



Response to first phase social partner consultation on a possible action addressing the challenges related to fair minimum wages

Introduction

1. Wages in general, including minimum wages are an **important aspect of our social market economy**. They have a strong impact on whether labour markets function efficiently, to ensure mutual benefits for companies and workers, including often through collective bargaining. It is therefore not surprising that all EU Member States already have minimum wages - in 21 and in the UK through a statutory minimum wage often in combination with minimum wages in collective agreements at different levels. In 6 member states and Norway and Iceland without a statutory minimum wage through collective agreements.
2. However it is also right to acknowledge that the systems of fixing minimum wages and the role of the social partners are very different from one Member State to another, according to in particular different national industrial relations systems and different social security and taxation systems that are established and developed according to what works best for that Member State. This means that **no one size fits all**.
3. In this context, we welcome the important commitments the Commission has made in the consultation document that any future initiative would respect the principle of subsidiarity and the autonomy of social partners, in particular to:
 - “Not harmonise directly the level of minimum wages across the EU;
 - Not seek to establish a uniform mechanism to set minimum wage;
 - Not establish the level of pay which falls within the contractual freedom of the social partners at a national level and within the relevant competence of Member States;
 - Respect national traditions, social partners’ autonomy and the freedom of collective bargaining;
 - Not seek the introduction of a statutory minimum wage in countries with high coverage of collective bargaining and where wage setting is exclusively organised through it.”

As stated, these commitments have their basis in the EU Treaty and for good reasons, as they reflect the division of competences between the EU, national level and social partners.

Specifically, on the fourth bullet, our understanding is that ‘freedom of collective bargaining’ refers to the voluntary nature of collective bargaining, based on the well-recognised principle (also enshrined in the ILO) of freedom of association.

On the last bullet, we understand that it is the intention of the Commission that Member States without a statutory minimum wage and where wages are predominantly defined by social partners, and thus the responsibility of the social partners will not be affected by the initiative.

4. The consultation document makes numerous references to the political objective of ensuring every worker has a **“fair minimum wage”**. First and foremost, wages negotiated by social partners are based on a balanced agreement between social



partners, which is an important safeguard to support fairness for both parties at once, and to promote social peace. In addition, determining fair minimum wages means finding a balance between the needs of workers and their families, as well as economic factors, including productivity and employment. Therefore, when considering fair minimum wages for workers, it is important not only to look at the level, but also how this affects workers' possibilities to be hired, the hours/quantity of work offered to them, and work-related benefits (e.g. leave, supplementary pensions etc). It is also necessary to look at fairness in terms of take-home pay, bearing in mind that this is impacted by taxes and non-wage labour costs, as well as taking into account that workers may have additional sources of income, such as housing or family-related benefits.

5. It is important to remember that for employers and workers, wages exist to compensate the work performed, taking into account the way in which it is done and valued, including in the market and within the enterprise. This is an important difference with minimum income schemes, which pursue the social policy objective of ensuring an adequate minimum income to all that are considered to be legitimately eligible in a country in view of the costs of living. In addition, wages are affected by a number of different factors, such as sector and industry, market supply and demand, collective wage levels and individual competence and performance.
6. The way forward to improve economic and social convergence across the EU is through **broader measures**, such as making the single market work better, better functioning education and training systems, investment in research and development and performing welfare systems.
7. We support the analysis that minimum wages are very much linked to the **economic situation** in the country: economic growth and increased productivity are a necessary prerequisite for wage increases and unsustainable wage increases can have a negative impact on the economy and companies' possibilities to remain competitive, to create jobs and to hire. Making progress on the economic side, e.g. through further development of the single market is what is necessary to provide the basis for companies to be able to increase wages.
8. In some countries with statutory wage systems, **wage negotiations are being politicised** as governments take unilateral decisions to increase minimum wages, without adequate involvement of social partners or business needs. This has a negative impact, by not taking into account the reality of company situations or the views of social partners. Therefore, the aim should be to support the establishment of mechanisms which allow for timely and appropriate consultation of social partners.
9. In the June 2016 Council conclusions on "A new start for a strong social dialogue" Member States were in particular called on to "support the improvement of the functioning and effectiveness of social dialogue at national level, which is conducive to collective bargaining and creates an appropriate space for social partners' negotiations". This includes agreeing with social partners on how they should be involved, respecting their autonomy. This was followed up by a quadripartite statement by the Council Presidency, the Commission and the social partners. Clearly more work on this is needed.



