



INTERNATIONAL LABOUR
LAW NETWORK

illn.eu

the

INTERNATIONAL LABOUR LAW NETWORK NEWSLETTER

illn.eu

MAR 2026

the INTERNATIONAL LABOUR LAW NETWORK NEWSLETTER

ILLN.EU



MAR 2026

Top ILLN News

Letters of reference
in selected ILLN
member states.

Fellow Reader,

We are pleased to present the latest edition of our newsletter. In this issue, we focus on letters of recommendation from a labour law perspective across the ILLN member states, including most European Union countries, the United Kingdom, and Switzerland. Such documents play an important role at the end of the employment relationship, influencing employees' future career opportunities and reflecting the employer's assessment of their performance and conduct.

Although the legal framework, terminology, and employer obligations vary between jurisdictions, letters of recommendation generally serve to provide a fair and accurate account of an employee's role, duties, and performance, while balancing the interests of both parties.

In many European countries, the issuance and content of such documents are regulated by statutory provisions, case law, or established practice, often giving rise to specific requirements as to their form, wording, and level of detail.

This newsletter provides a comparative overview of how letters of recommendation are regulated and used in selected ILLN jurisdictions.

It examines, among other issues, whether employers are required to issue them, the scope of information to be included, employees' rights to request amendments, and potential liability arising from their content.

This cross-jurisdictional perspective highlights both shared principles and key differences in approaches to employment references across Europe.

We hope you will enjoy reading this edition.

EMPLOYMENT REFERENCE LETTERS

& other characteristics of employee recruitment in Austria

REPUBLIC OF AUSTRIA

When an employment relationship ends, employees in Austria are entitled to receive an employment reference letter (Dienstzeugnis). This right is anchored in Austrian labour law and is of considerable practical importance for both employees and employers, as the document often plays a key role in future recruitment processes. Austrian labour law practice distinguishes two principal forms of employment references: the simple (einfaches) reference letter and the qualified (qualifiziertes) reference letter.

Legal Basis and General Principles

The entitlement to a simple Dienstzeugnis arises primarily from sec 39 of the Austrian White-Collar Workers Act and from sec 1163 of the Austrian General Civil Code for all types of employment relationships. According to these provisions, the employer must issue a written confirmation of the employee's employment upon termination of the employment relationship if the employee requests it.

A central principle governing employment references in Austria is the prohibition of including statements that could make it more difficult for the employee to obtain future employment. The reference letter must therefore be truthful and objective, but it must also avoid negative or detrimental language.

Side note: In our labour law practice, we have dealt with an interesting case in the past. A former employee of our client legally changed the first name and gender identity and demanded a new version of their employment reference letter reflecting these changes.

In our view, the employer's duty of care under employment law – which continues even after the employment relationship has ended – requires the reference letter to be reissued, even though the employee's entitlement has already been met once. This was in line with European law and ECJ.

The simple reference letter

The simple employment reference represents the statutory minimum that an employee may request. It contains only objective information about the employment relationship, typically including:

- the employee's name
- the employer's name
- the duration of employment (start and date)
- a description of employee's main tasks or position
-

It is often a controversial issue how detailed the job description needs to be. From a practical point of view, we generally recommend that the reference letter should be as detailed as the job advertisement for the position at hand.

AUSTRIA



DR WOLFGANG KINNER

Kinner Korenjak Law

kinner@kinner-korenjak.law

Importantly, the simple reference letter does not contain any evaluation of the employee's performance or conduct. Its purpose is merely to document the existence and nature of the employment relationship.

The qualified reference letter

In practice, employees frequently request a qualified employment reference, which goes beyond the basic information of the simple reference letter. In addition to confirming the duration and type of employment, it may include an assessment of the employee's professional performance, skills, and conduct. Any assessment must remain accurate, fair and benevolent, and must not contain explicit or implicit negative remarks that could disadvantage the employee in the labour market.

Courts have repeatedly emphasised that coded language or hidden criticism is not permissible if it undermines the protective purpose of the employment reference. For this reason, recent practice tends to issue simple reference letters only.

Contacting previous employers

The provision of information about (former) employees by an employer can raise labour law questions as well as data protection concerns. The latter is the case when fact-based information (e.g. records of sick leave) is disclosed. By contrast, subjective assessments or value judgments, for example personal evaluations of an employee's performance, generally do not fall within the scope of data protection law. Nevertheless, the employer's continuing duty of care toward the employee ("Fürsorgepflicht") must also be taken into account.

In practice, a balancing of interests is required between the information interests of the prospective employer and the employee. While objective information about relevant professional skills (e.g., language abilities), particularly within companies belonging to the same corporate group, is typically considered permissible, statements about an employee's alleged litigiousness are generally regarded as unlawful by the Austrian courts.

Conclusion

For employees, the reference letter serves not only as documentation of past employment but also as an important gateway to future career opportunities. For employers, careful drafting and responsible handling of references and background inquiries are essential to avoid legal risks. The fact that reference letters are a highly contentious issue in Austria is illustrated by the number of court rulings on the subject. The Vienna Higher Regional Court recently clarified a crucial issue regarding employment reference letters: folding the original hard copy three times is permitted.

