performance and employees' rights to privacy, transparency, non-discrimination and meaningful human oversight.

This cross-jurisdictional overview highlights both shared principles and key differences in how the use of Artificial Intelligence in the workplace is regulated, monitored and addressed across Europe.

Featured ILLN Member states:

1	Austria
2	Belgium
3	Czech Republic
4	France
5	Germany
6	Italy
7	Luxembourg
8	Netherlands
9	Poland
10	Portugal
11	Sweden
12	Switzerland
13	United Kingdom

Member state

Austria



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

1.A layered framework

Austria has no dedicated statute on artificial intelligence (AI) in the workplace. AI-driven CV screening, algorithmic shift planning, performance analytics and monitoring tools are instead governed by an interplay of the directly applicable EU AI Act, the GDPR, the Austria's Labour Constitution Act and equal treatment law – a combination that gives Austrian employee representatives unusually sharp teeth.

2.The AI Act's employment agenda

Since 2 February 2025, the AI Act has required employers using AI to support staff AI literacy and prohibited biometric emotion recognition at work, except for medical or safety reasons. Rules for new general-purpose AI models and most penalty provisions followed on 2 August 2025.

From 2 December 2027, high-risk rules will generally cover AI used for recruitment, promotion, dismissal, performance monitoring or task allocation based on individual behaviour or traits. Employers typically act as "deployers" and must use such systems in accordance with the provider's instructions, ensure meaningful human oversight by competent staff, control input data as well as retain logs. Moreover, before introducing or using a high-risk AI system in the workplace, employers must inform workers' representatives and the affected workers that the system will be used in relation to them.

In Austria, the RTR's AI Service Desk provides information and guidance on AI in Austria. The national market surveillance contact point and the Financial Market Authority's precise AI Act remit remain pending. Meanwhile sectoral authorities remain competent in their respective fields – the data protection authority for GDPR infringements and the equal treatment ombuds institution for discriminatory effects.

3.The Austrian speciality: works council consent

Austria's sharpest instrument predates AI by decades: Since 1974, Austria's Labour Constitution Act has given works councils a non-substitutable veto over monitoring that affects human dignity. AI monitoring that touches upon human dignity requires a written plant agreement or, in lack of a works council, each affected employee's consent. Monitoring that violates human dignity is unlawful even with consent.

In contrast, systems for automated collection, processing and transmission of employees' personal data beyond basic personal details and qualifications (except to meet statutory, collective or employment contract obligations), as well as systems for employee appraisal where they collect data not justified by the employees' duties, likewise require works council consent, though here a court decision (conciliation board) can substitute it.

In practice, AI is introduced through dedicated plant agreements defining purposes, permitted use, data access, human oversight and evaluation rights.

4.Data protection and equal treatment

The GDPR adds the familiar layer: It generally prohibits solely automated decisions with legal or similarly significant effects (i.e. automatically rejecting a job application). If the planned use of workplace AI to process personal data is likely to pose a high risk to individuals' rights and freedoms, the employer must carry out a data protection impact assessment before processing begins.

Under the Equal Treatment Act, employers remain responsible for compliance when using AI-assisted HR tools, regardless of vendor assurances. Selection criteria, input data and outputs should therefore be reviewed for direct or indirect discrimination.

5.Next practical steps

Employers who have not yet aligned their HR technology with the high-risk regime should treat this as unfinished compliance homework rather than forward planning and use the additional preparation time to inventory and classify AI tools in use (including unofficial ones), involve the works council before procurement and implementation and prepare for the 2027 high-risk requirements. Immediate priorities remain lawful data processing, compliance with prohibited-practice and applicable transparency rules, practical AI literacy measures and genuine human-in-the-loop authority in HR processes. In addition, vendor contracts should be revisited on roles, information flows and audit rights under the AI Act.

Wolfgang Kinner
Clarity Legal

kinner@kinner-korenjak.law

Member state

Belgium



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial intelligence is gradually changing the way people work. Companies increasingly rely on algorithms to recruit employees, organise working hours, assess performance and monitor productivity. These developments raise an important question: can labour law, largely built around traditional employment relationships, adequately respond to the growing use of AI?

Approaches to regulation differ. While the United States has generally favoured innovation and more limited regulation, the European Union has adopted a more cautious approach, seeking to address potential risks before they arise. In Belgium, the use of AI is already widespread. According to the Belgian High Council for Employment, nearly 35% of companies used AI in 2025.

Technological change does not necessarily require an entirely new legal framework. As labour law scholar Jean-Luc Putz observes, the law has always developed somewhat more slowly than workplace practices. Its purpose is not to anticipate every innovation, but to establish principles that remain relevant as working conditions evolve. This raises three questions: whether existing regulations are sufficient, how AI affects the employment relationship, and what consequences it may have for occupational well-being.

1. AI and the existing legal framework
AI does not operate outside the law. Several European and Belgian rules already apply to its use in the workplace, although they were not all designed with artificial intelligence in mind.

The EU AI Act (Regulation 2024/1689) is an important development. It classifies certain employment-related AI systems as high-risk, particularly those used in recruitment, employee evaluation, task allocation and decisions affecting employment. It also prohibits the use of AI to infer workers' emotions, subject to limited exceptions for medical or safety reasons. However, the AI Act is not specifically a labour law instrument. Its main purpose is to regulate AI systems within the European market. Although employers have obligations when using these systems, many of the requirements concern their providers. As a result, compliance with the AI Act does not necessarily mean that an employer has fulfilled all its obligations under labour law.

The General Data Protection Regulation (GDPR) offers another form of protection. This is particularly relevant because AI systems often rely on large amounts of employee data. In employment relationships, consent can be problematic, since workers may not feel entirely free to refuse their employer's requests.

Belgian law also provides safeguards through collective labour agreements. Collective Labour Agreement No. 39, adopted in 1983, requires information and consultation when certain new technologies are introduced. Agreements Nos. 68 and 81 regulate workplace surveillance, while Belgian anti-discrimination legislation also applies to decisions influenced by algorithms.

These rules show that AI does not necessarily create entirely new legal problems. Questions of privacy, discrimination and employer control already existed before its development. The difficulty is determining how effectively these established rules can be applied to technologies that are often complex and difficult to examine.