10. Taking into account the challenges highlighted in the consultation document we agree that there is **room and rationale to discuss the issue of minimum wages at EU level. However, it should be seen in a broad context of how we increase prosperity, convergence and social cohesion.** And in fact, as social partners, we are working on this as part of the European Semester process. This work could be further strengthened.
11. According to Treaty article 153 (5), the EU has no competence to introduce a directive on minimum wages or on collective bargaining as these matters are, for good reasons, the competence of social partners and Member States. In particular, it would contradict the promise of respecting social partners' autonomy as a directive by definition gives the power to the legislator and risks leading to court cases, whereas what is needed is cooperation between the main actors. The important commitments made by the Commission in its consultation document also confirm this.
12. We believe that building on the actions taken in the framework of the European semester under Article 147 TFEU, as well as delivering on the 2016 quadripartite statement on a new start for social dialogue, should be the way forward and we are willing to continue to play a constructive role in helping Europe move forward if this is the route the Commission decides to take.

I. Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for EU action?

13. The consultation document highlights **different possible objectives** of an initiative on minimum wages: Tackling wage inequalities in terms of relative purchasing power; raising living standards; ensuring workers' have a fair share of productivity gains/GDP growth. These are all relevant and important goals, however the tools/policies needed to tackle these issues are very different, making an EU directive on minimum wages an inappropriate and ineffective way to reach them.
14. Overall, we find that the analysis of the Commission pinpoints a number of important issues, although there are also a number of points missing. Firstly, we agree that discussions on minimum wages **cannot be isolated from broader issues** which affect the labour market as well as social security systems. For example, we support the recognition that "employment protection legislation affects incentives to create different forms of work" and that "benefit systems directly influence the tax burden and the net incomes of low-wage workers."
15. If the overall aim is to provide a decent standard of living and combat in-work poverty, introducing or raising levels of minimum wages is a very blunt and often ineffective measure. In contrast, **reducing the tax burden on low-wage and low-skilled workers**, who are often those covered by minimum wages, and supplementing their income from work with effective social benefits, can be a much more effective way to combine safeguards against in-work poverty and access to employment. Sharp increases in minimum wages can in fact decrease the likelihood



of low-wage earners to find work without taking into account the fact that the most vulnerable in our societies can in fact be better supported in other ways. Re-skilling and skills updating in general and making sure workers have the right skills for the labour market, are also important in raising workers' productivity and giving possibilities for wage progression.

16. As highlighted by Eurofound (2017 report on in-work poverty), in-work poverty depends much more on other aspects than pay, i.e. on the composition of the household, work-intensity and transitions into and out of employment. Those workers on low pay (e.g. due to low number of working hours or particular forms of work) are in fact often in such a situation due to the lack of a well-functioning labour market. Therefore, rather than an initiative on minimum wage, what would be most beneficial for such workers is to ensure that Member States reform their labour markets, to ensure they function effectively for all groups of workers. It is also important to recognize that diverse forms of work provide opportunities for jobseekers, workers and employers, in terms of employment and labour market integration. Compared to the analysis provided by the Commission on 'non-standard' work, the situation regarding wages is in fact much more nuanced, taking into account the different forms of work and existing EU legislation, e.g. the Directive on temporary agency workers.
17. We also agree with the analysis that **other policies can help to address wage inequality and thereby facilitate convergence** across the EU, in particular in the area of education and skills. Well-functioning education and training systems are key to allow people to have the right skills for the labour market and to progress in their careers, including in terms of pay. However, the analysis does not sufficiently acknowledge the importance of other broader policy measures to improve economic and social convergence, in particular making the single market work better. This improves the basis for companies to increase wages and is particularly important for further increasing the convergence of central and eastern European Member States.
18. We also agree with the acknowledgement in the consultation document that minimum wages need to **take into account the economic environment and possible effects on employment and competitiveness**. The key issue is to ensure that wage increases are in line with productivity developments. Whilst labour productivity has increased, overall productivity has grown at a slower pace in Europe in the last 10 years, whereas wage growth has accelerated across the EU – it increased by 2.8% in 2018 compared to 2.1% in 2017. This puts European companies at a disadvantage to compete globally.
19. Minimum wages also have to be **in line with productivity** to ensure that workers on low-pay are actually protected. Where this is not the case, it often has a negative effect on companies' possibility to hire and retain workers, harming in particular the employment prospects of young and low-skilled workers or others with low productivity, who are precisely those that the minimum wage aims to support. For people with low work intensity, too high minimum wages can also lead to reduction of their working hours. Another indirect impact is that employers would become less able to offer important extra benefits to employees, such as health or other voluntary insurances, supplementary pensions, or additional leave arrangements.



