Equality at risk from simplification

Françoise Milewski, Hélène Périvier

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Françoise Milewski, Sciences Po, OFCE, Paris, France
Hélène Périvier, Sciences Po, OFCE, Paris, France

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Legislating to promote equality

The laws on equality in pay and in the workplace have come a long way since 1972, from the affirmation of the principle of equality to the production of a detailed numerical diagnosis that puts flesh on the bones of inequality (via the Comparative Situation Reports that have been drawn up since 1983 under the Roudy law) as well as to the duty to negotiate. The 2006 law paved the way for hitting recalcitrant companies with financial penalties, as set out in an article in the 2009 law on pensions. There were numerous attempts to limit the scope of the law up to 2012, when things were more or less clarified: companies are now obliged to produce a CSR, which reports annually on the state of inequality in well-defined areas; they must then conduct negotiations on occupational equality and equal pay and, if there is no agreement, they are required to take unilateral action. There are exhaustive controls, with agreements or plans to be filed with the government (no longer on a one-off basis as in the first formulations of the implementing decree). Companies that fail to comply with the law are put on notice to remedy this on pain of financial penalties of up to 1% of payroll.

The duty to negotiate entails collective management of the issue. Since 2012, the number of agreements signed has increased, as have formal notices and sanctions. While the content of the agreements and plans is often too general, it's a start. The framework law of 4 August 2014 on equality has complemented and strengthened these arrangements.

Simplification: naïveté or retreat?

On the occasion of the Rebsamen bill on social dialogue, this long legislative process is suddenly being called into question under the pretext of simplification. In the bill's initial version, the requirement to produce a detailed diagnosis in a CSR is gone, having melted into the company's single database. The duty to negotiate on occupational equality also disappears, integrated into other negotiations (quality of life at work).

Given the extent of the reaction (associations, individuals, unions, researchers, etc.), the three ministries concerned issued a statement reaffirming certain principles, including that "it shall continue to be obligatory to transmit all the information that is currently found in the CSR". Amendments will be tabled to that effect. But nothing is settled. The gender indicators remain integrated into the single database, so the CSR loses its specificity. Negotiations that focus on equality are not restored, and their frequency remains unclear (annual? triennial?). Uncertainty remains.

Whatever the outcome of the parliamentary debate that is starting up on social dialogue, business has been given the signal that equality policy can be challenged, that previous requirements are ultimately not all that imperative, and that the measures taken in recent years can be relativized in the name of simplification.

If, by leaving it up to the social partners to negotiate on gender equality, this issue had emerged on its own and led to significant progress, no law on the subject would have been necessary. It was in response to inertia and persistent inequality that constraints were imposed on companies. It is because our society needs to make gender equality a fundamental principle that laws, coupled with constraints, were approved. The complexity of the social dialogue on this subject reflects the resistance of the different parties. This simplification is at best naive, and at worst a refusal to come up with public policy to promote equality.

In the field of equality, vigilance is vital. Removing the constraints means going back on the principle of equality. A desire for equality requires clear, ongoing political will: continuity and coherence in public policy is crucial.

This is the meaning of a statement by men and women researchers that was published on the *Les Echos* website on 19 May.