2. AI and the employment relationship
The employment relationship traditionally rests on the concept of subordination. As recognised by the Court of Justice of the European Union in Lawrie-Blum (1986), an employee performs work under the direction of another person in return for remuneration. AI does not remove this relationship of authority, but it can change how that authority is exercised. Instead of receiving instructions directly from a manager, workers may increasingly be directed, evaluated or monitored through automated systems.

This is particularly visible in platform work. Delivery applications, for example, can allocate orders, track journeys and assess performance. Although workers may appear to enjoy considerable independence, algorithms can still exercise significant influence over how their work is organised. Disputes involving platforms such as Deliveroo have therefore raised questions about the legal status of these workers. In Belgium, the Act of 3 October 2022 introduced a presumption of employment based on specific criteria. At European level, Directive 2024/2831 further addresses platform work and algorithmic management.
Similar concerns arise in more traditional workplaces. In December 2023, the French data protection authority (CNIL) fined Amazon France Logistique €32 million, notably for excessive employee monitoring through scanners that recorded work activity in considerable detail.

These examples suggest that the main issue is not whether AI changes the legal definition of subordination. Rather, it is whether existing rules can adequately address forms of managerial control that are increasingly automated and less transparent. An algorithm may produce a decision that appears objective, but its outcome still depends on the data, criteria and choices behind its design. Understanding and challenging such decisions can therefore become more difficult, both for employees and for the authorities responsible for enforcing the law.

3. AI and well-being at work
The effects of AI on working conditions are not necessarily negative. Automation can reduce repetitive tasks, improve efficiency and limit exposure to certain physical risks. At the same time, it may create new pressures or intensify existing ones.

One concern is technostress, which refers to stress associated with the use of technology. Employees may experience difficulties adapting to new systems, pressure to work more quickly, or anxiety about the future of their jobs. Constant digital monitoring may also affect their sense of autonomy and blur the distinction between working time and private life.

These concerns are particularly relevant as AI becomes more widely used in administrative and professional occupations. While some tasks may disappear, others will change, making access to training and professional adaptation increasingly important.

In Belgium, the Act of 4 August 1996 on Well-being at Work already requires employers to identify and prevent occupational risks. Its provisions are broad enough to cover risks associated with new technologies, including psychosocial and ergonomic concerns. This is an important feature of the legislation. Rather than regulating each technological development separately, it establishes general duties that can be applied to changing working conditions.

Nevertheless, applying these duties to AI may present practical difficulties. Employers must be able to assess the consequences of systems whose functioning they may not fully understand. Workplace consultation also has a role to play, particularly through the Committee for Prevention and Protection at Work and employee representatives. The question is therefore not simply whether new obligations should be introduced, but whether existing preventive measures can be effectively applied to the particular risks associated with AI.

In conclusion, Artificial intelligence presents significant challenges for labour law, but these challenges do not necessarily reveal fundamental weaknesses in the existing legal framework. European and Belgian legislation already provides rules concerning managerial authority, data protection, discrimination and occupational safety. Many of the issues raised by AI can therefore be examined through established legal principles. However, the growing use of automated systems makes their application more complex. Decisions may be difficult to explain, responsibility may be shared between employers and technology providers, and workers may struggle to understand how their performance is assessed. The central question is thus not only whether labour law contains adequate protections, but whether those protections can be effectively enforced in an increasingly automated workplace. The development of AI may ultimately test the practical limits of existing labour law more than its underlying principles.

Ines Karmaoui
Clarity Legal
ines.karmaoui@claritylegal.be

Member state

Czech Republic



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial intelligence is becoming part of everyday HR practice. Employers use AI tools to screen CVs, plan shifts, evaluate performance and monitor productivity, while employees increasingly rely on generative AI. Czech law has no specific employment-law rules on AI. Its workplace use is therefore governed by the directly applicable EU AI Act, data protection rules and the Czech Labour Code, with further changes in the legislative pipeline.

The EU AI Act and its timeline

Regulation (EU) 2024/1689 (the "AI Act") applies directly in the Czech Republic. Since 2 February 2025, certain practices have been prohibited, including emotion recognition in the workplace, unless used for medical or safety reasons. AI systems used for recruitment, promotion or termination decisions, task allocation based on individual behaviour or traits, and employee monitoring or evaluation are classified as high-risk. Following the Digital Omnibus on AI (Regulation (EU) 2026/1744), the relevant obligations will apply from 2 December 2027 instead of August 2026. Employers, as deployers, will have to follow the provider's instructions, ensure competent human oversight, monitor operation and inform employee representatives and affected employees before using a high-risk system at work. The AI literacy obligation already applies: employers must support the AI literacy of staff working with AI systems, as an obligation of effort rather than result.

National implementation

The Czech act implementing the AI Act, which will designate supervisory authorities and set sanctions, has not yet been adopted. Under the current proposal, the Czech Telecommunication Office should act as the main supervisory authority. However, the AI Act already applies directly, regardless of national implementing legislation.

Employee monitoring, data protection and equal treatment

AI-based monitoring must comply with the Czech Labour Code, which prohibits intrusions into employees' privacy through surveillance, monitoring or checks of communications unless justified by a serious reason arising from the employer's activities. Employees must then be informed of the scope and methods used. The GDPR also applies, including the right not to be subject to a solely automated decision that significantly affects an employee, and a data protection impact assessment may be required. Algorithms trained on biased data may also produce discriminatory outcomes in recruitment or remuneration. The employer remains responsible, and the burden of proof may shift to it in discrimination disputes.

Upcoming legislative changes

The Czech bill transposing the EU Platform Work Directive is being discussed in the Chamber of Deputies, with a proposed effective date of 1 January 2027. The proposed rules include requirements on algorithmic management by digital labour platforms, including transparency, human oversight and review of significant automated decisions. The accompanying legislative changes may also have broader implications for Czech employment law. As the legislation remains under discussion, its final wording and timing may change.

Practical implications for employers

Employers should map the AI tools used across their organisation, including tools introduced by individual teams, and assess whether any may be prohibited or high-risk. Internal AI policies, staff training and clear responsibility for human oversight are advisable now. Monitoring should be reviewed against the Labour Code and the GDPR, and key employment decisions should not be left solely to an algorithm. Vendor contracts should also provide the information and documentation needed for compliance.

Conclusion

AI offers employers significant efficiency gains, but workplace use is subject to an increasingly dense regulatory framework. Although key AI Act obligations for high-risk systems have been postponed to December 2027, existing privacy, data protection and equal treatment rules already apply, with new national rules on automated systems expected. Early AI governance will help employers manage compliance risks and employee relations.