20. Furthermore, the issue is not only for people on low wages – as stated in the consultation document, minimum wages have a **spill-over effect** on wages slightly above the minimum wage. However, this is only part of the picture, in fact the setting of minimum wages can have consequences for the whole wage structure. The analysis falls short by focusing on the possible benefits of this spill-over effect on overall wage growth, whereas it does not acknowledge the negative impact this can have in terms of hiring decisions by companies and for employment prospects and opportunities for progression of workers targeted by the minimum wage. It can also reduce the possibility for collective bargaining on wages, in particular at sectoral level, as well as company level, thereby limiting the role of social partners.
21. Whilst the consultation document rightly identifies an insufficient involvement of social partners in statutory wage setting systems in some countries, it is also important to acknowledge that this is due to **politicisation of wage setting** in some countries. This has been clearly highlighted in the European Semester process, which shows that there has been a tendency in the last few years for some national governments (e.g. Bulgaria, Greece, Poland, Romania, Slovenia) to take political decisions to increase the minimum wage without adequate consultation or involvement of social partners or even disregarding recommendations from social partners.

Adequacy

22. We have **strong concerns about defining at EU level what is an adequate wage**. This can only be decided at national level, taking into account that income comes from different sources such as social security and is determined by other elements, such as taxes and non-wage labour costs. The balance between these elements differs very much between Member States, determined in particular by the design of the overall labour market, social protection and industrial relations system. Eurofound notes in its 2017 report on in-work poverty that “there is a tendency for countries with low nominal levels of statutory minimum wages to have higher social security contributions and taxes. The 10 countries with the lowest rates see deductions of 22% on average, while the 10 countries with the highest rates see deductions of 13% on average.” This diversity could not be captured by defining an adequate wage at EU level.
23. The various proposals for measuring adequacy presented in the consultation document raise a number of issues. Firstly, they give **different results in terms of the performance of Member States**. Therefore, if used as a basis for measurement, this can result in different approaches in terms of the Member States that are targeted. The suggestion of looking at the net income of minimum wage earners takes account of the impact of taxes and non-wage labour costs on take-home pay, however leaving out the necessary consideration of the overall cost of hiring for an employer. Comparing this to 60% of the median household income also takes account of the fact that in-work poverty is better measured at household level, as well as assessing to what extent work pays as opposed to benefits. However, this still does not take into account that those on minimum wage may be receiving social benefits in addition, thereby giving a false picture of their overall level of income.



