

**EUROPEAN EXPERIENCE IN COMBATING DISCRIMINATION IN LABOR RELATIONS,
USING THE EXAMPLE OF FRANCE*****Begatov Jasurbek****Doctoral student (PhD) of the Institute of State and Law**E-mail: jbegatov@gmail.com*

France is one of the leading European countries with a robust legal mechanism for protecting human rights and combating discrimination. If we analyze French labor law in detail, the principle of non-discrimination is one of the main principles of French labor law. France, as in many other countries, is a state with strong legal norms and mechanisms for protecting human rights from discrimination in labor relations. The main source of law is the French Labor Code and the French Constitution, which contain provisions protecting fundamental rights and freedoms aimed at combating discrimination.

The principle of non-discrimination is one of the main aspects of French labor law. The provisions of the preamble to the 1946 Constitution prohibit discrimination on the grounds of sex, race, belief, and the criteria for the activities of trade unions, and the current Constitution (1958) includes the following provision: "The nation ensures the equality of its citizens before the law, regardless of their ethnicity, race, or religion¹.

The French Labor Code, which prohibits discrimination against human rights in labor relations, is also a document ensuring equality. Chapter II of the Labor Code (Articles L1132-1-L1132-4): The principle of non-discrimination lists more than 25 grounds for discrimination. These include race, ethnicity, gender, age, disability, beliefs, religious beliefs, sexual orientation, physical condition, and others².

Sections 1, 2, and 3 of the French Labor Code directly contain anti-discriminatory norms, establishing the principles of labor protection. According to it, it is illegal for employers to discriminate against employees or job applicants for various reasons, including race, religion, gender, sexual orientation, disability, age, and political views³. Discrimination can arise at different stages of labor relations. For example, it can occur during hiring, dismissal, promotion, salary determination, and compensation payments.

The French Labor Code prohibits discrimination in the labor sphere, in particular, based on age, marital status, health, disability, and membership in a trade union.

Discrimination in the sphere of labor is also prohibited if it relates to the employee's family situation (married or divorced), including the relationship between the child and the parent.

¹ The French Constitution of 1958 // <https://www.conseil-constitutionnel.fr/en/constitution-of-4-october-1958>

² France labour code// https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/

³ France labour code// https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/

Discrimination in dismissal is also not uncommon. In France, firing employees is not difficult. The easiest way is to decide whether to reduce the size or staff of the company. In this case, the manager can dismiss an unwanted employee, although French labor law clearly defines the procedure for reduction upon the liquidation of the organization.

The employee's dismissal must be notified in writing and for a "true and serious" reason. It is necessary to observe a special procedure, which includes summoning the employee to a meeting before dismissal, holding a meeting with the employee, and notifying him of the dismissal by registered mail.

Dismissal for economic reasons (especially mass dismissal) and the dismissal of certain "protected" employees (for example, employee representatives) are subject to certain requirements, in particular, consultation (or even consent) with employee representatives. In the context of economic layoffs, in particular, selection criteria should be applied to identify employees to be laid off (the employer cannot choose employees to be laid off at their own discretion). After dismissal, employees have the right to a number of compensations⁴.

If a person considers themselves discriminated against, they can appeal to French labor courts to take legal measures against the employer and demand compensation. Labor courts have the right to consider the case on the basis of evidence and issue a verdict. If discrimination is detected, the court may seek compensation, restoration of rights, or other appropriate measures⁵.

Despite the existence of a corresponding legal mechanism, sexual discrimination, racial discrimination, age discrimination, and other types of discrimination in labor relations still exist in France.

Each employer is obliged to ensure equal remuneration between women and men for the same work or work of equal value. This principle prohibits any discrimination on wages based on gender. In addition, in enterprises with at least 50 employees, the employer is obliged to annually publish statistical data of their company on equal wages between women and men, compiled on the basis of specific indicators - the "Gender Equality Index." The level of discrimination is determined by the level of this index, and financial penalties may be imposed on employers who are found to have discrimination⁶.

