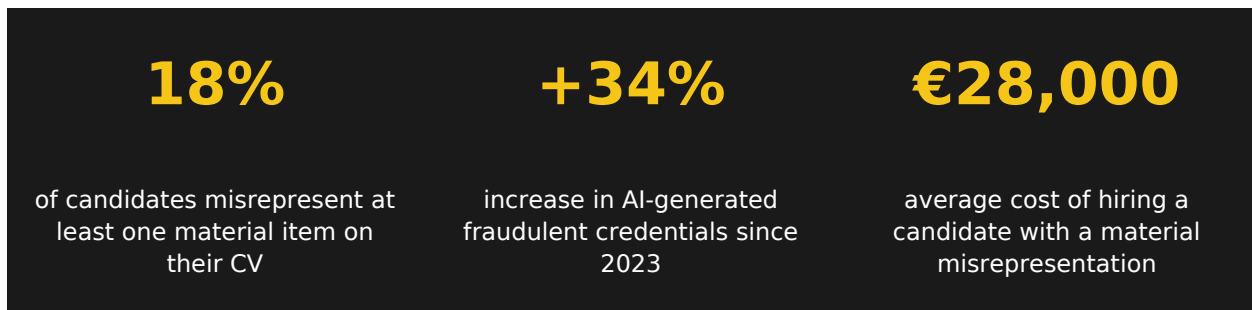


HR RESEARCH SERIES 2026 - REPORT R37 OF 10 (EXTENDED)

Background Checking in the AI Age 2026

How to verify candidate credentials, criminal history and work rights compliantly in the EU AI Act era.

Background checking is undergoing a fundamental shift driven by two converging forces: the explosion of AI-generated fraudulent credentials, and the EU AI Act and GDPR frameworks that increasingly constrain how verification can be conducted.



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This report provides the current framework for background checking in Europe, what can be checked, when, how, and with what legal basis, updated for the 2026 regulatory environment.

What can be checked and when

Check type	When permitted	Legal basis	Prohibited
Right to work verification	Mandatory before start	Legal obligation	Cannot substitute for discrimination
Criminal record (standard)	Post-offer, relevant roles only	Legitimate interests / legal	Blanket criminal check for all roles
Criminal record (enhanced/DBS)	Regulated roles only	Legal requirement	Non-regulated roles
Education / qualification	Post-offer, or if directly relevant	Legitimate interests	Speculative checking
Employment history verification	Post-offer	Legitimate interests	Cannot verify without consent
Credit / financial check	Regulated financial roles only	Legitimate interests (narrow)	General population screening
Social media screening	Generally not recommended	No clear lawful basis	Automated social profiling (Article 5 risk)

AI-generated CV fraud, detection

- **Qualification verification platforms:** HEDD (UK), Digitary, national university portals, 30 minutes vs. 5 days manual.
- **Employment history verification:** social security and pension database queries (where available) provide independent verification.
- **Document forensics:** AI tools that detect image manipulation in certificates, useful for high-risk roles.
- **LinkedIn consistency check:** compare CV employment history to LinkedIn, material discrepancies are a red flag.
- **Structured reference questions:** ask referees to confirm specific dates, titles and achievements stated on the CV.

Right to work, EU framework

Worker category	Document required	Verification method	Risk if not done
EU/EEA citizen	Passport or national ID	Visual inspection + copy	Civil penalty for illegal working
UK citizen (post-Brexit)	Passport + visa/settled status	Home Office Share Code check	Civil penalty
Non-EU with work permit	Passport + valid work visa	Visual + employer consultation	Criminal liability in some EU states
EU Blue Card holder	Blue Card document	Visual inspection + expiry check	Same as above
Student visa	Visa with work permission	Check hours restriction	Same as above

Criminal record checks across the EU

The criminal record principle most companies get wrong: a criminal record is not an automatic bar to employment. Under GDPR and anti-discrimination law, criminal history must be assessed for relevance to the specific role. A spent driving conviction is not relevant to a software engineer role. Blanket policies are both legally challengeable and waste significant candidate screening.

Building a compliant background checking programme

Element	Minimum standard	Best practice
Policy document	Exists, accessible	Publicly available on career site, role-specific
Candidate consent	Obtained before checks begin	Explicit, specific, prior to offer for any pre-offer check
Check proportionality	Checks match role risk	Documented risk assessment per role family
Results retention	Within GDPR retention limit	Automated deletion at 12 months, SAR-accessible
Dispute process	Exists	Documented timeline, candidate can challenge inaccuracy
Audit trail	Check records maintained	Who checked what, when, result, decision impact

Forward outlook 2026-2030

EU AI Act creates specific requirements for AI tools used in identity verification and credential checking in 2026. ECRIS-TCN expansion improves cross-border criminal record sharing by 2027. Blockchain-verified credentials reduce the need for third-party verification by 2028. By 2030, AI fraud detection becomes a standard ATS capability with real-time credential verification at point of application.

Built for what's next.

tenperzent.com is the AI-native ATS designed for European hiring in 2026 - GDPR by default, EU AI Act compliant, free to start, €79/month to scale.

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