DR WOLFGANG KINNER

KINNER KORENJAK LAW

kinner@kinner-korenjak.law

EMPLOYMENT REFERENCE LETTER SYSTEM IN THE CZECH REPUBLIC

CZECH REPUBLIC

Introduction

The Czech legal framework distinguishes between an employment reference letter and an employment certificate, each serving a different purpose.

The practice

An employment reference letter is issued upon the employee's request and provides an assessment of their work, abilities, qualifications, and performance for a potential employer. By contrast, an employment certificate is a mandatory, formal document issued at the end of employment that only states basic facts (type of work, duration, qualifications), without any evaluation. The certificate is used by new employers and authorities.

If an employee disagrees with the content of the employment reference letter or the employment certificate, they may, within three months of the date on which they became aware with its content, apply to a court and request that it be amended accordingly.

The legal basis

The legal regulation of the employment reference letter is set out in Sections 314 and 315 of the Labor Code. A new employer may request an employment reference letter, but the employee is not legally obligated to provide it.

On the other hand, the employment certificate must always be presented to a new employer. While not mandatory, submitting a reference letter may be advantageous in the hiring process. A new employer may contact a former employer, but only if the candidate expressly consents to it. Without this consent, the former employer may not provide any information.

A practical perspective

Recruitment in the Czech Republic is governed by several regulations – employers must adhere to strict anti-discrimination provisions under the Labor Code and the Anti-Discrimination Act. Employers are permitted to request only such information from candidates as is necessary for the relevant role, and may contact a candidate's previous employer solely with the candidate's explicit consent. In certain cases, job applicants may be required to undergo a medical examination prior to commencing employment, depending on the nature of the position. Special regulations also apply to the recruitment of foreign nationals. The personal data of applicants may be retained only for as long as is necessary; extended retention is permitted only with the applicant's consent. Overall, recruitment practices in the Czech Republic are strictly regulated, reflecting the principles of equal treatment, privacy protection, and minimization of information requested from applicants

CZECH REPUBLIC



PETER PERNIŠ
Aegis Law

peter.pernis@aegislaw.cz

REFERENCE LETTERS & RECRUITMENT PRACTICES UNDER FRENCH LAW

FRENCH REPUBLIC

Introduction

In France, there is no formal or institutionalised reference letter system. The French recruitment process generally relies on the curriculum vitae (CV), interviews, and sometimes professional references, rather than on formal recommendation letters systematically provided by former employers.

However, in practice, candidates may voluntarily present letters of recommendation ("lettres de recommandation") written by former employers, supervisors, or academic institutions. These letters are not standardized and remain optional.

Under French law, the only mandatory document which confirms that the individual worked for a company during a specified period, is the certificate of employment ("certificat de travail"). This document is provided by the employer at the end of the contract of employment and is part of the so-called "end of contract documents".

The practice

When recommendation letters are used in France, they are informal and voluntary. A former employer may draft a letter describing the employee's professional qualities, responsibilities, and achievements. Unlike the certificate of employment, a recommendation letter is not legally required, and employers are under no obligation to provide one.

The legal basis

There is no specific legal basis in French law governing recommendation letters. However, these letters fall within the broader framework of freedom of expression and contractual freedom, subject to general legal constraints such as: the prohibition of defamatory statements, the obligation of good faith, the protection of personal data under the General Data Protection Regulation (GDPR).

Might a new employer require a candidate to present a reference letter?

A prospective employer may request a recommendation letter. Since the latter is not a compulsory document, the employee is under no obligation to provide one.

FRANCE



JOELLE MUCHADA
Voltaire Avocats

jm@voltaire-avocats.com

Might a new employer contact a previous employer about the candidate?

A prospective employer may contact a previous employer subject the employee is informed of this process.

Under Article L.1221-6 and -8 of the French Labour Code:

(i) information requested from a candidate must have a direct and necessary link with the proposed job or with the evaluation of professional abilities,

(ii) candidates must be expressly informed, prior to their implementation, of any methods or techniques used to assist in recruitment that are applied to them.

The works council is also informed prior to the implementation of any methods or techniques used to support the recruitment of job applicants, as well as of any subsequent amendments to such methods or techniques.

The employer has an obligation to verify the qualifications and competencies of a job applicant to determine whether the applicant can perform the duties associated with the position. If the employer fails to verify certain information such failure constitutes a breach of duty. The prospective employer is therefore liable for any negligence in this respect.

Accordingly, an employer cannot dismiss an employee for gross misconduct on the basis that the employee falsely claimed to hold the qualification of assistant preparer, insofar as the employer failed to verify this qualification at the time of hiring.

What are the other characteristics or constraints of employee recruitment under French law?

French recruitment law is characterised by several key principles designed to protect candidates.

