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Italy's Legislative Decree No. 179 Addresses AI in Employment Decisions

Published on Oct. 7, 2026, Italy's Legislative Decree No. 179 sets out requirements for employers that use AI in the workplace. This GT Alert provides an overview of those requirements.

AI and Final Employment Decisions in Italy: Human Decision-Maker Required (Art. 41, para. 1)

In decision-making processes concerning the employment relationship, an employer using AI systems must confirm that final decisions about establishing, modifying, or terminating the relationship; disciplinary sanctions; or performance assessments are not made solely based on automated processing. The final decision must be reserved for a natural person, who must exercise effective and autonomous decision-making authority.

According to EU Regulation 2024/1689, to which Italian Legislative Decree No. 179/2026 refers, an AI system is an automated system designed to operate with varying levels of autonomy, which may adapt after deployment and which, for explicit or implicit objectives, infers from the input it receives how to generate outputs such as predictions, content, recommendations, or decisions that may influence physical or virtual environments.

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Candidate Screening, Non-Discrimination, and Worker Data Access When Using AI (Art. 41, paras. 1, 2 and 3)

- Searching for and selecting candidates is not considered a final decision on establishing the employment relationship, even if a candidate is not invited to subsequent stages of the selection process.
- The use of AI systems must respect the worker's dignity and privacy, as well as the principle of non-discrimination (beware of bias).
- The worker has the right to access the data collected, and the GDPR applies.

Employer Information Obligations for AI Systems in Italy (Art. 41, para. 3)

An employer using AI must comply with the information obligations applicable to automated decision-making or monitoring systems (Art. 1-bis, Legislative Decree No. 152 of 26 May 1997), providing the worker, before the commencement of employment, with the following information:

- the aspects of the employment relationship affected by the use of the systems;
- the purposes and objectives of the systems;
- the logic and operation of the systems;
- the categories of data and the main parameters used to program or train the systems, including performance evaluation mechanisms;
- the control measures adopted for automated decisions, any corrective processes, and the person responsible for the quality management system; and
- the level of accuracy, robustness, and cybersecurity of the systems and the metrics used to measure those parameters, as well as the potentially discriminatory impacts of those metrics.

Worker's Right to an Explanation of AI-Assisted Employment Decisions (Art. 41, para. 3)

The worker is entitled, upon request, to obtain a clear and easily understandable explanation of the decision concerning his position, including any impact AI systems had on the decision-making process and the main parameters the employer took into account.

The explanation must be provided by a natural person, and it must indicate how AI affected the final decision's implementation and the parameters used.

Consequences of Violations: Null and Void Dismissals and Decisions (Art. 41, para. 4)

Dismissal of employment imposed in breach of paragraph 1 and decisions taken by the employer in breach of paragraph 1 are null and void.

AI and Workplace Health and Safety Risk Assessments (Art. 42, para. 2)

The use of AI systems that affect work organization, production rates, the way work is performed, and decision-making processes relevant to occupational health and safety must be subject to a risk assessment specifically intended to supplement the company's health and safety procedures for preventing professional illness and accidents at work (Article 28 of Legislative Decree No. 81/2008).

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Worker Information and Training on AI Risks (Art. 42, para. 3)

Employers must provide workers with adequate information and training on the specific risks associated with the use of AI systems, as well as on the prevention and protection measures adopted.

Where AI systems are used, the information provided to workers must be updated to cover health and safety measures and measures about personal data processing.

What Distinguishes a Fully Automated Decision-Making System from an AI System?

Fully Automated Decision-Making Systems	AI Systems
Do not engage in any independent reasoning	Autonomy
Outputs are predictable	Unpredictability
Cannot progressively adapt or self-learn	Self-learning

Examples of Fully Automated and AI Systems in Employment: Hiring, Scheduling, Pay, and Promotions

Automated decision-making and monitoring systems, and increasingly AI systems as well, are being used across the various stages of the employment relationship. Below, we provide some practical examples that are emerging in Italy.

- **Pre-hiring stage**: automated candidate profiling, CV screening, psychometric assessment software, and emotion recognition.
- **Managing duties and working hours**: automated assigning and withdrawing of duties, allocating and withdrawing remote working arrangements, assigning work shifts, and automated rotation mechanisms.
- **Variable pay management**: automated analysis of individual and collective productivity through statistics, data collection, and processing.
- **Management of training and promotions**: machine learning, deep learning, automated processing of multiple-choice questionnaires, and rating and ranking systems.

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Employer Policy and Training Considerations for AI Use

- Companies may wish to adopt a policy identifying the circumstances and purposes for which AI systems may be used and governing the systems' use, limitations, responsibilities, and control measures.
- Employers must provide workers with adequate information and training on the specific risks associated with using AI systems and on the prevention, protection, security, and personal data protection measures the company adopts.

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