

## Opinion of the European Committee of the Regions – Adequate minimum wages in the European Union

(2021/C 175/08)

<b>Rapporteur:</b>	Peter KAISER (AT/PES), Governor of Carinthia
<b>Reference document:</b>	Proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union COM(2020) 682 final

### I. RECOMMENDATIONS FOR AMENDMENTS

#### Amendment 1

Recital 21

Text proposed by the European Commission	CoR amendment
<p>Minimum wages are considered adequate if they are fair in relation to the wage distribution in the country and if they provide a decent standard of living. The adequacy of statutory minimum wages is determined in view of the national socio-economic conditions, including employment growth, competitiveness as well as regional and sectoral developments. Their adequacy should be assessed at least in relation to their purchasing power, to the productivity developments and to their relation to the gross wage levels, distribution and growth. The <b>use of</b> indicators <b>commonly used at international level, such as</b> 60 % of the gross median wage and 50 % of the gross average wage, <b>can</b> help guide the assessment of minimum wage adequacy in relation to the gross level of wages.</p>	<p>Minimum wages are considered adequate if they are fair in relation to the wage distribution in the country and if they provide a decent standard of living. The adequacy of statutory minimum wages is determined in view of the national socio-economic conditions, including employment growth, competitiveness as well as regional and sectoral developments. Their adequacy should be assessed at least in relation to their purchasing power, to the productivity developments and to their relation to the gross wage levels, distribution and growth. The <b>internationally recognised</b> indicators <b>of</b> 60 % of the gross median wage and 50 % of the gross average wage help guide the assessment of minimum wage adequacy in relation to the gross level of wages.</p>

#### **Reason**

In the consultation process, these indicators have emerged as guidelines capable of commanding consensus.

#### Amendment 2

Article 3(3)

Text proposed by the European Commission	CoR amendment
<p>‘collective bargaining’ means all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more <b>workers’ organisations</b>, on the other, for determining working conditions and terms of employment; and/or regulating relations between employers and workers; and/or regulating relations between employers or their organisations and <b>a worker organisation or worker organisations;</b></p>	<p>‘collective bargaining’ means all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more <b>trade unions</b>, on the other, for determining working conditions and terms of employment; and/or regulating relations between employers and workers; and/or regulating relations between employers or their organisations and <b>trade unions;</b></p>

**Reason**

According to the EU social legislation and EU obligations under international law, trade unions are the social dialogue partners of collective bargaining. Work councils for instance do not carry a sufficient institutional legitimacy.

**Amendment 3**

## Article 4(2)

Text proposed by the European Commission	CoR amendment
<p>Member States where collective bargaining coverage is less than 70 % of the workers defined within the meaning of Article 2 shall in addition provide for a framework of enabling conditions for collective bargaining, either by law after consultation of the social partners or by agreement with them, and shall establish an action plan to promote collective bargaining. The action plan shall be made public and shall be notified to the European Commission.</p>	<p>Member States where collective bargaining coverage is less than 70 % of the workers defined within the meaning of Article 2 shall in addition provide for a framework of enabling conditions for collective bargaining, either by law after consultation of the social partners or by agreement with them, and shall establish an action plan to promote collective bargaining <b>and to build and strengthen the capacities of the social partners</b>. The action plan shall be made public and shall be notified to the European Commission.</p>

**Reason**

To ensure consistency with Article 4(1).

**Amendment 4**

## Article 5(1)

Text proposed by the European Commission	CoR amendment
<p>Member States with statutory minimum wages shall take the necessary measures to ensure that the setting and updating of statutory minimum wages are guided by criteria set to promote adequacy with the aim to achieve decent working and living conditions, social cohesion and upward convergence. Member States <b>shall define</b> those criteria in accordance with <b>their national</b> practices, either in relevant <b>national</b> legislation, in decisions of the competent bodies or in tripartite agreements. The criteria shall be defined in a <b>stable and</b> clear way.</p>	<p>Member States with statutory minimum wages shall take the necessary measures to ensure that the setting and updating of statutory minimum wages are guided by criteria set to promote adequacy with the aim to achieve decent working and living conditions, social <b>and territorial</b> cohesion and upward convergence. <b>At the level of the</b> Member States, those criteria <b>shall be defined</b> in accordance with practices <b>in the Member States</b>, either in relevant legislation, in decisions of the competent bodies or in tripartite agreements. The criteria shall be defined in a clear way <b>and with a timeline</b>.</p>

**Reason**

To highlight the territorial dimension.

**Amendment 5**

## Article 5(2)

Text proposed by the European Commission	CoR amendment
<p>The national criteria referred to in paragraph 1 <b>shall</b> include at least the following elements:</p> <p>(a) the purchasing power of statutory minimum wages, taking into account the cost of living <b>and the contribution of taxes and social benefits</b>;</p> <p>(b) the general level of gross wages and their distribution;</p> <p>(c) the growth rate of gross wages;</p> <p><b>(d) labour productivity developments.</b></p>	<p>The national criteria referred to in paragraph 1 <b>should</b> include at least the following elements:</p> <p>(a) the purchasing power of statutory minimum wages, taking into account the cost of living <b>with reference to the harmonised indices of consumer prices (HICP) pursuant to Regulation (EU) 2016/792</b>;</p> <p>(b) the general level of gross wages and their distribution <b>by sector and NUTS-2 region</b>;</p> <p>(c) the growth rate of gross wages.</p>

**Reason**

Taxes and social benefits and labour productivity are typically business-specific parameters, not suited to assessing whether minimum wages are adequate.