Transparency in recruitment methods

Candidates, as well as works council (CSE) must be informed in advance of recruitment techniques used to assess them (tests, personality assessments, etc.). The results of these assessments must remain confidential.

Relevance of recruitment assessment

methods As noted above, recruitment and assessment methods or techniques used for evaluating job applicants must be relevant in light of the purpose for which they are implemented. The recruiter must be transparent regarding their use. This requirement is intended to prevent the use of unreliable techniques.

On this basis, on 19 February 2026, the Ministry of Labour stated that the so-called 'handbag test' used during a job interview is unlawful. This practice consists of asking a female applicant to empty the contents of her handbag in order to assess her alleged sense of organisation. The explicit request by an employer that a candidate reveal personal belongings during a job interview is unlawful. Furthermore, if such a test is applied only to women, it may also constitute sex-based discrimination, which is prohibited under French law

Non-discrimination

Employers are prohibited from discriminating against candidates on the basis of numerous protected criteria, including in particular gender, age, family situation, political opinions, etc.

Data protection

Recruitment processes must comply with GDPR and French data protection law. Employers must ensure that personal data collected during recruitment is relevant, limited to what is necessary, stored only for a limited period.

Conclusion

Unlike some jurisdictions where recommendation letters play a central role in recruitment, French employment law does not provide for a structured reference letter system. Recommendation letters exist only as an informal practice. Recruitment practices in France are instead strongly framed by principles of non-discrimination, relevance of information, transparency, and data protection, which aim to ensure fairness and protect candidates' rights throughout the hiring process.

EMPLOYMENT REFERENCE LETTERS IN GERMANY

FEDERAL REPUBLIC OF GERMANY

How employment reference letters work in Germany

In Germany, the employment reference letter (“Arbeitszeugnis”) is a standard and legally recognised document issued when an employment relationship ends. It summarises the employee’s role, responsibilities and performance during their time with the employer and is intended to promote the professional advancement of employees.

Legal basis

Every employee has the legal right to receive a written reference letter when their employment ends. Specifically for employees this entitlement is regulated by § 109 GewO (Trade Regulation Act) as a special provision to § 630 BGB (German Civil Code). For trainees, the right to a reference letter is governed by § 16 BBiG (Vocational Training Act).

The most common and legally regulated type of reference letter is the final reference letter, which is issued when the employment relationship ends. However, employees may also receive an interim reference letter during an ongoing employment relationship. This is typically requested for a specific reason, such as a change of supervisor, internal transfer, or an upcoming job application.

Employees are entitled to an interim reference letter upon request if they have a legitimate interest. This obligation arises from the employer’s ancillary duties under the employment contract.

Once issued, the employer is generally bound by the content of the interim reference letter and may only deviate from it later if the employee’s subsequent performance or conduct justifies a different assessment.

Formalities

The formal requirements of an employment reference letter are determined by its purpose: to support the employee’s future professional development. Because the document is intended for external use, it must meet the standards commonly expected in business practice. This includes the overall format, wording, date of issue, and the person authorised to sign it.

GERMANY



LISA-LORRAINE CHRIST
KÜTTNER Rechtsanwälte
christ@kuettner-rechtsanwaelte.de

Key formal requirements include:

- The reference letter should generally be typed and issued on the company's official letter-head used for business correspondence.
- It must be provided as a clean original document bearing the handwritten signature of the employer or an authorised representative.
- It must be written in a clear and understandable manner (§ 109 para. 2 GewO).
- The language of the reference letter is generally German.

Simple vs qualified reference letters

German law distinguishes between simple and qualified employment reference letters. In principle, employees are free to choose which type of reference letter they would like to receive.

a) Simple reference letter ("einfaches Zeugnis")

A simple reference letter confirms the type and duration of employment. It should describe the employee's duties and responsibilities in a complete and accurate manner, allowing potential future employers to gain a clear understanding of the employee's role.

b) Qualified reference letter ("qualifiziertes Zeugnis")

The qualified reference letter is the more common form and issued in most cases. Additionally, it includes the employer's assessment of the employee's performance and conduct during the employment relationship (§ 109 para. 1 GewO). In practice, qualified reference letters often conclude with words of thanks for the employee's work and good wishes for their future career. In some cases, employers may also express regret about the employee's departure. However, according to established case law of the Federal Labour Court, employees do not have a legal entitlement to such closing statements.

Grading system

Employment reference letters in Germany typically follow a five-level grading scale, ranging from very good, good, satisfactory (average), adequate, to poor. Over time, a specific reference language has developed in practice. Within this system, certain standard phrases and formulations are commonly used to indicate particular performance levels, allowing experienced readers to interpret the underlying evaluation.

Might a new employer require a candidate to present a reference letter?

Employers may generally ask applicants to provide reference letters from previous employers in order to gain insight into their professional background and assess their suitability for the position. Submitting such reference letters is common practice in recruitment processes. However, applicants are not legally obliged to provide them, though doing so is usually in their own interest.

