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# AI and the Workforce: Classification, Personal Data in Vietnam

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# VIETNAM'S AI REGULATIONS

- Law 134/2025/QH15 dated 10 December 2025 on Artificial Intelligent became effective on 1 March 2026 ("**AI Law**").
- Government Decree 142/2026/ND-CP dated 30 April 2026 guiding certain articles and implementation measures for the AI Law ("**Decree 142**"), became effective on 1 May 2026.
- Prime Minister's Decision 33/2026/QD-TTg dated 30 June 2026 listing high-risk AI systems ("**PM Decision 33**"), became effective on 15 August 2026.

# THE FIVE ACTORS OF AI USE

|                                      | <b>Article 3 of the AI Law</b>                                                                                                                                                                           |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| nhà phát triển / developer           | designs, builds, trains, tests or fine-tunes, in whole or in part, an AI model, algorithm or system, and which has direct control over the technical methods, the training data or the model parameters. |
| nhà cung cấp / provider              | places an AI system on the market or puts it into service under its own name, brand or trademark, irrespective of whether that system was developed by it or by a third party.                           |
| bên triển khai / deployer            | uses an AI system under its control for professional or commercial activity or for the provision of services. This does not include use for personal, non-commercial purposes.                           |
| người sử dụng / user                 | interacts directly with an AI system or uses the output of that system.                                                                                                                                  |
| người bị ảnh hưởng / affected person | whose rights, lawful interests, life, health, property, reputation or access to services is affected, directly or indirectly, by the deployment of an AI system or by its output.                        |

# AI SYSTEM CLASSIFICATION

- **High-risk AI System:** capable of causing significant damage to life, health, the rights and lawful interests of organizations and individuals, national interests, public interests or national security.
- **Medium-risk AI System :** capable of causing confusion, impact or manipulation of users due to inability to recognize that the interacting entity is an AI system or that the content was system-generated.
- **Low risk AI System:** everything not within (a) or (b).



# HIGH-RISK AI SYSTEM

- High-risk AI Systems are identified in the PM's Decision 33.
- The list has only 26 types of AI Systems in 6 main categories: education, ethnic and religion, healthcare, court proceedings, banking and transportation.
- The list can be supplemented and adjusted from time to time.
- The criteria for an AI system to be identified as a high-risk AI systems include: the impact level, field of use and scale. However, these criteria are not for self-assessment.



# MEDIUM-RISK AI SYSTEM

- Medium-risk AI systems include AI systems that are
  - not high risk and
  - capable of causing confusion, impact or manipulation of users due to inability to recognize that the interacting entity is an AI system or that the content was generated by an AI system.
- **A question for the room:** Will notifying the users that they are dealing with an AI system be sufficient to negate the 2<sup>nd</sup> condition?



# MEDIUM-RISK AI SYSTEM

An AI system cannot be considered a medium-risk AI system, if it:

- provides only technical editing assistance to improve the presentation of content and does not create new content and does not alter the identity of the subject;
- supports office work, its nature as an AI tool is clearly apparent to the user from the context of use, and it has no simulation or emulation function capable of causing confusion as to identity or as to the authenticity of events;
- does not interact with, or directly supply services or content to, the public, including where content is not released to the public through a third party or intermediary platform;
- is used in artistic, cinematographic, video-game or other creative activity, and the context of publication makes clear that the content is fictional;
- performs only data processing, data analysis or operational optimization within a technical system; it does not interact directly with users, does not create content supplied to the public, and does not directly interact with the physical environment as the principal control function of the system.



# LOW-RISK AI SYSTEM

If your AI system is not classified as a medium-risk or a high-risk AI system, your AI system would be considered low risk.

Decree 142 indicates that there will be a tool on the AI portal, which will help providers with the classification of their AI system. However, using such a tool is not mandatory.

The general obligations under the AI Law still apply:

- General prohibitions under Article 7;
- Transparency requirements under Article 11; and
- Incident reporting requirements under Article 12.



# PERSONAL DATA PROTECTION AND AI - EU COMPARISON

|                              | <b>EU Model</b>                                                                                                | <b>Vietnam Model</b>                                                                     |
|------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Scope                        | AI Act applies without prejudice to the GDPR (AI Act, Art. 2.7)                                                | The regulations apply independently but no express provision                             |
| Legal basis for bias testing | Conditioned derogation to process special category data for bias detection and correction in high-risk systems | No equivalent                                                                            |
| Assessments                  | Fundamental Rights Impact Assessment (FRIA) and DPIA can be combined                                           | DPIA to A05 on a prescribed form; AI notification to MOST on the Portal. No combination. |
| High-risk timing             | Deferred to 2 December 2027 or 2 August 2028 (subject to adjustment)                                           | Deferred to 1 March 2027 or 1 September 2027                                             |

# PDPL AND AI IN VIETNAM

The PDPL applies without any reference to risk tiers under the AI Law.