24. An EU target based on a specific measurement would also **not necessarily provide a solid basis for improving minimum wages in a way which supports convergence between different parts of the EU**. This is very much the case if 60% of the median wage is taken as an example. The German institute of Economic and Social Research (WSI) in its 2019 minimum wage report on those Member States with statutory minimum wages shows that in the EU only France and Portugal achieve more than the 60% median and those nearing it are Romania and Slovenia. This means that with such an approach, certain Member States would be targeted, whereas a focus on other countries may contribute more to convergence across the EU. As stated in the consultation document, measuring minimum wages against average wages is also problematic, as it is affected by very high earnings, so can also give a false basis for policy action.
25. If the intention is for minimum wages to ensure a decent standard of living, we recognise the **importance of looking at the real value of wages in a country, according to purchasing power standards**. The regional differences within Member States are also important. In fact, the Eurofound 2019 report on wages highlights that since 2010, national gross minimum wages in Purchasing Power Standards in the EU saw a pattern of upward convergence, as the central and eastern European countries, in particular, converged towards the EU average. In 2010, the purchasing power of the minimum wage in Bulgaria was 17% that of the purchasing power of the minimum wage in Luxembourg, whereas in 2019, workers in the lowest minimum wage country received 35% of the highest minimum wage. However, like with other measurements, this does not take into account other sources of income, which also contribute to workers' ability to meet their needs in terms of basic goods, housing, transport etc.
26. We agree on the need to consider **productivity developments** as part of this debate and that all workers should benefit from productivity developments and GDP growth, including the lowest paid. However, unfortunately the consultation document does not acknowledge that productivity growth is needed to afford overall increases to the cost of employing a worker, also taking into account the value of non-wage benefits and tax/social security contributions. In other words, where these wider costs are rising, only part of the proceeds of higher productivity is available to increase basic wages. As highlighted by Eurofound in their report on Pay in the 21st century, "in times of economic crisis and rising unemployment, this could lead to increases in minimum wage levels that are difficult to defend."
27. Another issue to consider is which parts of the wage are included in such calculations. For example, is it the overall wage, including, the basic salary, additional salary from overtime, additional compensation, e.g. for night work? This differs greatly between Member States and even within Member States, according to different collective agreements.
28. This shows the **importance of assessing more thoroughly the advantages and disadvantages** of different measurement options, taking into account what they actually show and ensuring that they lead in the right direction in terms of action.



The way in which minimum wage trends at the national level have been evolving in relation with the productivity of workers hired on the minimum wage needs to be explained by the Commission in the run up to the second-stage consultation. This will also have to be considered in terms of the actual goal of such an initiative.

Coverage

29. The analysis in the consultation document shows that there is a large variety of situations at national level regarding the coverage of minimum wages. This is not surprising, given that this is determined by national traditions, industrial relations systems, and the balance with other sources of income, such as social security. There is clearly no one size fits all approach and we consider it inappropriate for the EU to deal with the issue of coverage in the context of an initiative on minimum wages.
30. For those countries where wages are not determined by law but predominantly by collective agreements at national and/or sectoral level, it is absolutely necessary for the Commission to stick to its promise of respecting “national traditions, social partners’ autonomy and the freedom of collective bargaining”. For countries with statutory minimum wage systems, the question of coverage should be discussed jointly with social partners.
31. This is also in line with ILO convention 131 on minimum wage fixing, which obliges those that have ratified it to establish a system of minimum wages, whilst leaving flexibility for the competent national authority, in agreement or after consultation with social partners, to determine the groups of wage earners to be covered.

Social partner involvement

32. We agree with the analysis that there are large differences in social partner involvement in statutory minimum wage-setting processes. Improvements in this area are essential to ensure that wage setting at national level, including determining coverage and wage levels, takes into account the economic situation in the country, as well as in specific sectors, and the impact at company level.
33. The aim should be to **support the establishment of well-functioning consultation procedures** leading to possible agreements between relevant national authorities and social partners. This can help in increasing understanding and predictability/transparency for employers, workers and their representatives of wage setting systems and any changes in minimum wages, as well as a balanced outcome taking account of employers and workers’ needs. However, this should only be encouraged where it is called for by social partners on both sides.

National mechanisms/criteria

34. We agree that the existence of **clear and stable criteria to guide adjustments of statutory minimum wages is important** and that this is lacking in some Member States. This is important for companies to be able to anticipate wage adjustments



and adequately prepare for them, including in terms of planning and development of business activities and in particular to avoid negative impacts on low-skilled and low-wage earners. Involvement of social partners in identifying appropriate criteria is also essential, to ensure that the different economic, labour market and sectoral situations are taken into account, as well as the reality in companies.

35. As part of democratic decision-making, national parliaments also play a role in setting statutory minimum wages. However, as already highlighted, unilateral actions by governments, without adequate consultation of social partners, must be avoided.

II. Do you consider that EU action is needed to address the identified issues? If so, what should be the scope of that action?

