Anticipating the impact of AI on Companies Operations
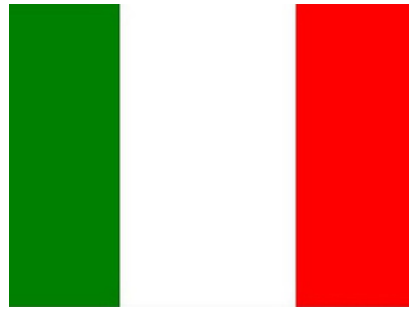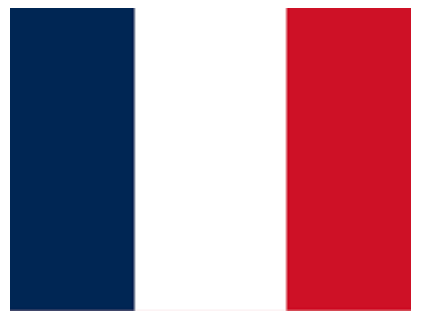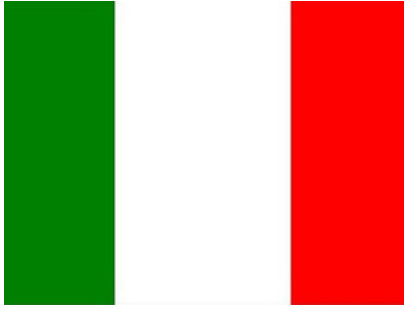
Artificial intelligence is set to profoundly change day-to-day life and in particular the way companies operate and employees perform their work. While the European Artificial Intelligence Act came into force on August 1, 2024, scholars, legislators and professionals of the legal world are still processing the underlying issues and challenges that these new technologies represent.

In this article we try to grasp some key aspects of this highly topical issue and ultimately try to understand how, in Italy and France, the use of new technologies may impact daily HR operations.

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A bill on artificial intelligence is currently under consideration by the Italian Parliament, with the aim of bringing domestic legislation in line with the provisions of the European AI Act. In its current version, the text includes an article specifically dedicated to the use of artificial intelligence in the workplace.

The bill provides that:

- artificial intelligence shall be used to improve working conditions, protect the psychological and physical integrity of workers, increase the quality of work performance and the productivity of individuals;
- the use of artificial intelligence in the workplace must be safe, reliable, transparent and may not violate human dignity or infringe the confidentiality of personal data;
- the employer may be required to inform the employee of the use of artificial intelligence systems;
- artificial intelligence must be used in such a way as to guarantee the inviolable rights of the employee and the prohibition of discrimination.

Currently, France has very limited to no specific regulations concerning AI (while this may change in the coming years with the implementation in local legislation of EU directives). In the absence of dedicated legislation, employers must rely on traditional legal principles to regulate the use of AI in the workplace.

For instance, employers may already anticipate the impact of AI (on the very nature of the jobs performed by employees) by negotiating with Trade Union representatives a GPEC agreement ("Gestion prévisionnelle de l'emploi et des compétences"). This type of collective agreement enables parties to anticipate foreseeable evolutions of jobs, skills and qualifications in light of technological advancements.

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II. In your jurisdiction, are staff representatives involved in any ways in the digital transformation of companies?

Yes, definitely. Moreover, in the future, we can imagine that the use of artificial intelligence systems will increase the role of trade unions and the need for dialogue with the employer.

In fact, it is foreseeable that in some contexts and sectors the technological evolution of working methods may result in job losses: in this hypothesis, companies may resort to collective dismissal procedures, which in the Italian system provide for dialogue and joint examination between trade unions and employers to ensure maximum participation in reorganization processes.

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Should a company decide to change their business model and to introduce AI into their daily operations, they must make sure to partner with the Social and Economic Committee (SEC) beforehand as staff representatives are supposed to be consulted on any matter that may have an impact on the general running of the company.

Furthermore, it should be noted that French law allows an employer to use technological change as a ground for individual or collective redundancies. There might be a time where the introduction of new AI technologies will incur a significant reduction of the workforce, bearing in mind that this type of plan must be anticipated and discussed with staff representatives and trade union representatives, if any.