Article 30 of the PDPL addresses AI system processing personal data specifically:

- Systems and services using AI must have appropriate measures for personal data protection, identification and verification and access authorization.
- Processing personal data using AI must be classified by risk levels.



# CONSENT AND TRAINING DATA

Use of personal data as training data for the AI system will fall within either of the following:

- Using raw personal data as training data will require consent of the data subject;
- Using de-identified personal data as training data will require de-identification of the personal data, which (i) also requires consent, and (ii) is subject to certain requirements under the PDPL on de-identification.

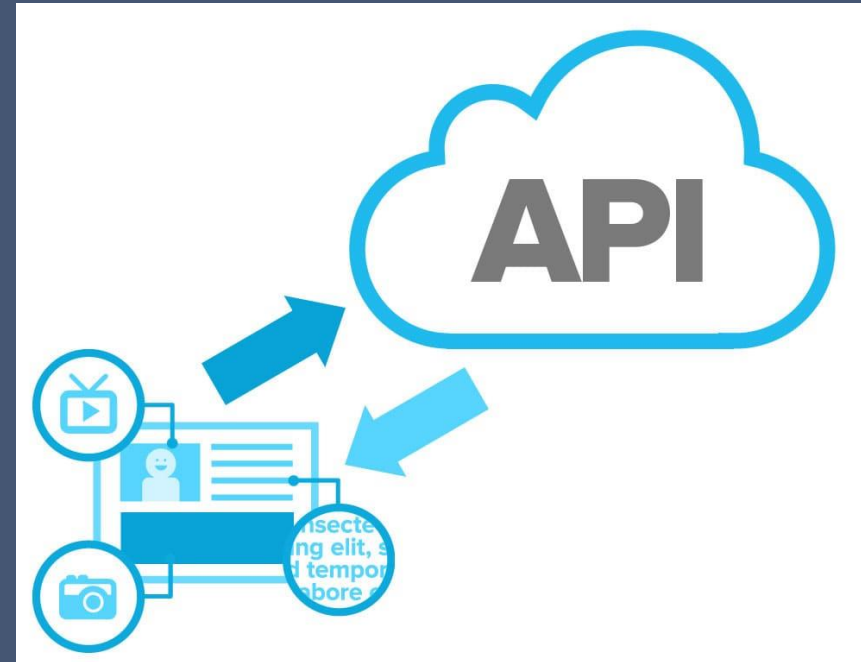
Legitimate Interest is not recognized as a legal basis for processing of personal data under the PDPL.



# CROSS-BORDER TRANSFER

Transfer includes sending data collected in Vietnam to offshore platforms for continued processing. Every API call to a foreign model endpoint containing personal data is a cross-border transfer on the face of the definition.

There is an exemption for human resource management in the PDPL: Data Transfer Impact Assessment is not required for transfers for cross-border personnel management in accordance with labor rules, regulations and collective labor agreements.



# ONE BREACH - TWO DUTIES

A breach of an AI system may simultaneously trigger two sets of notification obligations:

- Notification to the Ministry of Science and Technology via the AI portal within 72 hours of discovery (for emergency or loss of control) or 5 working days.
- Notification to the A05 of the Ministry of Public Security within 72 hours of discovery.



# AI IN HR: THE LEGAL LENS

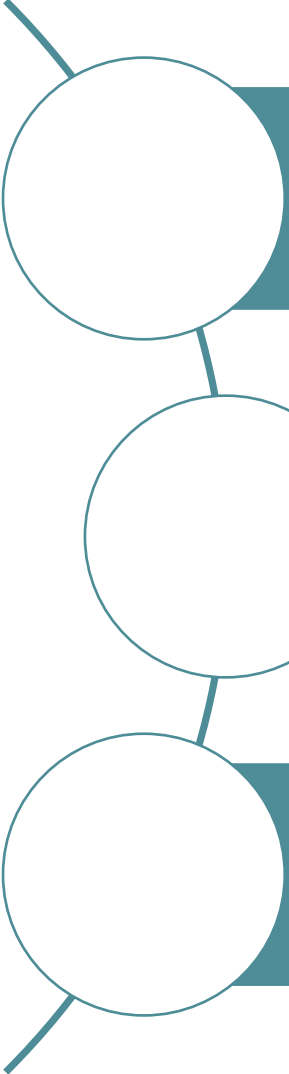
- HR is becoming one of the biggest users of AI
- 72% of HR professionals already use AI in hiring.
- In SHRM's 2026 research, 87% of CHROs expect greater adoption of AI within HR processes.