Peter Perniš
Aegis Law

peter.pernis@aegislaw.cz

Member state

France



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

The AI Act (Regulation (EU) 2024/1689) classifies AI systems by intended purpose and risk level; French employment law looks at what the tool changes for employees. A generative AI assistant used for drafting or summarizing, which is in principle not high-risk, may therefore require prior consultation of the works council (CSE) and support for employees.

1. Must the CSE be consulted?
For high-risk systems, Article 26(7) of the AI Act will require employers to inform workers' representatives and affected workers in advance, from 2 December 2027. Under French law, in companies with at least 50 employees, the CSE must be consulted on the introduction of new technologies and any significant change to working conditions (French Labour Code, Art. L. 2312-8) and, before any decision, on any means of monitoring employees' activity (Art. L. 2312-38). It may appoint an expert (Art. L. 2315-94). Timing is decisive. In an interim order of 14 February 2025 (RG no. 24/01457), the Nanterre Judicial Court held that an employer that launches a consultation, whether mandatory or not, may not implement the project before it is completed. It found that a "pilot phase" in which all the employees concerned were using the tools was not a mere experiment needed to present a sufficiently developed project, but a first implementation. It ordered the rollout suspended, subject to a penalty, and awarded the CSE an interim payment.

Imposing a systematic obligation to consult the works council whenever a tool incorporates an artificial intelligence feature would unduly broaden the scope of this obligation. Rather, the need for consultation should be assessed in light of the actual impact that the deployment of the tool may have on employees, particularly with regard to employment, work organisation and working conditions.

2. Must employees be trained?
As amended by the Digital Omnibus, Article 4 of the AI Act requires deployers of AI systems, and thus employers that use them, to take measures to promote AI literacy among their staff, without having to guarantee a specific individual level. French law adds the employer's duty to ensure employees' adaptation to their jobs, particularly in light of technological change (Art. L. 6321-1). In litigation, poor performance will be hard to invoke against an employee who was not trained on the tool, and a dismissal on economic grounds requires that all training and adaptation efforts have been made (Art. L. 1233-4).

3. AI new item of the social dialogue
Beyond the mandatory information and consultation obligations that may apply to employers, AI is increasingly becoming a subject of social dialogue within companies. Several recent collective company agreements reflect this trend by setting out the steps of consultation of the CSE in AI deployment projects, providing for employee training and support measures and, in some cases, introducing employment-related safeguards. Some employers have, for instance, undertaken not to carry out any redundancies where the sole reason would be the use of AI tools.

4. Can the tool be imposed on employees?
It depends on its impact on the contract. If the tool does not affect any contractual element, such as job classification or pay, it is a mere change in working conditions, falling within managerial authority: refusal to follow a lawful instruction may then be sanctioned, provided the employee has been given the means to use the tool. Otherwise, the employee's consent is required. Imposing the tool does not permit opacity: employees must be informed in advance of the evaluation methods applied to them, which must be relevant (Art. L. 1222-3), and no information concerning them may be collected by a device not previously brought to their attention (Art. L. 1222-4).

Key takeaways
Assess from the pilot phase whether the CSE must be consulted and build consultation into the project timeline; check, job by job, whether the tool affects a contractual element; document training efforts. In France, a compliant tool is not enough: its deployment must be compliant too.

MATHILDE BAUDELLE
Voltaire Avocats
mb@voltaire-avocats.com

Member state

Germany



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

1. Using AI tools at work

Employees are required to perform their work in person, § 613 BGB (Bürgerliches Gesetzbuch - German Civil Code), but this does not prevent them from using AI. AI tools are generally treated as work equipment, much like search engines or translation software. Unless the employer has prohibited or restricted their use, employees may therefore use them. They remain responsible for the results, however, and must comply with confidentiality and data protection obligations.

Conversely, employers may permit or prohibit AI use under their right to issue instructions (§ 106 GewO (Gewerbeordnung- Trade Regulation Act)).

The responsibility for the result of work has recently been illustrated by the Federal Labour Court (Bundesarbeitsgericht- BAG, 30 September 2026, 2 AZN 339/26) in a procedural context regarding unreviewed AI content in a written submission. Here, the BAG dismissed an appeal as inadmissible. In the Senate's view, contrary to § 11(4) ArbGG (Arbeitsgerichtsgesetz - Labour Court Act), the grounds for the appeal were not provided by a legal representative authorised to act on the party's behalf. If a written submission is drafted by a third party, including AI, it is necessary for the legal representative to at least review the submission independently and, on the basis of that review, assume full responsibility for it.

2. AI in recruitment: discrimination risks

AI is increasingly used to support HR processes, particularly in recruitment. However, if an AI system produces discriminatory results, the employer may face claims for compensation and damages under the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG). Under § 22 AGG, a candidate need only present circumstantial evidence suggesting a discrimination. The burden of proof then shifts to the employer, who must fully prove that no discrimination occurred. Where the employer has no insight into how the algorithm reaches its decisions (the so-called "black box" problem), meeting this burden is barely possible.

3. Works council participation

Where a works council exists, its rights under the Works Constitution Act (Betriebsverfassungsgesetz - BetrVG) must be observed:

− Information and consultation: planned AI use must be disclosed to and discussed with the works council in good time, § 90(1) No. 3 BetrVG.

− Monitoring: a co-determination right may arise where technical systems are objectively capable of monitoring employees' behaviour or performance, § 87(1) No. 6 BetrVG. In summary proceedings, the Hamburg Labour Court (16 January 2024, 24 BVGa 1/24) rejected such a right where employees voluntarily used ChatGPT via private accounts, as the employer had no access to their usage data. However, the decision concerned a specific set of facts. Where AI tools are provided through company accounts, co-determination is generally to be expected.

− Health and safety: depending on design, AI may cause psychological strain requiring a risk assessment (§ 5 ArbSchG, Arbeitsschutzgesetz - Occupational Safety and Health Act), triggering co-determination, § 87(1) No. 7 BetrVG. The Hamburg court saw no such risk for ChatGPT.

− Selection guidelines: co-determination also applies where AI is used to draw up guidelines for hiring, transfers, regrading and dismissals, § 95(2a) BetrVG.