Other characteristics/constraints of employee recruitment

In addition to employment reference letters, traditional job applications in Germany usually include a tabular CV, a cover letter, and supporting documents such as university diplomas, training certificates, or records of further education. However, recruitment practices are evolving. Start-ups, tech companies, and international corporations increasingly rely on shorter applications and professional social networks, moving away from more traditional formats.

EMPLOYMENT REFERENCE LETTER SYSTEM UNDER ITALIAN LAW

THE ITALIAN REPUBLIC

Introduction

In the Italian employment system, the practice of issuing reference letters has gradually fallen out of use over the past few decades, to the extent that they no longer represent a standard component of professional recruitment procedures.

Although employers may still occasionally request references during interviews, reference letters (formerly known as “benservito” letters) are not mandatory anymore, meaning that employers have no legal obligation to provide them and employees have no corresponding right to receive them.

Therefore, under Italian law reference letters are no longer subject to specific statutory regulation and their issuance remains entirely at the former employer’s discretion.

Legal relevance of employment reference letters under Italian law

Even in the absence of specific legal regulations, employment reference letters can still be relevant when provided. We can see a clear example of this in the field of apprenticeships. At the end of the training period, the employer is expected to formally recognise by means of a written document (the “Libretto Formativo”) whether the individual has achieved the “qualification,” i.e. the set of skills required to perform a specific job position.

By recording these competencies, the Libretto Formativo provides reliable evidence of professional abilities, supporting career development and facilitating a smoother transition into the labour market. More broadly, Italian case law has extensively debated whether a reference letter can prove an employment relationship, particularly in cases where the employment status is undeclared or disputed. In this respect, Italian courts have consistently ruled that documents such as letters or certificates issued by the former employer cannot be used to fully prove an employment relationship or its legal classification although they may still be useful in supporting legal proceedings or administrative verification.

ITALY



ALESSIA CONSIGLIO, PH.D.

Nunziante Magrone

a.consiglio@nmlex.it

Looking beyond employment reference letters

It is easy to see why, during the recruitment process, an employer - especially a foreign one - might seek formal confirmation of a candidate's previous employment and job performance: such information helps assess experience, reliability and suitability for a new role. Beyond formal reference letters, over the past few decades, Italy has relied on a few employment documents that have played a similar role.

Since 1935, various registers and certificates have been used to document employees' careers. Until 2002, the most well-known example was the "Libretto di Lavoro", a personal employment record booklet that followed employees throughout their working lives. It recorded key information such as personal details, employers' identities, and the start and the end dates of employments. Its main purpose was administrative, enabling the relevant authorities and employers to track an employee's professional path.

Due to subsequent labour market reforms aimed at streamlining bureaucratic processes, the Libretto di Lavoro was replaced by the Scheda Anagrafica/Professionale, an official and fully digitalised record issued by the competent employment offices. It provides information on the former employers, employment periods, and the qualifications held by the employee. Employers generally do not have direct access to it; rather, it is used by public institutions to ensure accurate record-keeping and to facilitate official employment procedures. However, if employees agree, they can show this document to their employer.

The most similar employment document still in force today, and somewhat comparable to a reference letter, is the Certificato di Lavoro.

Issued by the employer at the end of the employment, the Certificato di Lavoro provides information about the identities of the parties, the duration of the employment, and the duties or role performed. It may also indicate the employee's grade or classification, but unless expressly requested by the employee, it may not contain any comments on their personal or professional qualities, nor may it state the reasons for termination of employment. In any case, its use is very limited today since Italian employment law does not require comprehensive evaluations from employers, and to verify previous employment, the employer may request the employee's Scheda Anagrafica/Professionale which is official and more reliable.

Conclusion

Unlike in the past, when reference letters were occasionally issued to certify employment or professional skills, the Italian current framework has neither a standard practice nor a statutory framework to regulate them. Over time, as our legal system increasingly favoured greater flexibility in the labour market while also enhancing the protection of employees' sensitive data, the use of reference letters gradually declined. The area in which they continue to be relatively more common is academia, particularly for university admissions or research appointments. However, even in this context reference letters remain entirely discretionary: they are neither mandatory nor formally regulated, and their content, format, and weight depend entirely on the voluntary decision of the issuing institution or individual, serving mainly as a supplementary tool to provide additional insight into a candidate's qualifications, experience, and suitability for the role.

ALESSIA CONSIGLIO, PH.D.
Nunziante Magrone

a.consiglio@nmlex.it

REFERENCE LETTERS IN LUXEMBOURG:

legal framework and practice

DUCHY OF LUXEMBOURG

Introduction

Luxembourg legal provisions do not foresee a formal “reference letter” system in the sense of a discretionary, narrative letter of recommendation for an employee. Instead, article L.125-6 of the Luxembourg Labour Code, establishes a legal obligation for the employers to issue an employment certificate (“certificat de travail”) upon termination of the employment contract; such letter is not issued automatically and is subject to the employee’s express request. This right applies to all employees, irrespective of whether the employment ended by dismissal, resignation, or completion of a fixed-term contract. For fixed-term contracts, the certificate must be issued if requested at least eight days before the contract ends.

