LEGAL, ECONOMIC AND ETHICAL LIMITS AND CHALLENGES OF ARTIFICIAL INTELLIGENCE IN HUMAN RESOURCE MANAGEMENT

Petra BOBÍKOVÁ, Patrik BŘEČKA, František BABIČ

Abstract

The rapid development of artificial intelligence (AI) is fundamentally transforming human resource management processes, creating new opportunities while also introducing complex legal, economic, and ethical challenges. This article focuses on analysing the limits and possibilities of AI implementation in various areas of human resource management from the employer's perspective, with particular emphasis on the protection of employees' rights as the weaker party in employment relationships. Special attention is devoted to the pre-contractual phase of employment, especially the recruitment process, where the deployment of AI tools raises critical issues related to compliance with the principle of equal treatment and the prohibition of discrimination. The article further examines the processing of personal data in the context of automated decision-making and explores the key questions employers must address to properly design internal policies and procedures. Finally, it offers a technological perspective, highlighting the dynamic development of AI capabilities and their potential impact on the legal, ethical, and organisational frameworks of human resource management. The aim of the article is to contribute to the academic discourse on the legally compliant and sustainable use of AI in the employment context.

INTRODUCTION

In recent years, artificial intelligence (AI) has become one of the most widely discussed topics across various industries. Its rapid development and ability to extend beyond purely technical environments into everyday life have opened new possibilities, but also new challenges. One area where these changes are becoming increasingly evident is human resource management (HR). This discipline—primarily concerned with recruiting new employees, helping them adapt to the work environment, and managing employee relations—already employs AI systems to automate processes, support decision-making, and analyse data.

Various AI tools can be used at different stages of the recruitment process: outreach (e.g. drafting gender-neutral job advertisements), sorting (e.g. searching through CVs for the purpose of evaluating and ranking candidates), assessment (e.g. analysis of video interviews, including voice or face

recognition) and facilitation (e.g. communicating with applicants and answering questions via chatbots) (Gupta et al., 2024, pp. 30–34).

However, with the rise of these technologies, not only do practical questions of efficiency and effectiveness arise, but so too do fundamental legal and ethical dilemmas. How can we ensure that algorithms make decisions fairly and transparently? What factors must organisations consider when implementing them? And where should the line be drawn between innovation and the protection of employees' fundamental rights?

This article will address these questions, focusing on the legal status of artificial intelligence in human resources in terms of specific methods of deployment.

LABOUR LAW RELATIONSHIPS

When evaluating the deployment of artificial intelligence in human resources, it is

essential to adopt a perspective that emphasises the most important element of this process – the employee themselves. The legal status of employees in Slovakia is governed primarily by Act No. 311/2001 Coll., the Labour Code, as amended (hereinafter referred to as the "Labour Code"), which constitutes the fundamental legal framework for labour relations. Under this Act, employees are regarded as the weaker contracting party and are therefore afforded enhanced protection by law. This includes the right to fair and equal treatment, protection against discrimination, the right to safe and healthy working conditions, and the right to fair remuneration for work performed. The consistent application of the basic principles of labour relations is crucial when deploying artificial intelligence, as neglecting them may give rise to legal risks.

The responsibility for protecting employee rights lies primarily with the employer, who is obliged to respect and observe these rights at all stages of the employment relationship – from recruitment and hiring, through adaptation and performance evaluation, to termination of employment. At the same time, it is usually the employer who initiates the introduction of artificial intelligence systems, as their intention is to increase efficiency, reduce administrative burdens and improve overall management and decision-making processes (Du, 2024, pp. 71–77).

In this context, however, it is essential that the deployment of AI tools is not seen merely as a technological innovation, but also as a process that must comply with legal regulations, the principles of equal treatment and personal data protection, while ensuring adequate oversight and transparency of the decisions made by these systems, which is primarily required by new European legislation.

In the context of employees' legal status, employers can be said to find themselves in a relatively challenging position when seeking to ensure effective solutions and their subsequent implementation in the field of human resource management.