− Experts: the works council has the possibility of consulting an expert regarding the introduction and use of AI, § 80(3) BetrVG.

A framework works agreement (Rahmenbetriebsvereinbarung) on AI may avoid negotiating tool by tool.

4. AI Act

As an EU regulation, the AI Act applies directly in Germany as in all Member States. It follows a risk-based approach: the higher the risk, the stricter the rules. Certain practices, such as emotion recognition in the workplace, have been prohibited since February 2025, and employers must promote AI literacy among their staff. AI systems used in HR, for example for recruitment, promotion or performance monitoring, are generally classified as high-risk. Employers using them will face extensive obligations, including human oversight, documentation and transparency obligations. Following the "Digital Omnibus on AI", these obligations will apply from December 2027.

What is specific to Germany? The AI Market Surveillance and Innovation Promotion Act (KI-Marktüberwachungs- und Innovationsförderungsgesetz - KI-MIG), in force since 29 July 2026, designates the Federal Network Agency (Bundesnetzagentur) as the central supervisory authority. More importantly, the AI Act expressly allows Member States to maintain rules that are more favourable to workers (Art. 2(11)). The works council's participation rights described above as well as the AGG with its relaxation of the burden of proof, or data protection for employees, therefore continue to apply alongside the AI Act.

LISA-LORRAINE CHRIST
Küttner Rechtsanwälte

christ@kuettner-rechtsanwaelte.de

Member state

Italy



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Alongside the EU AI Act and the GDPR, Italian employment law governs both the introduction of AI systems in the workplace and their use in employment decisions. Before adopting an AI tool, employers should identify the tasks it will perform, who will oversee it and to what extent its outputs will inform decisions about employees.

As part of that assessment, employers should determine whether the AI tool allows them to monitor employees' work remotely. If it does, Article 4 of the Workers' Statute permits its installation only for organisational or production needs, workplace safety or the protection of company assets. Installation requires prior agreement with workplace union representatives. If there are no such representatives or no agreement can be reached, the employer must obtain authorisation from the Labour Inspectorate. The procedure does not apply, however, to tools that employees use to perform their work or to devices that record access or attendance. Whether or not the procedure applies, employers may use the data collected for employment purposes only if they comply with data protection law and have informed employees how the tools are used and how monitoring is carried out.

A separate duty of disclosure arises under Article 1-bis of Legislative Decree No. 152/1997, introduced by the 2022 Transparency Decree and subsequently amended. Before processing begins, employers must inform workers and their representatives about fully automated decision-making or monitoring systems that provide information relevant to decisions on hiring, the management or termination of employment, task allocation or the monitoring and appraisal of performance. The information provided must cover what the systems are used for, how they work, the main parameters used and the safeguards in place.

From a health and safety perspective, employers must assess the risks posed by AI systems that affect the organisation of work, work rates or working methods, or decisions relating to safety. These risks must be recorded in the "documento di valutazione dei rischi" (or "DVR"), the document in which employers identify workplace hazards, assess the associated risks and set out measures to protect workers. Workers must receive information and training on the specific risks and protective measures.

When AI informs an employment decision, the decision itself must be taken by a natural person who can exercise independent judgement. Under Article 41 of Legislative Decree No. 179/2026, this safeguard applies to decisions on hiring, changes to employment terms and dismissal, as well as to performance appraisals and disciplinary measures. In recruitment, it applies to the final hiring decision and excludes the earlier stages of sourcing and screening candidates. The person making the final decision must have the authority to review the system's recommendation and depart from it. Any decision taken in breach of this requirement, including a dismissal, is null and void even if the employee consented to a fully automated decision. At the employee's request, a person must explain the reasons for the decision, including the role AI played and the main factors considered.

AI may also play a role in a reorganisation that leads to a dismissal. In a recent case, an Italian labour court upheld the dismissal of an employee whose duties had been reassigned to colleagues who carried them out with the help of AI. The employer had shown that the reorganisation was genuine, that it had eliminated the position and that no suitable alternative roles were available.Whatever the role of AI, employers remain responsible for the tools they adopt and the decisions they take, and must be able to justify both if challenged.

Alberta Dreossi
NMlex
a.dreossi@nmlex.it

Member state

Luxembourg



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial intelligence ("AI") is reshaping employment relations. In particular, AI is increasingly used in recruitment, performance management, employee monitoring and internal communications. Employees also use AI tools in day-to-day work, often with substantial gains in speed and efficiency.
This technological development creates opportunities and risks. Luxembourg has no comprehensive AI-specific employment statute, but the EU AI Act (Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence) already applies and Luxembourg's national AI strategy encourages wider adoption. Employers should therefore treat AI not merely as a productivity tool, but as a matter of compliance, governance and social dialogue.

AI as a tool used by employees
The growing use of AI by employees can improve efficiency. However, employers should ensure that any AI tool made available at work is compatible notably with data security, confidentiality and professional secrecy obligations.
Employees should also be trained to use AI responsibly: not only on how the tools work, but on reviewing AI output critically, using it transparently and keeping a human in control.
In practice, employers should adopt an internal AI policy setting out which tools may be used, with which data, for which purposes and subject to which approval process. Where the introduction of AI is liable to affect working conditions, employee representatives may need to be informed and consulted in advance.

AI used by employers: recruitment, HR management and the "high-risk" question
Employers also use AI directly, notably in recruitment and workforce management. AI may help screen applications, classify candidates or identify profiles matching set criteria, and may also support evaluation, promotion or dismissal decisions. Such uses can fall within the "high-risk" category under the EU AI Act, which brings transparency, human oversight and documentation requirements. They also raise legal concerns of their own: the criteria used may be biased, the model may reproduce indirect discrimination, and automated filtering may unfairly exclude candidates.
AI-assisted recruitment should therefore remain transparent and subject to genuine human review. Under the GDPR, a dismissal, a refusal to hire or any other materially adverse HR decision cannot be left to an algorithm alone: employees and candidates are entitled to human review and an explanation.
Where such tools affect recruitment criteria or work organisation, the involvement of staff representatives, where applicable, should also be considered.
Beyond recruitment, employers may use AI to monitor productivity, performance or conduct. Luxembourg labour law allows certain forms of monitoring, but it must remain proportionate, necessary and justified by a legitimate aim, and employees must be informed that it is taking place.
Employees retain a right to privacy at work. AI tools that collect excessive data, infer behaviour too broadly or amount to constant surveillance may be unlawful, so any AI-based monitoring should be carefully assessed against labour law, data protection principles and the broader duty of fairness in the employment relationship.