The employment certificate serves as an official record of the employment relationship, rather than a subjective recommendation, confirming:

- the employee’s entry date (including any trial period);
- the date on which the employment ended; - the nature of the positions held;
- the periods during which those positions were occupied.

The certificate must not contain any negative or biased remarks. The employer may, at their discretion, issue a reference letter offering a more detailed assessment of the employee. Providing such a letter may also be part of the employer’s concessions in a settlement.

Background checks in recruitment

When recruiting in Luxembourg, it is important to be aware that the hiring process itself is not specifically regulated by labour law. However, established case law confirms that employers may request certain information from candidates, provided it is relevant to the position being offered and necessary to assess the candidate's suitability. Traditionally, conducting formalised background checks has not been common practice in Luxembourg. However, this trend is evolving, with such checks becoming increasingly prevalent. It should be noted that, to date, the process is not specifically governed by specific and detailed legislation in Luxembourg. Any type of employee screening to ensure the candidate's suitability for the position should be conducted prior to the acceptance of the employment offer as Luxembourg law does not provide for the possibility to condition the employment contract to a positive outcome of a future screening.

LUXEMBOURG



GIULIA COSI

Elvinger Hoss Prussen

giuliacosi@elvingerhoss.lu

Can a new employer require a reference letter or other information?

Employers may ask candidates to present original documents or certified copies that are directly related to the job requirements—for example, reference letters or employment certificates as evidence of previous employment or professional qualifications, driving licences, or university diplomas. The scope of information requested must always remain proportionate to the responsibilities and nature of the role in question.

A careful balance must be struck between the employer's legitimate interest in verifying a candidate's qualifications and the candidate's right to privacy.

Background checks should therefore be limited to information that is strictly necessary, directly connected to the job, and justified by the specific duties and working conditions. This principle is enshrined in the Law of 11 August 1982 on the protection of private life. The recruitment process must also comply with anti-discrimination laws.

Employers are prohibited from discriminating –directly or indirectly
–on grounds such as origin, skin colour, race, religion, political opinions, beliefs, health, disability, gender, sexual orientation, or family situation.

These protections are set out in the Labour Code (articles L.251-1 and following) and the Criminal Code (articles 454 and following). Furthermore, all background checks must respect the provisions of the General Data Protection Regulation (GDPR), which has been applicable in Luxembourg since 25 May 2018.

This means that the collection, processing, and storage of personal data during recruitment must be carried out lawfully and transparently. Certain types of background checks—such as requests for criminal records or local credit checks—are subject to stricter legal requirements and are only permitted under specific circumstances. These checks are governed by additional regulations concerning how such sensitive information can be collected, processed, and retained.

Can a new employer contact previous employers?

In Luxembourg, nothing prohibits a prospective employer to contact a candidate's former employers, but certain rules must be followed and notably comply with the above. The candidate should be informed beforehand, and any information requested must be directly relevant to the job. Employers must respect privacy laws, including the GDPR, and previous employers should only share factual details that do not breach confidentiality undertakings or any former employee's rights.

GIULIA COSI
ELVINGER HOSS PRUSSEN
giuliacosi@elvingerhoss.lu

CERTIFICATES OF EMPLOYMENT & REFERENCES IN THE NETHERLANDS

THE KINGDOM OF THE NETHERLANDS

Introduction

Upon termination of employment, an employee may request a certificate of employment from their employer. Pursuant to the Dutch Civil Code, the employer is under a statutory obligation to provide such a written certificate at the end of the employment relationship.

Content of the Certificate of Employment

As a minimum requirement, the employer must include the following particulars in the certificate:

- the nature of the work performed by the employee;
- the extent of the employment, i.e. the number of working hours per day or per week;
- the commencement and termination dates of the employment.

Only at the express request of the departing employee must the employer additionally include:

- an evaluation of the manner in which the employee performed its duties;
- the reason for the termination of the employment.

References

Dutch statutory law provides solely for the obligation to issue a certificate of employment and does not regulate references. References typically involve a former employer or colleague providing information—usually orally—to a prospective employer. Nevertheless, Dutch case law concerning certificates of employment is, to a large extent, also applicable to the provision of references.

In practice, references are generally provided orally. A former employer may only provide a reference with the consent of the former employee.

Both the former employer and the prospective employer should ensure compliance with their respective obligations under the General Data Protection Regulation (GDPR).

THE NETHERLANDS



ALAIN CAMONIER
Pallas Lawyers & Mediators

alain.camonier@pallas.nl

Obligation to provide certificates and references

Where a former employee requests a certificate of employment and the employer fails to comply, the employer may be held liable for any loss suffered as a result. However, an employee cannot require the employer to include a positive assessment where such an assessment would not be justified. Notwithstanding this, the employer remains under a legal obligation to issue the certificate upon request.

Should a former employee dispute the wording of the certificate, the burden rests on the employee to demonstrate that the certificate contains inaccuracies. Failing such proof, the employee will be required to accept its contents.

