

March 28, 2022

The law to speed up economic and professional equality, known as the Rixain law, adopted on December 24, 2021, constitutes one more step towards actual and effective gender balance in companies. A decree of February 25, 2022 provides some clarifications.

A reinforcement of obligations in terms of publication of the gender equality index for all companies with at least 50 employees

The decree of March 10, 2021 had already extended the obligation for companies to publish not only the overall rating obtained but also the result of each indicator relating to the gender pay gap. The publication of the overall rating alone could hide disparities even if the published rating was above 75 points.

The Rixain law goes further and imposes:

- A publication of these indicators not only on the company's website but also on the ministry of labor's website.
- When a company does not achieve the minimum rating of 75 points, it will now have to publish on an internal and external communication medium the **corrective** and catch-up **measures** that it was already obliged to adopt.
- If the overall rating is below 85 points, it will also have to define and publish, on the company's website, the details of the progress targets for each indicator of the index that will have been identified during the mandatory negotiation on professional equality or, failing that, in the context of the action plan.

In both cases, the publication is done on the company's website, on the page where the overall rating is posted; the published data has to remain visible until the company reaches a level at least equal to 75 points in one case, and 85 points in the other case. In the absence of website, the employees are informed of the measures by any means.

The company has to publish the corrective measures or **progress targets** upon filing of the agreement or unilateral decision on the TéléAccords platform.

Exceptionally for the 2021 index, companies will have **until September 1, 2022** to meet their obligations i.e.:

- Publish the corrective and catch-up measures
- Define and publish the progress targets
- Send this information to the services of the ministry of labor and the Works Council

New obligations for large companies

The 2011 Copé-Zimmerman law defined quotas for the boards of directors and supervisory boards of large companies.

The Rixain law goes further and imposes on companies with more than 1,000 employees for the third consecutive fiscal year:

1. **Obligations in terms of publication of gaps between men and women in representation:**

The companies concerned will have to:

- From March 1, 2022, publish every year the gaps between men and women in representation among senior executives and members of the governing bodies
- From March 1, 2023, publish the gaps in representation on the ministry of labor's website
- From the publication of the law, include in the BDESE data on the allocation of key positions between men and women, among senior executives and members of the governing bodies

2. **Obligations in terms of balance of men and women in the senior executive category and composition of governing bodies**

- From March 1, 2026, the representation of each gender in each of these two categories cannot be less than 30%
- From March 1, 2029, this threshold will be increased to 40%

3. **Reinforced penalties in case of non-compliance with the new obligations in terms of quotas**

- Financial sanctions from March 1, 2029

The law gives companies two years from when the non-compliance with quotas is recognized to achieve compliance:

- At mid-point, i.e. after one year, the companies will have to publish the progress targets and corrective measures selected according to terms that will be specified in a decree
- After the two years and if the results are still below expectations, a penalty that can represent up to 1% of the employees' remunerations and earnings may be applied: the amount will be determined depending on the initial situation, the efforts made by the company and the reasons for its failure
- New obligations during the mandatory negotiation on professional equality

For defaulting companies, the negotiation on professional equality will have to focus on appropriate and relevant corrective measures. In the absence of agreement, these measures will have to be determined unilaterally after consultation of the Works Council then filed with the administration in the same conditions as an action plan.

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