Key labour law risks and employer liability
Deploying AI at work engages several areas of employer responsibility.
First, employers remain bound by their general duty to protect employees' health and safety. Under Luxembourg labour law, this includes assessing workplace risks and implementing appropriate preventive measures, including where AI tools may affect employees' physical or mental well-being. Particular attention should be paid to psychosocial risks. Depending on how such tools are deployed, AI may intensify workloads, increase monitoring, reduce autonomy, heighten cognitive demands or contribute to technostress, and these risks should be addressed as part of the employer's health and safety assessment.
Second, AI use must comply with data protection rules, including the GDPR, especially where it processes personal data of employees or applicants, profiles individuals or supports decision-making.
Third, AI may create discrimination risks. Systems trained on biased or unrepresentative data may disadvantage certain groups in recruitment, promotion, evaluation or disciplinary processes, and using AI does not reduce the employer's accountability under employment, anti-discrimination or general civil liability rules.
Fourth, the deployment of AI may also trigger social dialogue obligations. Luxembourg law grants the staff delegation information, consultation and, in some cases, co-decision rights where a measure affects working conditions, work organisation or monitoring mechanisms. In practice, the introduction of generative AI tools may trigger these rights where their deployment has a concrete impact on employees' day-to-day work or on the way tasks are organised, performed or supervised.
More broadly, AI may alter the pace and organisation of work and blur the boundary between working time and personal time. The right to disconnect, introduced by the law of 18 June 2023, therefore remains fully relevant: tools designed to enhance productivity should not lead to permanent availability or undermine employees' ability to disengage from work. Against this background, employers should review their internal AI policies, as well as confidentiality and intellectual property clauses in employment contracts, to reflect the use of these tools and to frame their deployment in a compliant and proportionate manner.

Conclusion and recommendations for employers
AI can transform the workplace, but lasting value depends on sound legal foundations. For Luxembourg employers, reviewing AI practices, policies and HR processes is a strategic priority. Our team can help you assess risks and develop practical safeguards, enabling your business to embrace innovation with confidence while protecting its people.

Diana Morais
Elvinger Hoss Prussen
DianaMORAIS@elvingerhoss.lu

Member state

Netherlands



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial intelligence is changing how Dutch employers recruit, monitor performance and organise work. While AI offers efficiency gains, it also creates legal responsibilities. Four areas deserve particular attention.

The EU AI Act

The EU AI Act (Regulation (EU) 2024/1689) applies directly in the Netherlands, alongside existing employment legislation. AI systems used for recruitment, promotion, performance evaluation or termination may qualify as “high-risk”, depending on their intended purpose. Not every workplace AI tool falls into this category.

Certain prohibitions, including workplace emotion recognition except for medical or safety reasons, have applied since February 2025. Transparency obligations — for example, the requirement to inform employees that they are interacting with an AI system — apply from August 2026. Employers must also take measures to support staff AI literacy, though the 2026 AI Omnibus (Regulation (EU) 2026/1744) has relaxed this obligation: employers are no longer required to guarantee a specific level of AI literacy for individual employees. The principal obligations for high-risk employment AI systems, including appropriate human oversight, monitoring and advance information to affected employees and their representatives, apply from 2 December 2027. This postponement does not suspend existing employment or privacy law.

Privacy and employee monitoring

AI-based monitoring of emails, productivity, location or behaviour can intrude significantly on employee privacy. Under the General Data Protection Regulation (GDPR), employers need a lawful basis, a specified purpose, proportionate processing and adequate security. Employee consent will rarely be an appropriate basis given the imbalance of power. A data protection impact assessment may be required, particularly for systematic monitoring.

Article 22 GDPR restricts solely automated decisions with legal or similarly significant effects, subject to specific exceptions and safeguards. Human involvement must be genuine, not a rubber stamp. Employees also have rights of access to their personal data under Article 15; specific information about decision-making logic is required in relevant automated-decision cases. Employers should prohibit entering confidential or personal information into unauthorised AI tools.

AI and dismissal

AI is not an independent ground for dismissal. Automation may justify redundancies under Section 7:669(3)(a) of the Dutch Civil Code, but the employer must demonstrate that positions structurally disappear as part of an efficient business operation. Automating individual tasks does not automatically eliminate a position; equally, it may justify reducing the number of positions. Statutory selection rules and redeployment obligations, including reasonable training, remain applicable.

AI-generated performance scores or misconduct alerts may contribute to an employment file, but they are not conclusive evidence. For dismissal based on underperformance, employers must still document shortcomings, provide timely feedback and offer a genuine opportunity to improve (Section 7:669(3)(d)). Misconduct alerts likewise require corroboration before relying on Section 7:669(3)(e). Employers should be able to explain and verify AI-generated evidence, including potential inaccuracies or discriminatory bias.

Works council involvement

Under the Dutch Works Councils Act, introducing an important technological facility or implementing a significant reorganisation may require prior works council advice (Section 25). Consent may be required for arrangements concerning staff monitoring, personal data processing, performance assessment or recruitment and dismissal policies (Section 27). Whether these rights arise depends on the proposed measure, not simply on its use of AI. Consultation must take place while the works council can still influence the decision.

Practical takeaway

Employers should inventory AI tools, assess their employment and privacy risks, allocate responsibility for human review, train staff and adopt a clear AI policy. Early involvement of HR, privacy advisers and employee representatives reduces the risk of disputes. AI may support decisions, but employers remain accountable for them.

Marcel de Vries
Pallas Advocaten
marcel.de.vries@pallas.nl

Member state

Poland



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial Intelligence in the workplace

Artificial intelligence is increasingly influencing how work is organised and performed. Its use is no longer limited to production automation. AI systems support recruitment, analyse CVs, plan work schedules, monitor team performance and assist in assessing employees' skills.

These technologies can improve business efficiency, but they also raise concerns about the protection of employees' rights, transparency in decision-making and responsibility for algorithmic outcomes. Their implementation therefore requires consideration of both technological opportunities and applicable legal regulations.

Legal framework for the use of AI

An important step towards regulating artificial intelligence was the adoption of Regulation (EU) 2024/1689 of the European Parliament and of the Council on 13 June 2024, commonly known as the AI Act. Its purpose is to establish common rules for the development and use of AI systems while ensuring safety and protecting fundamental rights.