36. **The EU has no competence to introduce a legal instrument on minimum wages based on Article 153 (5)** of the EU Treaty as it explicitly excludes this. This article also explicitly excludes collective bargaining from EU regulation. This is for good reasons, as it would strongly interfere with Member States' wage-setting and industrial relations systems and social partners' autonomy, in particular in the case of a Directive. As a directive would be for implementation by national governments, it would automatically reduce or even take away social partners' possibility to negotiate wages and thereby to deliver solutions that take into account the interest of both companies and workers. It is crucial not to give the possibility or even appetite to the legislator to take on this role, where it is currently done by social partners. This is also necessary in line with the general commitment of the Commission to support social dialogue and collective bargaining.

37. The limits of the Treaty are also clearly highlighted in the ECJ case C-268/06, Impact, referenced in the consultation document (points 123 and 124), which shows the lack of legal basis to harmonise the level of minimum wages across the EU or to establish levels of pay. However, if the Commission is to stick to its promise to respect social partners' autonomy and the freedom of collective bargaining, it must also avoid interfering with national and social partner determination of coverage or adequacy of minimum wages and with wage-setting systems. Any future initiative must also respect those Member States where social partners do not want legislation on minimum wage or legislation extending their agreed minimum wages, as it would otherwise undermine their well-functioning systems.

38. We do, however, see an added value for an **EU initiative building on the existing work done on minimum wages within the European Semester process**. This would be based on Article 147 TFEU. This would be in line with the EU intention stated in the consultation document, to "support Member States, within the limits set by the treaties". Given that the key tool to implement the European Pillar of Social Rights, including principle 6 on wages, is the European Semester process, this would also be in line with its further implementation. Furthermore, the Semester is the most relevant place to deal with this issue, as part of encouraging reforms at national level.



39. The focus of future work in the context of the Semester will depend on the overall objective of an initiative. This should certainly **not look at minimum wages in isolation**, rather in connection with broader labour market issues, social security, taxes and non-wage labour costs, bearing in mind that ensuring a decent standard of living also relies on these elements. Further work could be done to assess and encourage measures at national level regarding income overall, in those countries where this is a challenge. When it comes to monitoring convergence, it is also important that the commission ensures **effective collection of the appropriate data**, accessible to national and international social partners.
40. Action through the semester could also focus on **supporting better involvement of social partners in statutory minimum wage-setting processes where the social partners on both sides request it**, including more systematic and timely consultation. Based on article 147 and the European semester process, and as set out in article 149, this could include the European Parliament and Council adopting measures designed to encourage/incentivise cooperation between Member States and to support their action in the field of employment. This could be done through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice, as well as promoting innovative approaches and evaluating experiences, in particular through pilot projects. This could of course also include support for social partners. This has a particular value in countries where governments impose minimum wage increases based on political considerations, as explained above. This should only be encouraged where the request comes from the social partners themselves on both sides and must not instruct social partners on how they should set minimum wages.
41. To complement this process, there is also a need for more support from the EU and Member States for **capacity-building** of national social partners, in terms of collective bargaining, including where appropriate for determining wages, as well as capacity to engage in discussions on statutory minimum wages. This would be a follow-up to the 2016 Quadripartite statement on a new start for social dialogue, in which the EU committed to support capacity building for national social partners, including through EU budget lines. Member States also committed to support improvement of functioning and effectiveness of social dialogue at national level, conducive to collective bargaining and create appropriate space for social partner negotiations.
42. Given the intention to integrate the **UN Sustainable Development Goals (SDGs)** into the European semester, it could also be useful to look more widely than those goals outlined in the consultation document. Depending on the objective of a future initiative, SDG 1 on poverty, SDG 8 on economic growth, employment and decent work and SDG 10 on inequality, are certainly relevant, however, a broader approach in particular related to SDG 9 on industry, innovation and R&D, is necessary to encourage improvements to the economic conditions for higher wages. Making progress here is even more crucial, given that in the last 5 years the EU has moved closer to SDGs 1, 8 and 10, but further away from SDG 9.



III. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

43. We are already involved in a dialogue with the trade unions, European Commission and the Council on important social and employment issues as part of the European Semester process, and in follow-up to the 2016 Quadripartite statement on a new start for social dialogue with a view to further strengthening the capacity of social partners.
44. Whilst we are fully committed to social dialogue, as stated in the abovementioned Quadripartite statement, at this stage we do not intend to take a decision on initiating an additional and separate dialogue under Article 155 TFEU on the issues identified in this consultation.