When providing a reference, a former employer must ensure that the information given presents a fair and accurate reflection of the employee. The reference should neither be unduly negative nor unjustifiably positive when compared to the employer's own observations. In principle, a prospective employer may hold a referee liable where an employee has been engaged on the basis of an inaccurate, overly favourable reference.

Dutch law combines a statutory minimum system with considerable room for contractual and collective agreements. The statutory transition payment provides a predictable baseline entitlement in employer-initiated termination scenarios. In practice, however, negotiated settlements and social plans often result in higher compensation. At the same time, sector-specific regimes such as the WNT, impose substantive limitations on severance arrangements, especially for senior executives.

Conclusion

- Provide a certificate of employment (and, where applicable, references) upon request by a former employee.
- Ensure that the certificate complies with the applicable statutory requirements.
- Include information that is relevant to a prospective employer, whilst avoiding unnecessary detail or statements inconsistent with the employer's own observations.
- Where the employer holds a particularly favourable view of the employee, there is naturally greater scope for a more positive formulation.



ALAIN CAMONIER

Pallas Lawyers & Mediators

alain.camonier@pallas.nl

LETTERS OF REFERENCE IN THE LIGHT OF POLISH LAW

REPUBLIC OF POLAND

Introduction

A letter of reference, commonly referred to as professional references or a recommendation for employment, is known in labour market practice but is not regulated by labour law provisions. Consequently, its operation is based primarily on the principle of freedom and prevailing labour market practices.

A letter of reference constitutes a statement of an evaluative nature, in which a former employer presents an opinion concerning the employee's professional competencies, performance of duties, and personal characteristics. As such, the document represents an element of building the employee's reputational capital in the labour market and may support the assessment of a candidate by a prospective employer.

The content of a letter of reference is not legally restricted, which allows for greater flexibility in presenting the employee's professional experience.

How should a letter of reference look like?

A letter of reference should begin with the identification details of the employer issuing the document, together with the place and date of its preparation. In the introductory part, it is advisable to indicate the nature and duration of the professional relationship between the employer and the former employee, as this provides the appropriate context for the opinion expressed in the document. The subsequent section should present an overview of the employee's professional qualifications, including in particular the positions held, the scope of duties performed, and participation in projects or initiatives undertaken during the period of cooperation. In this context, it is appropriate to emphasise specific competencies and professional achievements, especially those that are relevant to the position for which the former employee is applying.

In addition to substantive professional qualifications, the letter of reference should also address the employee's interpersonal competencies, such as communication skills, the ability to work effectively within a team, the capacity to perform under pressure, and potential leadership qualities. These attributes often play a significant role in assessing an employee's suitability within a professional environment.

A properly drafted letter of reference should further include concrete examples of cooperation or projects carried out with the employee's involvement, illustrating their contribution to the organisation and the outcomes achieved through their work. Where possible, such examples should be precise and, to the extent feasible, measurable.

POLAND



ELŻBIETA SMIRNOW
Wojewódka i Wspólnicy

elzbieta.smirnow@wojewodka.pl

An important element of the document is also its appropriate degree of individualisation. The content of the letter should be tailored to the specific industry and the position in which the employee was employed, demonstrating how the employee's qualifications and professional experience correspond to the needs of the prospective employer. In the concluding part of the letter, the author should formulate a clear and unequivocal recommendation, expressing confidence in the employee's professional capabilities and their potential to contribute positively to a future organisation.

The document should also include the contact details of the person issuing the reference, thereby enabling the prospective employer or recruiting body to verify the information provided, if necessary.

Letters of reference are not automatically issued upon the termination of employment. Typically, they are provided only where there is an expectation on the part of the employee and a willingness on the part of the employer to issue such references. A candidate may thereby gain a more favourable assessment in the eyes of a new employer.

An employer may not require a job candidate to provide references from a previous employer. It is the candidate who must wish, on their own initiative, to present references or other information that falls outside the closed catalogue of personal data that an employer may request under the Labour Code.

Consent to the processing of such information must be voluntary, explicit, and informed, and only after such consent has been obtained may the employer process this type of data. The absence of such consent may constitute a serious violation of the law, including the provisions governing the protection of personal data.

Moreover, even if a candidate provides a letter of reference, the new employer is not automatically entitled to contact the former employer. According to Personal Data Protection Office, contacting a candidate's former employers during the recruitment process for the purpose of obtaining information about the candidate is impermissible without the candidate's prior consent. Despite the optional character of references, their preparation does not remain entirely outside the scope of legal regulation.

An employer issuing a reference must take into account provisions concerning the protection of personal rights and personal data protection. Where a reference contains false information or statements that infringe the employee's reputation, civil liability may arise under the provisions governing the protection of personal rights. At the same time, the employer must exercise particular caution in the processing of the employee's personal data.

EMPLOYMENT REFERENCE IN SWEDEN

KINGDOM OF SWEDEN

What employers and candidates need to know?