Employers can basically proceed in two ways. The first is to develop their own solution, which gives them greater control over the process itself and, in theory, over the

development of the artificial intelligence tool, especially in terms of risks associated with bias or other undesirable parameters. However, this alternative is only really feasible for software companies with sufficient economic and human resources. The effectiveness of such an approach remains questionable, as there are already commercially available software solutions with implemented artificial intelligence functionalities on the market .[1]

Their use therefore represents the second approach that an employer can choose. Alternatively, they can opt for a combination of both options – for example, ordering their own tailor-made solution on a custom-made basis, in which case the key factor is the selection of a supplier capable of guaranteeing compliance with legislative requirements during development.

Regardless of the solution chosen, the issue of data remains a key concern. If the tool is available, there is a need to adapt it to the specifics of the employer. A typical example is the recruitment process, where each employer applies different criteria when assessing the suitability of candidates, which is conditioned by the diversity of job positions. In such a case, it is necessary to use historical data from recruitment processes to train existing artificial intelligence models. However, this approach raises several problematic questions: how to process data so that bias is not reproduced in the generated outputs (an example known from Amazon (Li, 2022, pp. 187–192)) and, at the same time, how to ensure legislative compliance, especially in terms of personal data protection.

PRE-CONTRACTUAL RELATIONSHIPS AND THE PRINCIPLE OF EQUAL TREATMENT

The recruitment process is regulated by Section 41 of the Labour Code, which applies to precontractual relationships and defines the rights and obligations of employers towards job applicants. From a data processing perspective, these provisions also set limits on the scope of

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[1] This is the presumed choice of contract type regulated in Section 91 of Act No. 185/2015 Coll. Copyright Act, as amended.

information that an employer is entitled to request from a potential employee.

However, the restrictions are not limited to the scope of data. The provisions of Section 41 of the Labour Code must be interpreted in conjunction with other legislative requirements, in particular Article 1 of the Labour Code in conjunction with Section 13 of the Labour Code, which enshrines the principle of equal treatment. This section also explicitly refers to Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination, as amended (hereinafter referred to as the "Anti-Discrimination Act"). The above provisions therefore clearly establish the employer's obligation to ensure that the entire process of selecting and recruiting employees is carried out in a non-discriminatory manner. This obligation also applies if the recruitment process involves the use of artificial intelligence tools, with the employer always being responsible for complying with the principle of equal treatment.

It follows from the above that the issue of potential bias in artificial intelligence systems is an important aspect for employers when using them in the recruitment process. Potential bias does not arise primarily from the technology itself, but from the nature and processing of the input data provided to the system. This factor is key in assessing the reliability and legality of the results generated by AI tools. There are numerous articles and studies in the professional literature and publications that systematically address the issue of bias in the context of artificial intelligence and provide a basis for identifying and minimising the risks associated with discriminatory or other undesirable effects (Kolaříková & Horák, 2020, p. 107). Specifically, however, we can mention a study on discrimination (Zuiderveen Borgesius, 2018), which explains the reasons why artificial intelligence tools may be biased. It specifically defines problems related to (i) the method of defining the "target variable" and "class labels"; (ii) labelling training data; (iii) collecting training data; (iv) selecting features; and (v) proxy functions. It also specifically identifies the possibility that (vi) artificial intelligence systems may be deliberately used for discriminatory purposes.

The relevance of the issues defined in this way is also applicable to the recruitment process. Looking at them specifically, in the case of the first (i), this could be a situation where, for example, "successful employee" is set as the target, with success measured only on the basis of speed of advancement in the career ladder or job retention, the system may favour profiles that correspond to historical patterns – for example, younger men rather than women or people from other social groups who have had fewer opportunities in the past. In the case of training data labelling (ii) itself, this may be the case if CVs or applicants have been subjectively evaluated by HR staff in the past and these evaluations are used as inputs for AI training, the system will simply learn their biases. This means that if HR managers have indirectly preferred a certain type of candidate in the past, the algorithm will adapt to this. Regarding the collection of training data (iii), there may be situations where the data is incomplete, unrepresentative or comes only from a limited group of applicants (e.g. from certain universities or regions), and the system will not be able to fairly assess candidates from different backgrounds. The issue of feature selection (iv), i.e. the characteristics of candidates that the algorithm considers, may mean that even seemingly neutral features, such as postcode or type of school, may indirectly serve as indicators of socio-economic status, gender or ethnic origin, thereby introducing indirect bias into the decision-making process. The proxy function (v) may mean that the system assumes that the length of previous employment is a good indicator, thereby discriminating against people who have had career breaks due to parental leave or health problems. Finally, there is also the possibility of deliberate misuse of artificial intelligence in the recruitment process. An employer could deliberately set up the system to discriminate against a particular group – for example, indirectly restricting the recruitment of older workers, people with foreign-sounding names or women for certain positions. In such cases, AI becomes a tool that not only reflects existing inequalities but actively reproduces and reinforces them.