A person subjected to discrimination, a victim, in order to protect their rights and bring the person who committed the offense to justice, may file a complaint with the prosecutor, the police department, the gendarmerie, or the court⁷.

⁴ Alston Ph. Facing Up to the Complexities of the ILO's Core Labour Standards Agenda. European Journal of International Law. 2015. Vol. 16. P. 457-458.

⁵ French labour code. International Labour Organisation Geneva : ILO; 1982.
https://labordoc.ilo.org/discovery/fulldisplay/alma992173673402676/41ILO_INST:41ILO_V1 (accessed 01.01.2024)

⁶ L'égalité de rémunération entre les femmes et les hommes et les obligations des employeurs// <https://travail-emploi.gouv.fr/legalite-de-remuneration-entre-les-femmes-et-les-hommes-et-les-obligations-des-employeurs>

⁷ The online complaint // <https://www.masecurite.interieur.gouv.fr/en/procedures/online-complaint>

In France, since 2004, the Human Rights Defender Organization has been established, which is the main body in the fight against discrimination. This state body may consider cases of offenses directly or indirectly, as well as on grounds prohibited by international treaties ratified by France.

French labor legislation did not have a system of quotas for ensuring gender equality. However, on December 21, 2021, the "Rixsain Act" was adopted. This law raised the issue of ensuring economic and professional equality between men and women to a new level. According to it, starting from 2027, it is planned to allocate a quota for women in the amount of at least 30 percent of senior management positions in large companies, and from 2030 - to bring this figure to 40 percent⁸.

Employees of the Labor Inspectorate, within their competence, are responsible, together with employees of justice bodies, for ensuring gender equality and identifying violations of the rules on equal pay between women and men.

In order to achieve equality in labor activity between women and men in France, starting from 2019, companies with at least 50 employees are required to annually publish indicators on the wage gap between women and men and measures taken to eliminate it in the prescribed manner. If the established gender indicators are not met, the employer is obliged to publish an announcement in the relevant mass media, eliminating this inequality. If this problem is not solved within 3 years, financial penalties will be applied to them.

French law prohibits any form of direct or indirect discrimination against a candidate or employee if it is based on the following grounds: origin; sex; gender identity; morals; sexual orientation; age; marital status; pregnancy; genetic characteristics; special vulnerability due to economic status; belonging to or not belonging to an ethnic group, nationality or race (actual or approximate); political views; trade union or mutual community activities; exercise of an elected mandate; religious beliefs; appearance; name; place of residence or bank account; health status; disability; ability to express one's opinion in a language other than French⁹.

Although the employer is not obligated to publish specific figures for employees with disabilities, companies with more than 20 employees must hire at least 6% of employees with disabilities and implement an integration program within five years from the date of establishment. If this obligation is not fulfilled, the company must pay a certain amount of compensation¹⁰.

The above analysis shows that French labor legislation contains comprehensive provisions aimed at protecting the labor rights of employees. Any form of discrimination, including discrimination based on age, marital status, health, disability, and trade union membership, is strictly prohibited. Serious punitive measures are provided for violators of the law. Nevertheless, practice

⁸ Anti-Discrimination Laws in France // <https://leglobal.law/countries/france/employment-law/employment-law-overview-france/04-anti-discrimination-laws/>

⁹ France labour code// https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/

¹⁰ Employment & Labour Laws and Regulations France 2024-2025// <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/france>

shows that cases of discrimination still occur, which indicates the need for constant efforts to combat this problem.

Reference

1. The French Constitution of 1958 // <https://www.conseil-constitutionnel.fr/en/constitution-of-4-october-1958>
2. France labour code// https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/
3. Alston Ph. Facing Up to the Complexities of the ILO's Core Labour Standards Agenda. European Journal of International Law. 2015. Vol. 16. P. 457-458.
4. L'égalité de rémunération entre les femmes et les hommes et les obligations des employeurs// <https://travail-emploi.gouv.fr/legalite-de-remuneration-entre-les-femmes-et-les-hommes-et-les-obligations-des-employeurs>
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