In Sweden, there is no formal, statutory “employment reference letter system” in the sense found in some other jurisdictions. Employers are not required to issue reference letters when employment ends.

The only mandatory obligation is to issue an employment certificate (Sw. arbetsgivarintyg) upon request from the employee, confirming the duration and nature of the employment, the reason for the termination and certain other information. The certificate may be needed for job applications, social benefits, unemployment benefit or other purposes. This serves a practical, administrative purpose and does not amount to a broader duty to provide recommendations.

A practical perspective

In practice, reference-taking is a well-established part of the recruitment process in Sweden, typically conducted at the final stage of the hiring process alongside CVs, interviews, and tests. The Swedish model favours oral references, phone or digital contact with a referee, over formal written letters. Written reference letters do exist, but they are less standardised and less central than in some other jurisdictions.

Key legal considerations

Reference-taking normally involves processing of personal data and is subject to GDPR and Swedish Data Protection Act. Reference data may be processed on the basis of legitimate interest (Article 6(1)(f) GDPR), provided the processing is necessary, proportionate, and transparent. Candidates should be informed that references will be checked, and referees must be treated in accordance with data protection principles. Employers must observe proper storage, access, retention, and deletion requirements. Sensitive personal data, such as health, religion, or trade union membership, may not be collected without clear legal justification.

The Discrimination Act Notice

it applies throughout the recruitment process. Reference questions must not lead to decisions based on protected characteristics such as gender, ethnicity, age, disability, sexual orientation, or religion.

In summary, Sweden applies a flexible and practice-driven approach to reference checks. Employers have broad discretion in how they obtain and use references, provided that they comply with applicable rules under the GDPR, anti-discrimination legislation, etc.

SWEDEN



LISA ERICSSON

Cirio

lisa.ericsson@cirio.se



HANNA YAN KARLSSON

Cirio

hanna.yan.karlsson@cirio.se

THE CENTRAL ROLE OF EMPLOYMENT REFERENCE LETTERS IN SWITZERLAND

THE SWISS CONFEDERATION

Introduction

In Switzerland, the employment reference letter (“Arbeitszeugnis”) is a cornerstone of the recruitment process. Unlike in many other jurisdictions, it is not merely a supplementary document but a decisive element in candidate evaluation. Employers routinely rely on reference letters to assess professional qualifications, performance, and personal conduct. Reference letters are typically expected to accompany job applications and often determine whether a candidate is shortlisted for an interview.

They function as a standardized and widely trusted instrument, forming part of a broader application dossier that includes CVs, diplomas, and certificates.

This strong reliance reflects a deeply embedded legal and cultural practice: reference letters are not optional endorsements but formalized documents with defined legal requirements and significant evidentiary value in hiring decisions.

Legal basis, structure and practice of reference letters

the legal foundation for employment reference letters is set out in Article 330a of the Swiss Code of Obligations (CO). Swiss employment law distinguishes between different types of reference documents:

- Interim reference (“Zwischenzeugnis”): Issued during ongoing employment upon request whereby the content is the one included in a full reference letter.
- Full reference letter (“qualifiziertes Arbeitszeugnis”): Includes details on the nature and duration of employment, as well as performance and conduct.
- Confirmation of employment (“Arbeitsbestätigung”): Limited to factual information such as position and duration, without evaluation.

The content of a reference letter must follow strict principles developed through case law and doctrine. A valid reference letter must be: Truthful (accurately reflecting performance and conduct), complete (covering essential aspects of employment), clear (no ambiguity or hidden meanings), and benevolent (not unjustifiably hindering future employment).

Swiss courts have further refined these principles, particularly the tension between truthfulness and benevolence. Employers must strike a careful balance: the reference must not mislead future employers, but it must also not unnecessarily damage the employee’s professional prospects. Employees are entitled to request corrections and may enforce their rights through legal proceedings if necessary.

Swiss law explicitly rejects the use of “coded language,” although in practice certain standardised formulations have evolved. The document must also meet formal requirements, including written form, proper signature, and appropriate language.

SWITZERLAND



IRÈNE SUTER-SIEBER, DR. IUR.
Walder Wyss

irene.suter@walderwyss.com

Obligation of candidates to provide reference letters

There is no statutory obligation for candidates to submit reference letters in a recruitment process. However, in practice, candidates are generally expected to provide reference letters as part of their application dossier. Absence of such documents may raise questions. Nevertheless, practical considerations apply. For example, candidates often do not submit a reference from their current employer to avoid signaling an intention to leave. In such cases, it is accepted practice to provide references at a later stage or upon request.

Contacting previous employers and reference checks

Beyond written reference letters, Swiss employers frequently conduct reference checks by contacting former employers directly. However, strict legal constraints apply:

- **Consent requirement:** A prospective employer may only contact previous employers if the candidate has given explicit or implicit consent. In practice, candidates often provide a list of referees.
- **Data protection considerations:** Information shared must be relevant, proportionate, and accurate.
- **Scope of information:** Oral references must align with the principles applicable to written references (truthfulness and proportionality).