In this context, it should be emphasised that even the application of the principle of equal treatment has its limits and specificities, which

must be interpreted in conjunction with other principles applied in labour relations. In this context, particular reference can be made to the special protection of young employees and pregnant women, which is enshrined in Articles 6 and 7 of the Labour Code. For this reason, a situation may arise in practice that outwardly appears to be unequal treatment, but in reality, is a consequence of the employer's obligation to ensure increased protection of the rights of these specially protected groups of employees, which is ultimately also permitted by the provisions of Section 8 of the Anti-Discrimination Act.

Transparency is ultimately an essential aspect of legislative compliance, also on the basis of Regulation (EU) No (EU) 2024/1689 of 13 June 2024, which lays down harmonised rules in the field of artificial intelligence and amends Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (hereinafter referred to as the "AI Regulation"), which will be discussed in the last part of this article.

The AI Regulation is the first comprehensive and harmonised framework of rules governing the use of artificial intelligence within the European Union. Its structure is based on the categorisation of artificial intelligence systems according to their level of risk, with each category associated with a different range of rights and obligations for entities operating in the supply chain. First and foremost, it is important to note that, according to Annex III of the AI Regulation, "AI systems intended to be used for the recruitment or selection of natural persons, in particular for the placement of targeted job advertisements, analysing and filtering job applications and evaluating candidates" are classified as high-risk systems. In the context of the above, one of the obligations of the deploying entity is the obligation of transparency, within the meaning of Article 13 of the AI Regulation. Explicitly stated, "high-risk AI systems must be designed and developed in such a way as to ensure that their operation is sufficiently transparent to enable deploying entities to interpret the system's outputs and use them appropriately." For an employer planning to deploy an existing artificial intelligence tool,

this means in practice that they must require the supplier to demonstrate compliance with this obligation.

When using an artificial intelligence tool in the recruitment process, it is necessary to demonstrate compliance with the above-mentioned legislation, specifically the Labour Code and the Anti-Discrimination Act, to fulfil the transparency obligation. In the event of an anti-discrimination lawsuit, the burden of proof lies with the defendant, i.e. in this case the employer, who will have to prove that there has been no violation of the principle of equal treatment in connection with the use of artificial intelligence tools.

The aim of pointing out these issues is to demonstrate the importance of the correct approach to data when using artificial intelligence systems in the recruitment process, because only consistent data processing will make it possible to remove or at least eliminate the risk of bias and ensure that the system deployed in this way supports fair and transparent employee selection in accordance with the defined legislative requirements. Finally, it should be noted that the number of complaints of discrimination in employment relationships is already showing an upward trend (Informative report on discrimination and gender equality in labour relations, 2024). It is therefore reasonable to assume that the implementation of artificial intelligence tools may further intensify this phenomenon.

PROCESSING OF PERSONAL DATA

In the context of collecting data on job applicants, it is particularly important to address the issue of personal data protection, as the vast majority of the information provided and evaluated in this way is personal data.[2] The processing of personal data is a broad issue, the basic legal framework for which is provided by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016

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[2] The term is defined in Article 4(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data

on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter referred to as the "GDPR"), supplemented by national legislation, in particular Act No. 18/2018 Coll. on the protection of personal data, as amended.

According to Article 6(1) of the GDPR, the existence of a legal basis is a fundamental condition for the lawfulness of processing, and this list is exhaustive. At the same time, it is necessary to respect the principles of processing set out in Article 5 of the GDPR, such as lawfulness, transparency, data minimisation and purpose limitation.

In pre-contractual employment relationships, i.e. particularly in the process of selecting a suitable candidate, the personal data of applicants is processed primarily for the purpose of taking steps prior to entering an employment contract within the meaning of Article 6(1)(b) of the GDPR (Valentová et al., 2020, p. 97). At the same time, in certain cases, the legal basis for processing may also be derived from the fulfilment of the employer's legal obligation under Article 6(1)(c) of the GDPR, in particular regarding obligations arising from the Labour Code or specific regulations (e.g. proof of qualifications, keeping mandatory documentation).

