



UWE DECISIONS

FACTSHEET

15 decisions on equal pay and equal opportunities

The European Committee of Social Rights (ECSR), the monitoring body of the European Social Charter, has adopted 15 decisions (see links below) on state compliance with the right to equal pay, as well as the right to equal opportunities in the workplace, following complaints which were lodged within the framework of the collective complaints procedure by the international NGO University Women Europe (UWE). The decisions concern the 15 States which have accepted the complaints procedure (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden). The decisions became public on 29 June 2020.

Why are these decisions important?

First of all, they concern a grave and long-standing problem of our societies, namely the gender pay gap.

Second, these decisions are quite unique in assessing **respect for the principle of equal pay between women and men from a human rights perspective**. Moreover, **it is the first time** that the ECSR decides **on a transversal issue** with decisions concerning all 15 States that have accepted the collective complaints procedure. The 15 decisions are landmark decisions insofar as they assess the compliance of the legal and policy measures taken by each of the 15 States in application of the common legal framework laid down by the Charter.

Finally, the importance of these decisions extends far more broadly, to all countries that face similar gender pay gap problems, in particular the other 28 States Parties to the Charter (that have not accepted the complaints procedure) and, possibly, the other Council of Europe Member States that have yet to ratify the European Social Charter and embrace its monitoring mechanisms.

The right of workers to a fair remuneration is at the heart of the European Social Charter. Inadequate pay creates poverty traps and is also an obstacle to full participation in society and thus a marker for social exclusion. The ECSR has put the spotlight on the historic inequalities affecting women in the labour market and has sent a clear message that they are not compatible with our quest for safeguarding human rights.

What do these decisions say?

First, the decisions identify clear and strong standards in the field of equal pay and, more precisely, they require that **the right to equal pay has to be guaranteed in law**. The ECSR has identified the following obligations for States:

- a. To recognise the right to equal pay for equal work or work of equal value in their legislation;
- b. To ensure access to effective remedies for victims of pay discrimination;
- c. To ensure and guarantee pay transparency and enable pay comparisons;
- d. To maintain effective equality bodies and relevant institutions in order to ensure equal pay in practice.

Moreover, the right to equal pay implies **the obligation to adopt measures to promote** it. This obligation has two elements: on the one hand, collecting reliable and standardised data to measure and analyse the gender pay gap and, on the other hand, designing effective policies and measures aimed at reducing the gender pay gap on the basis of an analysis of the data collected.

The States are under an obligation to show **measurable progress** in reducing the gender pay gap. The ECSR found that in 2017, women's gross hourly earnings were on average 16% below those of men in the European Union area (Eurostat [EU-28](#) data). This gap had narrowed only slightly compared to 2010, where it stood at 17.1%. Even though certain States have managed to reduce the gender pay gap in a significant manner (such as Belgium, Cyprus and Sweden), in others the gender pay gap decreased very slowly or remained stagnant (as in the case of France, Norway and the Netherlands) while in others there has even been an increase in the gender pay gap over the last 10 years (notably in Slovenia and Bulgaria).

The ECSR acknowledges that the **gender pay gap is no longer solely or even primarily a result of discrimination as such**. The gap arises mainly from differences in the so-called “average characteristics” of women and men in the labour market. These differences result from many factors, such as horizontal segregation, where there is the concentration of one sex in certain economic activities (sectoral gender segregation) or the concentration of one sex in certain occupations (occupational gender segregation), as well as vertical segregation, notably the fact that too few women occupy the better paid senior and decision-making positions within companies. Therefore, the States should assess the impact of the policy measures adopted in tackling gender segregation in employment, improving women’s participation in a wider range of jobs and occupations.

As regards more particularly **vertical segregation**, the decisions highlight the State’s positive obligations to tackle this phenomenon in the labour market, by means of, inter alia, promoting the advancement of women in decision-making positions within private companies. This obligation may entail introduction of binding legislative measures to ensure equal access to management boards of companies, including by setting specific quotas or targets in both public and private sector that will promote parity. However, a light touch approach that encourages change is also possible, if it brings about measurable progress. Measures designed to promote equal opportunities for women and men in the labour market must include promoting an effective parity in the representation of women and men in decision-making positions in both the public and private sectors.

In this respect, the ECSR observed that the proportion of women on management boards of the largest publicly listed companies in countries with binding legislative measures had risen from an average of 9.8% in 2010 to 37.5% in 2018. In countries that took positive action to promote gender balance but did not adopt binding measures, the corresponding percentages were 12.8% in 2010 and 25.6% in 2018, whereas in countries where no particular action (apart from self-regulation by companies) has been taken, the situation remained almost stagnant, with 12.8% women on management boards on average in 2010 and 14.3% in 2018. The ECSR also recalled that it is essential to bear in mind PACE Resolution 1715(2010),

which recommends that the proportion of women on management boards of companies should be at least 40%.

14 out of the 15 States were found to be in violation of one or more of the above-mentioned aspects of the obligation to guarantee the right to equal pay and the right to equal opportunities in the workplace. However, the ECSR also noted various positive developments. Measures taken by some States in recent years have led to measurable progress in reducing gender pay gap, but progress is slow. The ECSR's decisions clearly demonstrate that problems and practices, such as segregation in the labour market, lack of pay transparency, secrecy regarding pay levels, obstacles to access effective remedies and retaliatory dismissals continue to exist and prevent full realisation of the equal pay principle.

List of decisions

[No. 124/2016 University Women of Europe \(UWE\) v. Belgium](#)
[No. 125/2016 University Women of Europe \(UWE\) v. Bulgaria](#)
[No. 126/2016 University Women of Europe \(UWE\) v. Croatia](#)
[No. 127/2016 University Women of Europe \(UWE\) v. Cyprus](#)
[No. 128/2016 University Women of Europe \(UWE\) v. Czech Republic](#)
[No. 129/2016 University Women of Europe \(UWE\) v. Finland](#)
[No. 130/2016 University Women of Europe \(UWE\) v. France](#)
[No. 131/2016 University Women of Europe \(UWE\) v. Greece](#)
[No. 132/2016 University Women of Europe \(UWE\) v. Ireland](#)
[No. 133/2016 University Women of Europe \(UWE\) v. Italy](#)
[No. 134/2016 University Women of Europe \(UWE\) v. the Netherlands](#)
[No. 135/2016 University Women of Europe \(UWE\) v. Norway](#)
[No. 136/2016 University Women of Europe \(UWE\) v. Portugal](#)
[No. 137/2016 University Women of Europe \(UWE\) v. Slovenia](#)
[No. 138/2016 University Women of Europe \(UWE\) v. Sweden](#)