At the national level, Poland also adopted the Act of 3 July 2026 on Artificial Intelligence Systems (Journal of Laws 2026, item 1003), which establishes the framework for national AI supervision. The Act generally entered into force on 11 August 2026, while certain provisions became applicable on 28 October 2026.

These regulations do not replace labour law or data protection legislation. Employers must therefore comply with the AI Act alongside the Polish Labour Code and the General Data Protection Regulation (GDPR).

AI in recruitment and employee management

Polish labour law does not contain a single, comprehensive regulation covering every aspect of AI use in employment. However, this does not mean that such technologies operate outside the scope of the law. Employers must continue to comply with the principles of equal treatment, non-discrimination and privacy protection.

Certain AI systems used in employment and employee management may be classified as high-risk systems. These include tools used to screen candidates, assess applications, support decisions on promotions or termination of employment, and monitor or evaluate employees.

Under the applicable timetable, the main obligations concerning high-risk systems are scheduled to apply from 2 December 2027. However, employers must already comply with other applicable requirements, including those relating to personal data protection and equal treatment. The precise obligations depend on the type of system and how it is used.

Transparency and candidate protection
Transparency is an important issue in recruitment processes involving AI. Candidates should receive the information required by applicable law, particularly regarding the processing of their personal data. Depending on how an AI system is used, additional transparency obligations under the AI Act may also apply.

Risk of discrimination

The use of AI in employment may result in unequal treatment of candidates and employees. Algorithms can reproduce biases present in the data used to develop them, potentially favouring certain groups or excluding candidates with comparable qualifications.

Under Articles 11^3 and 18^3a–18^3e of the Polish Labour Code, employers must comply with the principles of equal treatment and non-discrimination. The use of AI does not exempt employers from these obligations. It is therefore essential to monitor algorithmic performance and supervise decisions supported by AI systems.

Personal data protection

The use of AI in the workplace involves processing candidates' and employees' personal data and must therefore comply with the GDPR. Employers must ensure that personal data is processed lawfully, for specified purposes and only to the extent necessary.

Conclusion

Artificial intelligence can improve recruitment, automate repetitive tasks and support employee management. However, its use must respect employees' rights, protect privacy and prevent discrimination.

The AI Act, the Polish Act on artificial intelligence systems, the Labour code and the GDPR establish the legal framework that employers must consider when implementing AI solutions. Responsible use of AI requires not only legal compliance but also risk assessment and appropriate human oversight. Artificial intelligence should therefore be viewed not merely as a tool for increasing business efficiency, but also as a technology that can significantly affect employees' rights and working conditions.

Elżbieta Smirnow
Wojewódka i Wspólnicy
elzbieta.smirnow@wojewodka.pl

Member state

Portugal



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Technological transformations of our time confront Labour Law with unprecedented challenges. The interplay between humans, machines and algorithms is redefining job roles across industries, with the proportional share of tasks performed by humans expected to decline as technology arises.

Recent studies highlight the growing integration of Artificial Intelligence ("AI") into the workplace, particularly in areas such as recruitment, employee monitoring and performance management, as one of the major drivers expected to shape and transform the global labour market. According to the WORLD ECONOMIC FORUM'S Future of Jobs Report 2025, 89% of surveyed employers in Portugal identified AI and information-processing technologies as likely to transform their organisations by 2030. This figure illustrates the scale of the technological change already underway in Portugal and raises a key question: what should employers consider when using AI-driven systems to ensure compliance with employment law?

While trustworthy AI systems can contribute to identify and reduce human bias and discrimination, it is equally true that, if poorly designed or trained, these systems may reproduce, and even reinforce, existing patterns. It is at the recruitment stage that the candidate is particularly vulnerable, as this is when the inequality between the employer and the prospective employee is most evident. In this context, the use of AI systems may further increase this vulnerability by exposing candidates to the risk of algorithmic discrimination.

It is also worth recognizing that algorithms play an increasingly significant role in other aspects of employment relationships. Employee monitoring, for example, raises similar concerns, particularly regarding the extent of data collection and the purposes for which such information is subsequently used, taking into consideration that continuous monitoring may, in this regard, intrude on employee's privacy and other fundamental rights. In performance management, biased or insufficiently explained assessments used by AI systems may unfairly affect employee's opportunities and career progression. All the risks outlined, individually and combined, make transparency, meaningful human oversight and clear accountability key pieces to employment law.

The Portuguese Labour Code seeks to address these risks through sets of complementary provisions on equality and non-discriminations, notably Article 24(3); individual and collective transparency, under articles 106(3)(s), 424(1)(j), and 466(1)(d); and limits on employee monitoring, under articles 17 to 20. Law No. 58/2019, which ensures the implementation of General Data Protection Regulation in Portugal, also plays a part in this framework, particularly Article 28, on the processing of personal data in employment relationships.
Together, these national safeguards operate alongside the Regulation (EU) 2024/1689, commonly known as "AI Act". Although not specifically designed as an employment law instrument, the main uses of AI decision-making systems in the workplace are likely to fall within the scope of high-risk AI systems, under Article 6 and Annex III, point 4, subject to the conditions and exceptions in Article 6(3). Following a risk-based approach, Articles 8 to 15 establish a set of requirements that high-risk systems must meet, giving transparency and human oversight particular emphasis. Article 26, on the other hand, sets out deployer's specific obligations.

Returning to the question that has guided our analysis, employers using AI-driven systems in Portugal should bear in mind the following considerations:

1. The Portuguese Labour Code is clear when setting employer's duty to ensure transparency by informing employees of the parameters, criteria, rules and instructions underpinning the algorithms or other AI systems that may affect decision-making regarding access to and maintenance of employment - including working conditions, profiling and monitoring professional activities - while still safeguarding equality, non-discrimination and limits on personal data monitoring;

2. Where a system qualifies as high risk, employers acting as deployers shall take appropriate technical and organisational measures to ensure they use such systems in accordance with the instructions given by providers, assigning human oversight to natural persons who have the necessary competence, training and authority to ensure human oversight, as well as the necessary support, as set out in Article 26(1) and (2) of the AI Act;

3. Last but not least, this framework should be supported by appropriate AI literacy training, taking account of employers knowledge, experience and context of use, as provided under Article 3(56) and Article 4 of the AI Act. Such training should also be understood as forming part of the employee's right to training set out in Articles 130 to 134 of the Portuguese Labour Code.
In conclusion, the effective implementation of AI-driven systems in the workplace requires a clear understanding of its purpose and potential impact, assuring that outcomes remain subject to meaningful human oversight and transparent decision-making processes. Notwithstanding the above, a regulatory gap remains with regard to algorithmic management in the context employment relationships, which calls for a concerted effort across both national and international jurisdictions.

