

# WHAT US EMPLOYERS NEED TO KNOW ABOUT AI HIRING BIAS LAWS IN THE EU AND UK

Insights  
Mar 31, 2026

## What US Employers Need to Know About AI Hiring Bias Laws in the EU and UK

Regulators in the European Union (EU) and the United Kingdom (UK) are sharpening their focus on algorithmic discrimination in employment decisions, combining new AI-specific rules with established data protection and anti-discrimination frameworks. This Insight highlights the key developments you should have on your radar and provides four practical steps you can put into place right away.

### EU: High-Risk HR AI and the "SCHUFA" Warning

The EU applies a compliance-driven model for AI. Under the [EU Artificial Intelligence Act \(AI Act\)](#), most tools used in employment and worker management (including systems for recruitment, candidate screening and ranking, promotion, performance evaluation, and some monitoring technologies) are classified as "high-risk" because they directly affect workers' livelihoods. High-risk systems must meet detailed obligations before deployment, such as documented risk management processes, robust data governance and quality controls, technical documentation, logging, transparency, and meaningful human oversight.

Article 10 of the AI Act focuses on data quality and bias. High-risk HR AI must be trained, validated, and tested on data that are relevant, representative, sufficiently diverse, and "as free of errors as possible." Moreover, organizations

## Related People



**Mauricio Foeth**

Of Counsel

[+52 55 48992148](tel:+525548992148)/[+49 1575 8880464](tel:+4915758880464)

---

## Service Focus

[AI, Data, and Analytics](#)

[International](#)

---

## Resource Hubs

[AI Governance Hub](#)

are expected to carry out systematic bias testing with documented mitigation and ongoing monitoring.

### ***Court Decision Provides GDPR Warning***

These new AI-specific rules sit on top of the EU General Data Protection Regulation (GDPR). Article 22 restricts decisions based solely on automated processing that produce legal or similarly significant effects, such as hiring and termination. Employers that rely heavily on automated scoring or ranking must therefore ensure meaningful human involvement, provide candidates with information about the logic involved, and offer routes to contest decisions.

The European Court of Justice's SCHUFA decision from 2023 has reinforced a broad reading of Article 22. The Court held that generating a credit score through automated profiling can itself be an automated decision where third parties rely heavily on that score to grant or deny credit. By analogy, AI-generated scores or rankings that effectively determine who is interviewed or hired may be treated as automated decisions even if a human nominally "rubber-stamps" the result. This interpretation significantly raises the bar for employers using algorithmic scoring tools in recruitment and promotion.

#### ***What Does This Mean For Your Organization?***

For US employers, this means AI-based recruiting tools cannot be treated as opaque vendor products and applied in all subsidiaries without adaptation. Your internal teams will need to understand how AI models were trained and how fairness is monitored over time as well as the applicable regulation and constraints in each jurisdiction.

### **UK: DUAA 2025 and a Calibrated Shift from EU Rules**

The UK has opted not to mirror the EU AI Act, instead layering targeted reforms onto existing law. The Data (Use and Access) Act 2025 (DUAA) amends the UK GDPR and Data Protection Act 2018 rather than replacing them. DUAA is being brought into force in stages and is designed to simplify and clarify data protection rules while retaining core protections and enabling responsible innovation.

DUAA reforms the UK rules on automated decision-making by replacing the original Article 22 UK GDPR with a new set of provisions that focus on “significant decisions” taken solely by automated means. The most stringent restrictions apply where such decisions are based wholly or partly on special category data, and only where specified safeguards are not met.

### ***New Law Provides Simplification***

DUAA simplifies aspects of UK data protection compliance, including record-keeping requirements and compatibility assessments for certain re-uses of personal data. It also introduces limited categories of “recognized legitimate interests” that do not require a balancing test. For employers, this can make it easier to rely on legitimate interests when using AI-assisted screening and scoring in recruitment. However, it does not remove the need to assess risk carefully, carry out appropriate impact assessments, and ensure that safeguards around significant automated decisions are in place.

### ***Regulators Get Additional Resources***

The Act also strengthens and clarifies the Information Commissioner’s regulatory toolkit. It updates guidance and codes of practice on AI and automated decision-making while setting clearer expectations for how organizations should handle complaints and cooperate with the regulator. The ICO has already highlighted concerns about AI-driven recruitment tools that may disadvantage protected groups or lack sufficient transparency, and has begun to articulate specific expectations on bias testing, meaningful human involvement, and explainability in hiring.

### ***Existing Laws Remain in the Framework***

Importantly, DUAA does not displace the Equality Act 2010, which continues to prohibit direct and indirect discrimination in recruitment and employment, including where decisions are supported by AI.

#### ***What Does This Mean For Your Organization?***

Designing recruitment workflows so that humans genuinely review and can challenge AI outputs, combined with documented bias testing and clear

candidate communications, will remain critical to demonstrating compliance.

## 4 Practical Steps for US Employers

Given this developing landscape, US employers using AI in recruitment and HR across the EU and UK should consider at least the following steps:

### 1. Map and Classify AI Tools

Create an inventory of HR-related AI systems and identify which are “high-risk” under the EU AI Act, where GDPR Article 22 may apply, and which processes in the UK fall within DUAA’s automated-decision rules.

### 2. Build in Bias and Data-Quality Testing

Require vendors to provide data quality and bias audit documentation, conduct your own pre-deployment and periodic testing, and document remediation measures where disparities are identified.

### 3. Ensure Meaningful Human Oversight

Design recruitment and promotion workflows so humans genuinely review and can override AI outputs, and train HR and hiring managers to understand both the capabilities and limitations of these systems.

### 4. Respect Local Participation and Transparency Rules

In Germany, and other European countries such as Spain, Italy, Austria, the Netherlands, and France, you should involve works councils early when introducing AI-based HR tools. In the UK, you may consider consulting the Joint Consultative Committee or Employees’ Council and track DUAA commencement and ICO guidance, and provide clear notices, explanation rights, and complaint channels to candidates and employees.

## Conclusion

If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [AI, Data, and Analytics Practice Group](#) or our [International Practice Group](#). Make sure you subscribe to [Fisher Phillips’ Insight](#)

System to gather the most up-to-date information on AI and the workplace.