Broader legal constraints in employee recruitment

Employee recruitment in Switzerland is shaped by several additional legal principles that interact with the reference letter system:

- **Protection of Personality Rights:** Under Swiss law, applicants' personality rights are strongly protected. Employers may only process data that is relevant to the employment relationship. Sensitive personal information (e.g., health, religion, private life) is generally excluded from both reference letters and recruitment inquiries.
- **Data Protection Law:** The Swiss Federal Act on Data Protection imposes limits on the collection, storage, and processing of applicant data. This is particularly relevant for reference checks and background verification.
- **Anti-Discrimination Considerations:** While Switzerland does not have a comprehensive anti-discrimination statute comparable to EU law, certain protections exist (e.g., gender equality). Employers must avoid discriminatory hiring practices, including in the evaluation of references.
- **Duty of Care in Recruitment:** Employers must ensure that recruitment decisions are based on accurate and lawful information. Overreliance on misleading or improperly obtained references may expose employers to legal risk.

Conclusion

The Swiss system of employment reference letters is both highly formalised and deeply embedded in recruitment practice. Shaped by extensive case law, it reflects a unique balance between transparency for future employers and protection of employees' professional reputation.

EMPLOYMENT REFERENCE PRACTICES IN THE UK

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Introduction

In the United Kingdom, employment reference letters form part of standard recruitment practice, but there is no statutory reference-letter system. Employers are generally not legally required to provide a reference letter unless there is a contractual obligation to do so or the role falls within a regulated sector, such as certain financial services positions overseen by the Financial Conduct Authority (FCA). Despite the absence of a mandatory framework, references remain an important element of hiring practice and employers typically seek at least a basic confirmation of previous employment.

UK legal principles

Employees with at least two years' continuous service who are dismissed for redundancy may be entitled to statutory redundancy pay. Statutory redundancy pay is calculated based on age, length of service (subject to a maximum of 20 years), and a week's pay (subject to the statutory limit). Length of service is calculated by reference to a "relevant date". If an employee receives payment in lieu of notice, the relevant date is treated as the date on which your employment would have ended if you had worked your full statutory notice period.

Employers can also offer enhanced redundancy terms, either contractually or on a discretionary basis. Enhanced redundancy terms are payments that go beyond the statutory redundancy pay. Enhancements can form part of a business or industry-wide collective agreement, or they may be defined in employee contracts provided at the beginning of, or during employment.

British practice

Where employers do provide a reference, they typically do so in one of two formats.

- Work reference
- character reference

Work reference

A work reference will typically include a short confirmation of the job title, dates of employment and, in some cases, a reason for leaving. This is usually preferable to avoid any allegations of discrimination or inaccurate information.

Character reference

A character reference will include how the referee knows the applicant, their skills, ability, experience, performance information and suitability for their new role. These references can include personal impressions but must still be fair, factual and non-discriminatory.

The content of the reference is at the employer's discretion unless a company policy prescribes a standard form. Many UK employers adopt a basic-reference-only policy to reduce legal risk.

THE UK



SARAH BULL
Birketts LLP

sarah-bull@birketts.co.uk

Requiring an applicant to present a reference letter

While there is no legal right for an employer to insist on receiving a reference letter, UK employers commonly request references during recruitment and may make job offers conditional upon receiving a satisfactory reference. This is standard market practice in the UK.

If an offer of employment is not expressly made conditional on receiving a satisfactory reference, the employer cannot withdraw the offer without breaching the employment contract simply because an unsatisfactory reference is later provided.

Applicants cannot compel a previous employer to provide a reference unless a contractual or regulatory obligation applies.

Contacting a previous employer about the candidate

It is standard practice in the UK for prospective employers to contact previous employers directly to request a reference. The previous employer may decline to provide a reference unless obligated, but if they do respond, they must ensure the information is fair, accurate and non-discriminatory.

Other characteristics or constraints of employee recruitment under UK law

Employers must comply with UK GDPR and only provide information necessary for the purpose of the reference.

The Advisory, Conciliation and Arbitration Service (ACAS) guidance emphasises that references are only part of the recruitment process; employers must still undertake separate right-to-work and other pre-employment checks.

Conclusion

Ultimately, the UK does not have a statutory reference-letter regime. Reference practice is largely voluntary but constrained by duties of accuracy, fairness, compliance with discrimination and data-protection laws. This tends to drive the market towards basic factual references to reduce risk. Although not legally mandated, references remain an integral part of UK recruitment processes, and employers typically seek at least a basic employment confirmation before finalising appointments.

SARAH BULL

Birketts LLP

sarah-bull@birketts.co.uk



FOLLOW US FOR MORE CONTENT



**INTERNATIONAL LABOUR
LAW NETWORK (ILLN)**



ILLN.EU

The content of the articles published in this newsletter is provided for general informational purposes only and does not constitute legal advice. If you require further information in relation to any of these articles, please contact the author in the first instance.