WOMEN'S EMPOWERMENT PRINCIPLES

DECEMBER 2020

SPOTLIGHT ON PUBLIC POLICY

FRANCE

ACT FOR THE FREEDOM TO CHOOSE ONE'S FUTURE OCCUPATION

The Freedom to Choose One's Future Occupation law was enacted on 5 September 2018, and it requires companies to ensure equal pay for work of equal value.

A Gender Equality Index has been developed to facilitate this, and companies are required to use it to assess their gender pay gap. They must also publish the assessment and take any necessary corrective measures within three years.[1]

France has legally guaranteed equal pay for equal work since passing the 1972 Gender Equality Act. Several other laws have been adopted since then, including a 2006 Act that obliges companies to close the pay gap for women returning from maternity leave.[2]

However, the gender pay gap persists. There is a nine per cent difference for work of equal value and a 25 per cent difference over a whole career.[3] The World Economic Forum's 2020 Global Gender Pay Gap report ranks France as number 127 in wage equality for similar work,[4] a slight improvement since 2015 when the country ranked 132.[5]

KEY FEATURES OF THE GENDER EQUALITY INDEX

- Under the Act for the Freedom to Choose One's Future Occupation, companies with more than 50 employees are required to use the Government's Gender Equality Index to assess their gender pay gap.
- The Gender Equality Index comprises a set of standard indicators which companies use to evaluate their remuneration and rewards system. Companies are assigned a score based on the aggregated points, given for each of the indicators.
- The minimum required score is 75 (out of a maximum of 100). Underperforming companies are required to devote a budget to close the pay gap or take other corrective measures.
- Within three years of publishing their score, if companies are still short of this target (at least 75 points), they will be charged a penalty of 1 per cent of the company's payroll.

OVERVIEW

Companies with more than 250 employees must use all five indicators in the index, while companies of 50–250 employees are expected to use four.

Companies determine their performance by totalling the points given for each indicator. The maximum score is 100 points, and the minimum required is 75.

The index offers four broad categories to determine comparable jobs:

- Workers
- Employees
- Technicians and supervisors
- Engineers and managers.

However, other industry classifications can also be used after discussions with employee representatives.

Prior to the law, the French labour code required companies to negotiate annually with trade unions and employee representatives on gender equality (and wage inequality). The new legal obligations have now made it compulsory for companies to take responsibility for:

- Correcting wage inequality
- Conducting internal analyses
- Being transparent about a gender pay gap
- Prioritizing remedial measures.

The law applies to all companies with at least 50 employees. Initially, it was to be implemented regardless of whether they have trade unions or representative bodies but, from January 2020, all companies with at least 11 employees must have an employee representative body, called the Social and Economic Committee. Discussions with this body will be central to addressing any pay gaps. The Committee needs to be informed about the results of the indicators, the methodology applied and any corrective measures required.

The Gender Equality Index Indicators

- Difference in average pay between women and men in the same age group and in a comparable job (scale from 0 to 40 points)
- Difference in the rate of individual salary increases between women and men (scale from 0 to 20 points for companies with more than 250 employees and from 0 to 35 points for companies with 50–250 employees)
- Difference in the rate of promotion between women and men (0 to 15 points; companies with 50–250 employees are exempt from this indicator)
- Percentage of women who have received a salary increase in the year after returning to work from maternity leave (0 to 15 points)
- Among the top 10 highest paid employees, the number of employees who belong to the underrepresented gender.

The Social and Economic Committee

Every company with at least 11 employees has had to set up a Social and Economic Committee from 31 December 2019. The committees replace staff representatives in companies with at least 11 employees and, in companies with at least 50 employees, they merge the staff representatives, the works council, and the health, safety and working conditions committee.[6] The committees' scope and operations are different depending on the size of the company.

CORRECTIVE MEASURES

If a company scores below 75 points, it must formulate and implement a plan, agreed with employee representatives, for corrective measures. If there is no such agreement, the company must implement a financial plan itself to close the gaps within three years of the data being published.

After the law was passed in 2018, the deadline for companies with more than 1,000 employees to measure and publish the score was 1 March 2019, while smaller companies were given additional time; 1 September 2019 for companies with more than 250 employees; and 1 March 2020 for those with more than 50 employees.

AUDITS

For those companies who score below 75 points, the deadlines to implement a plan are 1 March 2022 (for those with more than 250 employees), and 1 March 2023 (those with more than 50 employees). Non-compliance could mean a fine equivalent to one per cent of a firm's annual payroll.[7] However, the relevant labour and employment authorities can grant additional time under certain situations.

A penalty can also apply if the indicators are not published or if there is no agreement on an action plan.

IMPACT

Of the major French companies that published results as of 1 March 2019, a fifth scored less than 75 and could be subject to the fine if they fail to improve within three years. The average score was 80.

Some reports from French companies say that the new law has created competition between employers keen to improve their reputations and attract the best staff.[8]

CONCLUSION

The French Government has carried out a strong and calculated push to close the gender pay gap. A four-layered process has been implemented, requiring around 40,000 companies[9] to measure their pay data, make this data visible, take steps to close the gap, and pay penalties for failing to take action. By using the Gender Equality Index, employers are now legally obliged to ensure equal pay.

ENDNOTES

1. France, Ministry of Labour, *The Gender Equality Index*, November 2018. Available at: www.gouvernement.fr/sites/default/files/locale/piece-jointe/2019/01/11_gender_equality_index_fr.pdf
2. Ibid.
3. France, Ministry of Labour, *Act for the Freedom to Choose One's Future Career: The Act in 10 Key Points*. August 2018. Available at: https://travail-emploi.gouv.fr/IMG/pdf/act_for_the_freedom_to_choose.pdf
4. World Economic Forum, Global Gender Gap Report 2020. Available at: www3.weforum.org/docs/WEF_GGGR_2020.pdf
5. Ibid.
6. France, Ministry of Labour, "The Social and Economic Committee". Available at: https://travail-emploi.gouv.fr/dialogue-social/le-comite-social-et-economique/
7. France, Ministry of Labour, *Act for the Freedom to Choose One's Future Career.*
8. WE EMPOWER G7, *Closing Gender Pay Gaps to Achieve Gender Equality At Work*. Women's Empowerment Principles. Available at: www.weps.org/resource/closing-gender-pay-gaps-achieve-gender-equality-work. Accessed online 17 December 2020.
9. France, Ministry of Labour, *The Gender Equality Index.*

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