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III. What are the typical risks that can be identified when it comes to the introduction of this new type of technology?
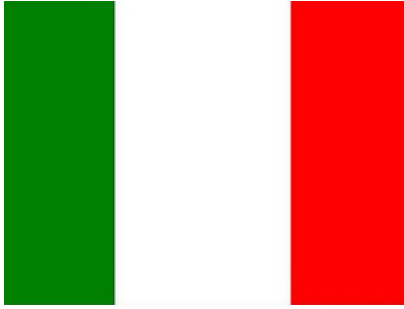
While the use of new technologies has undoubted advantages (first and foremost, the speeding up of processes and the simplification of human activities), in other respects it presents potential criticalities, especially with regard to: information security, privacy of personal data (including workers') and company data, copyright violations, the production of defective or dangerous products, and the protection of workers' dignity and non-discrimination.

III. What are the typical risks that can be identified when it comes to the introduction of this new type of technology?

Employers need to pay attention to risks in terms of (i.) data protection (as AI is likely to re-use the data, without the possibility of controlling who has access to it), (ii.) plagiarism (the information generated by AI is often copied from multiple other sources), (iii.) liability in case of incorrect information.
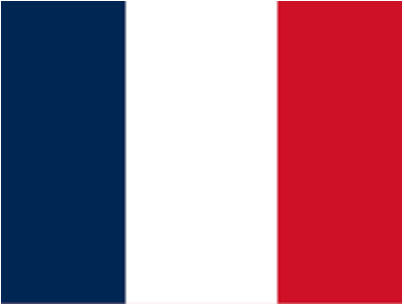
Furthermore, new psychosocial risks related to the isolation of employees (who work with machines hence loosing the ability to bound with coworkers), increased working hours (as machines are not subject to working time regulation), or the reduced ability for employees to take personal initiatives should be anticipated by employers.

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First of all, when adopting a new artificial intelligence system, it is necessary for the company to provide the staff that will use it with the necessary training to enable them understand the functioning and management of the tools.

At the same time, employers can also protect themselves against the risks of confidential information breaches by adopting specific policies on the use of new technologies or by modifying those that may already be in place.

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IV. The use of several software may incur the communication of information covered by confidentiality: How can the employer anticipate the risks pertaining to data breach and confidentiality?

The most appropriate way to regulate the use of AI software is to implement an IT policy or adapt the one in place. Such policy should include (i.) explanations on the objectives of AI use within the company, (ii.) Restrictions on personnel authorized to use AI tools and/or the tasks for which AI tools can be used, (iii) the type of information that can be submitted to AI and (iv) the AI platforms that can be used in a professional framework…

In order to be fully enforceable, the IT policy should be incorporated or appended to the internal regulations and individually communicated to employees. The company should also inform its employees on the risks of AI use in general and offer to train them how to use AI platforms and how to pre-process information before submitting it, through data anonymization for instance.

V. And when it comes to your work as lawyers, does AI already influence the way you work?

At the moment, the input provided by the human workforce remains prevalent, even though there are increasingly advanced databases that make it possible to research case law and legislation very quickly and with very precise results. It is possible that more advanced systems will exist in the future, but in any case, human control will always be necessary.

The bill on artificial intelligence that is now before the Italian Parliament contains a specific provision in this regard.
It is clarified that, in the context of the intellectual professions, artificial intelligence systems can only have a supporting role to the professional activity, which must be predominantly based on intellectual work.

Furthermore, it is provided that the professional must inform the client about any artificial intelligence systems used.

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V. And when it comes to your work as lawyers, does AI already influence the way you work?

It is clear that the development of AI will change the way we operate as Lawyers. We will most probably spend less time in the future on routinary tasks that could very well be treated by generative AI and predictive analytic tools and will have to focus our attention on the following missions:

- Interpreting Law - in most cases, matters we are provided with are not black or white. We must promote our holistic approach of Employment Law and provide clients with the most suitable solution for their legal issues. Our understanding of human relationships and interactions in the workplace (that AI does not have yet) enable us to be forward-looking and have come up with creative ideas.

- Assisting clients on compliance issues in relation to the use of AI – we are working diligently on performing our knowledge of AI tools and of the consequences that the implementation of such tool may entail for our clients. Companies will be looking in the future for a tailored approach of these issues.

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Italy - France: Conclusion

The rise of AI brings its load of questions and challenges for companies that must now rethink the way they operate.

Companies about to experiment these deep organizational changes should be assisted by Employment Law experts who can anticipate the impact of the new EU and local regulation on their daily operations and provide forward-thinking solutions to adapt the workforce and the activities to these new technologies.

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