



**The Journal of Robotics,
Artificial Intelligence & Law**

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Embracing Artificial Intelligence at Work While Complying with French Employment Law

Marine Hamon and Agathe Vandenbroucke*

In this article, the authors explain that the intersection of French employment law and artificial intelligence presents both challenges and opportunities.

One can be enthusiastic or skeptical about artificial intelligence (AI), but there is little debate that it is changing the way we work for good, and its earthquake could be even bigger than the internet was in its day. The intersection of French employment law and AI presents both challenges and opportunities.

The use of this new technology is becoming crucial for companies to remain competitive, as it offers the potential to enhance skills, efficiency, and productivity but also improves job performance and innovation. Conversely, it questions the ethics of work and raises concerns around job displacement. An unbridled use can also seriously threaten confidential information, and notably research and development projects not yet covered by a patent for instance.

In this respect, simply blocking employees' access to ChatGPT from professional information technology (IT) equipment cannot be the appropriate response, and more work needs to be done to establish clear boundaries for employees as to what can and what cannot be done. The difficulty lies in the complexity and versatility of the tool, which raises multiple legal issues, ranging from the protection of personal data to intellectual property and employment law, the subject matter of this article.

In order to control its use within the company and at the same time encourage its development, employers need to formally address the issue of AI and by doing so, fill the current gap in French legislation. If France has been to the forefront at the beginning of 2025 by convening an AI summit and engaging discussions

around a more ethical use of AI—notably in the workplace—there is currently no clear legislation on the topic. It is yet for companies to implement their own set of rules to ensure that the use of AI becomes a real asset, respectful of employees' rights and protective of business valuables.

Employers' Obligations When Implementing AI

Even though the French Labor Code does not specifically refer to the use of AI, core employment law principles and obligations must be kept in mind when introducing such tool in the workplace.

Inform and Consult Staff Representatives

Under French law, the Works Council must be informed and consulted on (1) terms and conditions of employment,¹ and (2) the introduction of new technologies and any major change affecting health and safety conditions or working conditions.² It is clear that the introduction of any AI program will most of the time have an impact on working conditions. This is particularly important when AI is being used for monitoring, decision-making, or altering the way work is performed. Employers should also ensure transparency about the potential effects of AI on employees' roles and duties.

In most cases the employer will therefore have to inform and consult the Works Council before any decision to use AI within the company is taken. Failing that, the Works Council could bring a legal action before the judge of expedite matters (*Référés*) to block the implementation until a proper consultation is organized and potentially claim for damages for hindering offence.

Ensure That the Use of AI Will Not Lead to Discriminatory Decisions

AI can save countless hours to any human resources (HR) department; in particular, for recruitment tasks where algorithms can be used to analyze resumes, sort applications, and predict compatibility for a job.

In doing so, the employer must take into account all the rights (employees' rights as well as applicants' or clients' rights) that could

be impacted by the introduction of an AI program so that the automation of this task does not lead to discrimination in recruitment and subsequently, in the way performance is assessed.

AI systems used by HR should therefore be designed in such a way as to avoid gender, age, ethnicity bias or any other bias related to protected characteristics.

Assess Health and Safety Risks Associated to the Use of AI

As a new technology, the use of AI can negatively impact employees' health and safety at work. Changes in work habits, introduction of automated processes can increase anxiety or create stress which must be mitigated through the implementation of preventive measures such as specific trainings and/or mental health assistance. This specific risk should also be integrated in the company's risk assessment document (DUERP).

The employer should also anticipate the legitimate feeling of insecurity among employees, which may lead them to fear that their position will be eliminated. This anticipation can be achieved by setting up appropriate support; in particular, job and career management. For instance, French law requires³ in companies with more than 300 employees to negotiate with staff representatives, at least every three years, on job and career management (GEPP). The aim of GEPP is to adapt jobs, staffing levels, and skills to the company's strategy and to changes in the economic, technological, social, and legal environment. This could be used by companies, even smaller ones, to anticipate the impact on employment and thus reduce the fear of AI eliminating jobs.

Comply with Data Privacy Rules

AI necessarily processes a large amount of data in order to function. In terms of recruitment, GDPR requires employers to inform candidates when algorithmic processing is used in the selection process. More generally, the employer must comply with all data protection rules prescribed by European and French law such as transparency, data minimization, limited retention period, etc.

Adapt the Employees to the Evolution of Their Role

AI is significantly transforming the way work is performed, leading to the elimination of certain tasks while creating new ones. As expressly provided by the French labor code, employers have an obligation to train their employees to the evolution and adaptation of their job which also applies to the changes brought by the use of AI.

Employers must also anticipate the nature of the transformation of employees' tasks linked to the use of AI. Under French law, the employer may, without the employee's consent, modify the employee's working conditions and, to a certain extent, the employee's tasks.

However, such a change could be so significant as to be deemed a modification in the employment contract, which requires the employee's prior consent. Depending on the degree of transformation through the use of AI, the employer could be cornered by the employee's refusal.

Employees Using AI and the Need for a Clear Framework

How many people/employees pass off the work generated by AI as their own? How many people trust AI without even questioning its reliability? In the absence of prior checks, employees may work on the basis of incorrect data or even share incorrect information with colleagues or clients.

Aside from the reliability of any AI (even those developed for internal use), there are a number of employees using open AI such as ChatGPT via their personal phone to circumvent the fact that their company blocked its access on their professional devices. Unauthorized use by employees in the course of their work is also a real threat in terms of data protection and confidential data as they use AI to rewrite, correct, translate sentences, or even company or clients' documents. It is therefore recommended (1) to introduce a clear framework to prevent these risks from materializing, and (2) to potentially sanction employees' failure to comply with it.

Setting Up an AI policy

As seen above, employers are under a legal obligation to train their work force to the evolution of their job, but the purpose of such training should also be to raise awareness as to the professional risks employees' misuse of AI can pose to the company. Among other things, employees should be able to assess the level of risk of an AI, to measure the need to anonymize personal data subject to an AI, and to alert their management and colleagues in the event of any difficulties whatsoever (suspicion of unauthorized use, incorrect data, etc.).

Aside from a dedicated training, the employer should adopt a clear framework for the use of AI that can be done through:

- The drawing of a charter/policy on the use of AI tools (whether private or public);
- The incorporation of AI-related provisions into existing documents such as IT policies/charters;
- The negotiation of a collective agreement with the Works Council or Unions if applicable to promote social dialogue on the topic.

Sanctioning AI's Misuse

To ensure the effectiveness of an AI charter/policy, employers should be able to sanction employees who do not comply with its provisions. For this to happen, the dedicated provisions (or the charter) should be appended to the company's internal regulations which requires to comply with the dedicated implementation rules prescribed by the French Labor Code (prior information and consultation of the Works Council, notification to the Labor Inspectorate, filing with the clerk of the Labor Court and posting on the premises/intranet).

Certain clauses in the employment contract such as the confidentiality clause or the intellectual property clause should be reinforced as to clearly specify that confidential information but also innovation projects (trade secrets notably) should never be shared through open-source AI and that breach of these provisions could lead to sanctions and even to the possibility for the company to claim for damages for the loss suffered.

Conclusion

While AI can significantly enhance productivity and streamline operations, employers operating in France should be prepared to carefully navigate French law to ensure compliance but also engage, where possible, with social partners to foster a more collaborative and trustworthy approach to this new way of working.

Notes

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1. French Labor Code, article L. 2312-17.
2. French Labor Code, article L. 2312-8.
3. French Labor Code, article L. 2242-20.