It follows from the above that the processing of personal data of job applicants is generally based on a combination of legal bases under Article 6(1)(b) and (c) of the GDPR, with the use of the applicant's consent being of limited significance in this context and generally not constituting the primary legal basis.

However, the assessment of the situation in question changes somewhat when artificial intelligence tools are used in the processing of job applicants' data. From the point of view of personal data processing, it is not so much the technology itself that is important, but the purpose of the processing. If the artificial intelligence tool serves exclusively as a means of processing data for the same purpose (selecting a suitable candidate), the legal basis remains unchanged (Article 6(1)(b) and (c) of the GDPR). However, a problem may arise in two situations, namely in the event of a change in the purpose of processing, i.e. if the personal data of job applicants is also used for purposes other than the selection process itself, e.g. for artificial intelligence training purposes. In such a case, it is necessary to assess the compatibility of the purposes under Article 6(4) of the GDPR or to obtain a new legal basis, most often in the form of the applicant's consent. The second aspect of the assessment is automated individual decision-making, which is regulated in Article 22 of the GDPR and grants a natural person the right not to be subject to a decision based solely on automated processing, including profiling, if it has legal effects or significantly affects them. Therefore, if the decision to accept or reject a candidate were solely the result of an artificial intelligence tool, the employer would have to ensure an exception under Article 22(2) of the GDPR, the most relevant being obtaining the explicit consent of the data subject or taking measures to ensure human intervention in the decision-making process.

It follows from the above that the use of artificial intelligence in the processing of job applicants' personal data is possible, but it must be set up in such a way that the purpose of the processing is clearly defined and legally justified, there is no change of purpose without a new legal basis, and that the rights of applicants under Article 22 of the GDPR are respected in automated decision-making.

The employer is therefore obliged not only to determine the appropriate legal basis for processing, but also to ensure compliance with the key principles of the GDPR. This is particularly the principle of transparency, which requires job applicants to be clearly and comprehensively informed about the use of AI tools, including the purpose and basic principles of data processing. Furthermore, the principle of data minimisation must be observed, which means that only data that is necessary for assessing the applicant's qualifications and is proportionate to the purpose pursued may be processed. In cases where the use of AI poses a high risk to the rights and freedoms of the persons concerned, the employer is obliged to carry out a data protection impact assessment in accordance with Article 35 of the GDPR. It is also recommended to maintain appropriate human intervention in the decision-making process so that decisions with a significant impact on candidates are not left solely to the algorithm. The area of cybersecurity also

requires special attention, but this goes beyond the scope of this analysis.

If the processing of job applicants' personal data is based on the legal basis of consent pursuant to Article 6(1)(a) of the GDPR, its revocability within the meaning of Article 7(3) of the GDPR must be considered. Consent must be as easy to withdraw as it was to give, and the employer is obliged to immediately stop processing or ensure the deletion of personal data. However, in the context of the use of artificial intelligence, this requirement poses problems. If applicants' data is used for training or profiling within AI systems, its subsequent deletion from the model can be technically very complicated or even impossible without a fundamental modification of the algorithm. This situation leads to the risk that the artificial intelligence system will continue to contain data that, after withdrawal of consent, may no longer be processed in accordance with the law. For this reason, it can be concluded that consent as a legal basis is not an appropriate legal basis in relation to the application of artificial intelligence in the processing of personal data of job applicants.

TECHNOLOGICAL PERSPECTIVE

Based on a simple analysis of the current situation, we can identify several challenges from a technological perspective in the use of AI in the recruitment process and in personnel procedures (Aguinis et al., 2024), (Madanchian et al., 2023, pp. 367–377), (Nejad et al., 2025, pp. 1203–1218), (Tambe et al., 2019, pp. 15–42), (Ore et al., 2022, pp. 1771–1782), (Hunkenschroer et al., 2022, pp. 977–1007):

- The effectiveness of AI use depends significantly on the quality and complexity of the input data. Decision-making processes can be influenced by inaccurate or incomplete data. At the same time, a significant amount of data (e.g. texts, websites, images, videos, etc.) is required to train large language models or artificial neural networks. These models learn from data, and the training itself can reinforce existing biases or prejudices contained in the input data (e.g. Amazon's unsuccessful deployment of a recruitment tool (Drage et

al., 2022, pp.1-25)). A typical problem with AI models is their "black box" nature, i.e. their non-transparent internal functioning, decision-making and selection of alternatives. This lack of transparency raises concerns about accountability, fairness and overall trust in AI (Varma et al., 2023, pp.1-11).