RITA CANAS DA SILVA & MATILDE BATISTA
Sérvulo & Associados
rcs@servulo.com
mba@servulo.com

Lisa Ericsson · lisa.ericsson@cirio.se

SWEDEN



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

AI is rapidly becoming part of everyday working life. HR teams use it to draft job advertisements, screen applications and analyse employee data. Employees use the same technology to draft CVs and emails, assist with their work duties and to draft claims.
This creates opportunities, but also a new category of employment-law risk.

When HR uses AI

In Sweden, there is no general prohibition on employers using AI in HR. But the closer AI gets to decisions about personnel, the greater the legal risk may be.

The EU AI Act classifies most systems used for recruitment, selection, promotion, termination, task allocation and employee monitoring or evaluation as high-risk AI systems. Certain systems, such as those used to infer emotions, are prohibited. For employers using high-risk systems, the requirements include human oversight and the ability to intervene. Those responsible for using and overseeing the tools also need to understand the risks.

In addition to the AI Act, Swedish employers also need to consider other rules that may apply to AI use, including the GDPR, the Swedish Discrimination Act, employment protection legislation and rules on trade union consultation.
A useful rule of thumb is that AI should support, not replace, human judgement. A person should make the final decision and remain accountable for it.

When employees use AI

Discussions about AI and employment law often focus on employers. That misses half the picture.
Employees themselves may paste contracts, salary information, customer data, internal investigations or other confidential material into public AI tools.

Without clear rules and training, employers risk losing control over confidential information and personal data. A clear policy on how to use AI tools at work is therefore recommendable.

Additionally, using AI tools intended for personal use at work may also expose employers to claims from AI providers for usage fees as many tools are free for individuals but require fees for business use.

Another aspect is the use of AI as an adviser. Employees increasingly have access to an always-available adviser (at little or no cost) that can review an email from their manager, draft a claim, suggest discrimination arguments or generate a lengthy legal response within seconds.
That can be empowering. But generative AI is not necessarily a neutral adviser. It tends to follow the premise of the user's prompt and can reinforce the user's existing interpretation of a situation. An employee asking "Why is my manager discriminating against me?" may receive a very different analysis from one asking "What are the possible explanations for this decision?"

A workplace disagreement that might previously have been resolved through a conversation can therefore quickly become a sophisticated-looking claim containing allegations, legal terminology and extensive demands. The ease with which an employee can escalate a dispute without hiring a legal counsel may also derail otherwise constructive settlement discussions.

For employers, this may mean more and lengthier correspondence with employees and disputes to investigate and respond to. Some may reflect a perception of unfair treatment rather than conduct that qualifies as a legal violation.

Managing AI risks in practice

Businesses should consider the legal risks of AI use both within the business and by individual employees in disagreements with the employer. These include the disclosure of confidential information, know-how and personal data, questions about responsibility for employment decisions, and changes in how workplace disputes arise and are handled. Taking legal advice early can help organisations put practical safeguards in place, including clear policies, effective human oversight and appropriate records of sensitive decisions.

Lisa Ericsson
Cirio Advokatbyrå

lisa.ericsson@cirio.se

Member state

Switzerland



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

1. Introduction

Artificial intelligence (AI) is transforming the workplace, from recruitment and performance assessments to employee monitoring and workforce planning. This raises an important question: how far can employers rely on AI without compromising employees' rights under Swiss employment law?
Switzerland has not yet adopted comprehensive AI legislation. However, existing employment, data protection and personality rights provisions already impose significant limits on the use of AI. The challenge is therefore to use AI responsibly within the existing legal framework.

2. The Swiss legal framework

Article 328 of the Swiss Code of Obligations (CO) requires employers to protect employees' personality rights and health. Article 328b CO limits employee data processing to information relevant to suitability for the employment relationship or necessary for performing the employment contract.
The Federal Act on Data Protection (FADP) further requires lawful, proportionate and purpose-limited data processing (Article 6 FADP). Accordingly, AI tools analysing employee behaviour or productivity must not collect more data than necessary. Technical availability alone does not justify processing.

3. Recruitment and automated decisions

AI is increasingly used to screen CVs, rank applicants and analyse interviews. Such practices are not generally prohibited in Switzerland, but must comply with data protection requirements.
Under Article 21 FADP, individuals must be informed of decisions based exclusively on automated processing where these have legal consequences or significantly affect them. Upon request, they may express their position and obtain human review. This may apply to automated application rejections. Merely formal human approval is insufficient if no independent assessment takes place.

4. Employee monitoring

AI-powered tools can track working hours, communication and productivity. Article 26 of Ordinance 3 to the Labour Act (ArGV 3) prohibits monitoring systems intended to monitor employees' behaviour at work.
Monitoring for legitimate purposes, such as IT security, may be permissible. However, continuous analysis of keyboard activity or communication patterns to assess employee commitment may constitute prohibited behavioural surveillance. Purpose and actual use are decisive.

5. Discrimination and human oversight

AI systems may reproduce biases contained in historical data, potentially disadvantaging applicants or employees based on gender, age or other characteristics. The Gender Equality Act prohibits gender discrimination in employment (Article 3 GEA). Employers remain responsible for discriminatory outcomes, even where decisions are generated by external AI providers. They should assess potential bias, understand decision-making criteria and ensure meaningful human oversight.

6. EU developments and future regulation

The EU AI Act classifies several employment-related AI applications, including recruitment and performance monitoring, as high-risk. Swiss employers may also be affected where their activities fall within its territorial scope.
Switzerland is pursuing implementation of the Council of Europe's Framework Convention on AI, signed on 27 March 2025. Further national legislative measures are expected.

7. Conclusion

Before introducing AI, employers should assess the legal basis and proportionality of data processing, inform employees transparently, conduct impact assessments where necessary, review potential bias and ensure meaningful human oversight.
AI may support managerial decisions, but it cannot replace the employer's legal responsibility. The real competitive advantage lies not in adopting AI as quickly as possible, but in using it lawfully, transparently and in a way that maintains employees' trust.

