

Cour de Cassation, Chambre Sociale, 1 June 2005. Nos. 04-42.143 à 04-42.149.

1) Reference Details

Jurisdiction: Court of Cassation, Labour Chamber, France

Date of Decision: 1 June 2005.

2) Facts

In 1997 the societies MLP, Sopac Medical and Plastic Services were recognised as a single economic unit. Seven of the employees of Plastic Services sought the same benefits as the employees of one of the other societies - MLP. The Court of Cassation was asked to address the issue of whether the principle of equal pay for equal work was valid as between employees of different companies which made up a 'single economic and social unit'. (Unité économique et sociale or UES)

3) Law

- Article 1315 Civil Code – equal pay for equal work
- Articles L.133-5-4, L.136-2-8 and L.431-1 Labour Code
- European Court of Justice, Case no. 320.00, 17 September 2000
- Article 141 EC

4) Legal Arguments

The appellants sought to have the decision of the Court of Appeal overturned. The Court of Appeal had found that, as the personnel of the three societies worked for the same business and the same employer, and that the societies were co-employers, there should not be any disparity in remuneration between the employees of the three societies, who were doing the same work.

5) Decision

The Labour Chamber in the Court of Cassation responded that no valid comparison could be made between the employees and conditions of work in companies within the limits of a UES. They considered that companies within a UES were distinct legal persons. Therefore, there could only be such a comparison if these conditions were fixed by a law, convention or collective accord common to all, and in cases where the work was done in the same establishment.

As the Court of Appeal failed to establish whether any of these conditions for comparison were fulfilled, the judgement was annulled and the case sent back to the Court of Appeal for reconsideration.