- Deploying and integrating new AI tools into existing software in an organisation, especially in human resources departments, is a technical challenge. The older the existing software, the more complicated the integration and the lower the effectiveness of the new solutions. Data protection and privacy are also important factors, as the processing of sensitive personal data must be secure and comply with legislation (Yam et al., 2021, pp. 611–623). Another obstacle may be problems in human-computer interaction, which lead to resistance to change and distrust of technology. HR professionals will therefore need to acquire new skills and adapt their working methods (Arora et al., 2021, pp. 288–293).

- The relatively high initial costs of the necessary infrastructure (setup, administration, development, maintenance, updates and data management) can be partially eliminated by outsourcing, i.e. using the services of third parties providing AI tools in a cloud environment. This can be particularly advantageous for companies with a lower number of recruitments per year (Sharma et al., 2024, pp. 219-213). However, it is essential to thoroughly analyse the requirements at the outset and compare the costs with the potential benefits. Another interesting aspect is the perspective of job seekers who interact with the AI tool from an external environment, considering different platforms, device types, internet connection quality, etc.

- The complexity of HR phenomena makes it difficult to create data-driven decision-making models. Employee motivation, behaviour and emotions are dynamic, complex and change over time. It is often difficult to separate individual performance from teamwork, and

objective performance measurement has many dimensions (Kotlyar et al., 2023, pp. 955–991), (Park et al., 2021, pp. 1–15). In addition, traditional recruitment practices often use outdated methods, such as a limited set of keywords when sorting CVs.

- A lack of technical expertise and know-how is another obstacle, as AI tools are currently being implemented primarily in other areas of business. However, investing in the education and development of employees with a relevant portfolio of knowledge and practical skills contributes to building the organisation's high-quality intellectual capital (Salmelin, 2025, pp. 187–200).

CONCLUSION

In conclusion, it can be summarised that when implementing AI in the field of human resource management, it is essential that employers approach this process with the utmost caution and responsibility. First and foremost, it is necessary to ensure compliance with the basic principles of the Labour Code and the Anti-Discrimination Act, and these principles must also be considered when selecting and setting up the AI tool itself. Equally important is compliance with the personal data protection rules, with particular attention being paid to the choice of the legal basis for processing, which

minimises risks and does not create legal or technical obstacles in the future.

Each deployment of an artificial intelligence tool must be assessed individually, not only in terms of its purpose, but also regarding its potential impact on the rights and obligations of all parties involved. It is therefore advisable to prepare documentation that will enable the employer to identify risks in a timely manner and prevent possible violations of legislation, while maintaining the transparency of the entire process.

Employers should also consider introducing mechanisms for ongoing monitoring and auditing of AI tools so that they can respond flexibly to changes in the legal framework or technical aspects of the tools' operation. Only such an approach can create the conditions for the reliable deployment of artificial intelligence tools and, at the same time, increase the efficiency of human resource management. At the same time, it will ensure that the implementation complies with the applicable legislative framework and respects the protection of the fundamental rights of subjects of labour relations.

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Contact:

JUDr. Petra Bobíková
Asseco Central Europe, a.s..
Galvaniho 19045/19 821 04 Bratislava, m. č. Ružinov, Slovensko
e-mail: petra.bobikova@asseco-ce.com

Mgr. Patrik Břečka, PhD.
Asseco Central Europe, a.s..
Galvaniho 19045/19 821 04 Bratislava, m. č. Ružinov, Slovensko
e-mail: patrik.brecka@asseco-ce.com

doc. Ing. František Babič, PhD.
Fakulta elektrotechniky a informatiky, Technická univerzita v Košiciach
Letná 1/9, 042 00 Košice-Sever, Slovensko
email: frantisek.babic@tuke.sk