# TYPICAL HR USE CASES

| HR FUNCTION                                 | AI APPLICATION                                                                                                               | RISK CONSIDERATION                                                                                                                                                 |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Recruitment                                 | <ul style="list-style-type: none"><li>● CV Screening</li><li>● Candidate ranking</li><li>● AI Interview Assessment</li></ul> | <ul style="list-style-type: none"><li>● May affect access to employment</li><li>● May influence hiring outcomes</li><li>● May affect selection decisions</li></ul> |
| Performance Management<br>Talent Management | <ul style="list-style-type: none"><li>● Performance Analytics</li><li>● Promotion</li></ul>                                  | <ul style="list-style-type: none"><li>● May influence evaluation and promotion</li><li>● May affect career opportunities</li></ul>                                 |
| Workforce Planning<br>Retention             | <ul style="list-style-type: none"><li>● Demand forecasting</li><li>● Attrition Prediction</li></ul>                          | <ul style="list-style-type: none"><li>● May influence evaluation and promotion</li><li>● May affect employee treatment decisions</li></ul>                         |

# AI RISKS IN HR



The AI Law classifies AI systems into 3 types of risks: HIGH - MEDIUM - LOW

HR may use AI to perform several tasks. These AI tools may impact on employees' rights, career opportunities, or employment status and therefore require careful governance and human oversight.

The law does not automatically classify all HR-related AI applications as High Risk. However, systems that materially affect an individual's rights, opportunities, or employment status are more likely to trigger increased regulatory scrutiny.

## HR Implication:

The more AI shapes the decision, the more the law shapes your obligations.

AI advises. Human decides.

Do not rely solely on AI

Your call, your liability.

Oversight is mandatory, not best practice.

# HUMAN OVERSIGHT MODEL



**Legal insight:**

**Oversight means the power  
to say no.**



**We are not here to slow down innovation. We are here to ensure it remains compliant, explainable and defensible.**



# HOW LEGAL CAN SUPPORT HR

## 5. Half of organizations have AI use policies for their workforces

About half of organizations that currently use or are about to pilot AI (49%) have policies to regulate AI use among their workforces. Of those that do have policies in place, only a quarter said they feel their policies are clear and future-proof, meaning they are strategically designed to remain effective, relevant, and adaptable over time as needs and technology evolve.

However, 54% reported that their policies are too restrictive and specific to currently available AI tools and technologies and 23% reported that their organizations' policies are too broad.

**49%** organizations have AI use policies. Of those, only a quarter consider it clear and future-proof. the rest are either too restrictive (**54%**) or too broad (**23%**).

Taken together, only about one in eight organizations has a policy it considers both clear and durable, which means the policy gap is not really about coverage, but about drafting.

# HOW LEGAL CAN SUPPORT HR

| Practical AI policies                                                                                                                                                                                                                                                                                                                                                                    | Review HR process impacted by AI                                                                                                                                                                                                                                                                                                                                                                                                               | Risk & Compliance Controls                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Human Accountability & Documentation                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>● Establish a formal AI Usage Policy;</li> <li>● Ensure AI policies align with Vietnamese labor laws, Internal Labor Rules, data privacy and company values;</li> <li>● Create an AI governance committee.</li> </ul> <p><b>Legal perspective:</b> Policy should regulate conduct and risks, not merely list approved or prohibited AI tools.</p> | <ul style="list-style-type: none"> <li>● Identify HR processes where AI may influence employment decisions;</li> <li>● Assess whether sufficient human review and decision-making remain in place;</li> <li>● Ensure employment decisions continue to comply with statutory requirements under Vietnamese labor laws</li> </ul> <p><b>Legal perspective:</b> AI may support decisions, but legal responsibility remains with the employer.</p> | <ul style="list-style-type: none"> <li>● Apply enhanced legal review and risk assessment for AI use cases that may materially affect <i>employment opportunities, compensation, promotion, discipline, or termination of employment</i>;</li> <li>● Verify compliance with personal data protection requirements when employee data is processed by AI systems.</li> </ul> <p><b>Legal perspective:</b> The greater the impact on employee rights, the greater the need for legal oversight.</p> | <ul style="list-style-type: none"> <li>● Require meaningful human review before any significant employment decision is made.</li> <li>● Maintain records showing how AI outputs were considered and how final decisions were reached.</li> </ul> <p><b>Legal perspective:</b> Employers must be able to demonstrate that decisions were made fairly, lawfully and not solely by an AI system</p> |

# THANK YOU!



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