Irène Suter-Sieber
Walder Wyss

irene.suter@walderwyss.com

Member state

United Kingdom



ARTIFICIAL INTELLIGENCE AND EMPLOYMENT LAW

Artificial intelligence is increasingly becoming part of day-to-day workplace decision-making. From drafting correspondence and analysing large volumes of documents to assisting with investigations and litigation preparation, AI tools can offer significant efficiency gains for employers and their advisers. However, the use of AI in employment matters raises important legal and practical questions, particularly around legal privilege, confidentiality, internal grievances and employment tribunal litigation.
As organisations continue to adopt AI technologies, and their employees increasing turn towards AI in both their daily work and their life outside work, understanding the legal risks and implementing appropriate safeguards are essential.

What role is AI playing in employment matters?
Many employers are now using AI-powered tools to support HR, legal and management functions. Common uses include:
- Drafting policies, letters and employment documentation.
- Summarising evidence gathered during investigations.
- Reviewing emails and documents during grievances or disciplinary processes.
- Assisting with legal research and tribunal preparation.
- Analysing workforce data and identifying trends in employee complaints or litigation.

These tools can improve efficiency and reduce administrative burdens. However, reliance on AI outputs without appropriate human oversight can create significant legal and evidential risks.

AI and legal privilege
One of the most significant concerns for employers is preserving legal professional privilege when using AI tools. There are two main types of legal privilege in English law: legal advice privilege and litigation privilege.

Legal advice privilege protects confidential communications between a client and its legal advisers for the purpose of seeking, obtaining or providing legal advice. Litigation privilege protects confidential documents or communications between a lawyer and their client and/or a third party if the sole or dominant purpose of that communication is the conduct of existing or contemplated litigation.

Legal privilege belongs to the client, not the lawyer, and it can be waived (i.e. lost) if the information is disclosed to a third party, regardless of whether that disclosure was voluntary, intentional or inadvertent. If privilege is lost, then that party loses the right to resist disclosing that information to courts, regulators or opposing litigants and parties. Employers should therefore exercise extreme caution before uploading privileged or confidential material into publicly available AI platforms. Depending on the platform's terms of use, there is a risk that information is processed, retained or used in a manner inconsistent with maintaining confidentiality. If confidentiality is lost, privilege may potentially be challenged or waived.
To limit this risk of inadvertent waiving of legal privilege, employers should consider taking the following practical steps:
- Prohibiting the use of public AI platforms for privileged material.
- Using approved enterprise AI tools with appropriate security and confidentiality protections.
- Establishing internal policies governing AI use by employees and managers.
- Ensuring legal teams review any AI-generated legal analysis before reliance is placed upon it.
- Providing training on privilege and confidentiality risks.

As with any technology, AI should be viewed as an aid to legal analysis rather than a substitute for professional legal judgment.

Grievances, disciplinary processes and workplace investigations
AI can assist employers in managing internal employment processes, particularly where large volumes of information require review, which is increasingly the case as more and more employees use AI to formulate grievances.

Whilst this can significantly reduce administrative burden, employers should avoid allowing AI to make substantive decisions regarding employee complaints or disciplinary outcomes.
Employment disputes frequently depend on nuance, credibility, context and workplace relationships. AI systems can misunderstand context, overlook important evidence or produce inaccurate conclusions. Decision-makers remain responsible for independently reviewing evidence and reaching their own conclusions, and employers should ensure that AI outputs are reviewed critically rather than accepted at face value, that human decision-makers retain responsibility for findings and outcomes, records are maintained to show how decisions were reached and employees are treated consistently and fairly. A failure to apply independent judgment may increase the risk of procedural unfairness and subsequent litigation.

AI in employment tribunal litigation
AI is also beginning to influence how parties prepare and manage employment tribunal claims. However, tribunal proceedings still require careful human oversight. The Employment Appeal Tribunal stressed in a recent case that AI-generated submissions are subject to the same standards as any other document: they must comply with procedural requirements, be carefully checked with accuracy, and focus on relevant issues. Indeed, not only can AI generate inaccurate legal authorities, whether statute or case law, but it can also create convincing, excessively long documents with incorrect analyses. It was also stressed that Employment Tribunals may treat witness statements prepared with the use of AI with greater caution, due to the risk of AI reshaping or embellishing a witness' account.

Employers should be mindful of how they use AI to generate documents during litigation preparation for themselves, as the documents may become disclosable. It is also important to bear in mind that the widespread access of AI is leading to an increasing number of employees acting as litigants-in-person in court, using AI as their only aid in drafting claims against employers, which can lead to lengthy submissions that are not necessarily accurate or lack relevance.

Managing AI risk in the workplace
As AI adoption accelerates, it is clear that responsibility at an employment-law level cannot be delegated to technology as, whilst AI can assist decision-makes, legal accountability remains with the employer. Governance is therefore increasingly important and employers should consider implementing:
- An AI usage policy governing workplace use.
- Approval processes for sensitive or legally privileged matters.
- Training for managers, HR teams and employees.
- Data protection and cybersecurity controls.
- Regular reviews of AI systems and outputs.
- Clear accountability for employment-related decisions.

Conclusion
AI offers substantial opportunities for employers managing workplace issues and employment disputes. It can improve efficiency, reduce administrative burdens and assist with analysing large volumes of information. However, its use also gives rise to important considerations around legal privilege, confidentiality, procedural fairness and litigation risk.
The most effective approach is likely to be one that combines the efficiencies of AI with appropriate human oversight and robust governance. Employers should ensure that AI supports, rather than replaces, professional judgment when handling grievances, investigations and employment tribunal proceedings, and that employees and decision-makers alike have a clear understanding (backed up by robust company AI policies) on which AI tools they should use and how.

Sarah Bull
Birketts
sarah-bull@birketts.co.uk

illn.eu

INTERNATIONAL LABOUR LAW NETWORK

Thank you for reading this issue of:

the

INTERNATIONAL LABOUR LAW NETWORK NEWSLETTER

INTERNATIONAL LABOUR LAW NETWORK (ILLN)

ILLN.EU

The content of the articles published in this newsletter is provided for general informational purposes only and does not constitute legal advice. If you require further information in relation to any of these articles, please contact the author in the first instance.