**Amendment 6**

## Article 5(3)

Text proposed by the European Commission	CoR amendment
<p>Member States <b>shall use indicative reference values to guide their assessment of adequacy</b> of statutory minimum wages in <b>relation to the general level of gross wages, such as those commonly used at international level.</b></p>	<p>Member States <b>remain competent to set the rate</b> of statutory minimum wages. <b>Member States shall ensure in any case that statutory minimum wages are adequate and that a convergence process is launched, and assessed on an annual basis, with a view to achieving a lower threshold of at least 60 % of the full-time gross national median wage and 50 % of the full-time national gross average wage as quickly as possible.</b></p>

**Reason**

Consistency with amendment 1 to recital 21.

**Amendment 7**

## Article 6(1)

Text proposed by the European Commission	CoR amendment
<p>Member States <b>may allow different rates</b> of statutory minimum wage <b>for specific groups of workers. Member States shall keep these variations to a minimum, and ensure that any variation is non-discriminatory, proportionate, limited in time if relevant, and objectively and reasonably justified by a legitimate aim.</b></p>	<p>Member States <b>shall ensure that no categories of workers are excluded from their</b> statutory minimum wage <b>protection.</b></p>

**Reason**

There should be no incentives for subminimum rates of statutory minimum wage for specific groups of workers.

**Amendment 8**

## Article 6(2)

Text proposed by the European Commission	CoR amendment
<p>Member States may allow deductions by law that reduce the remuneration paid to workers to a level below that of the statutory minimum wage. Member States shall ensure that these deductions from statutory minimum wages are necessary, objectively justified and proportionate.</p>	<p>Member States may allow deductions by law — <b>through the granting of social benefits and benefits in kind</b> – that reduce the remuneration paid to workers to a level below that of the statutory minimum wage. Member States shall ensure that these deductions from statutory minimum wages are necessary, objectively justified and proportionate. <b>Member States shall ensure that tips, overtime and other extra-payments be excluded from the calculation of the statutory minimum wages and are paid on top of them.</b></p>

**Reason**

Self-explanatory

**Amendment 9**

## Article 9

Text proposed by the European Commission	CoR amendment
<p><b>Public procurement</b></p> <p>In accordance with Directive 2014/24/EU, Directive 2014/25/EU and Directive 2014/23/EU, Member States shall take appropriate measures to ensure that in the performance of public procurement or concession contracts economic operators comply with <b>the wages</b> set out by collective agreements for the relevant sector and geographical area and with the statutory minimum wages where they exist.</p>	<p><b>Public procurement</b></p> <p>In accordance with Directive 2014/24/EU, Directive 2014/25/EU and Directive 2014/23/EU, Member States shall take appropriate measures to ensure that in the performance of public procurement or concession contracts economic operators comply with <b>remuneration and other working conditions</b> set out by collective agreements for the relevant sector and geographical area and with the statutory minimum wages where they exist, <b>and the right to collective bargaining. Member States shall also ensure that economic operators, as a condition for the award of public procurement contracts, are required to comply with wages and other working conditions, established by laws and/or collective agreements and to respect the right to collective bargaining and to recognise and negotiate with trade unions.</b></p>

**Reason**

Self-explanatory

## II. POLICY RECOMMENDATIONS

### THE EUROPEAN COMMITTEE OF THE REGIONS

1. welcomes the fact that the Commission has brought about a fundamental shift regarding the minimum wage, with adequate minimum wages seen as a fundamental right and prerequisite for a social, fair and sustainable market economy underpinning the European single market. The economic, social and societal costs of wage dumping and the wage gap within the European Union far exceed any short-term business profits;

2. welcomes the fact that the Commission proposal allows for a European framework for stronger collective bargaining coverage and for fair and adequate minimum wages, which will in particular help to combat in-work poverty. The CoR stresses the ambition of the Commission proposal to establish a framework for more adequate minimum wages and better access for workers to guaranteed minimum wages; a framework that respects the particular features of national systems and the autonomy and contractual freedom of the social partners. As previously requested by the CoR, the Commission proposal is not a one-size-fits-all solution and is based on the premise supported by the CoR that: 'Well-functioning collective bargaining and comprehensive collective agreements are the primary method of achieving fair wages and setting other working conditions, as workers and employers know their sector and region best' <sup>(1)</sup>;

3. notes that, by the deadline of 21.1.2021, three of the 20 national parliaments that had examined the Commission's proposal had submitted reasoned opinions under the subsidiarity monitoring mechanism;

4. believes the Commission proposal serves to meet the European objectives of strengthening social and territorial cohesion and avoiding distortions to competition (Article 3 TEU), and ensures continuity with the European Pillar of Social Rights (Principle 6) <sup>(2)</sup>, the Charter of Fundamental Rights (Article 31), the European Social Charter (Article 4) and ILO Convention 131. This is of particular importance for those territories where discrepancies in minimum wages across the EU lead to unbalanced migration flows within the EU, which can be destabilising for the local community, as well as having a negative effect on the demographic picture in the region of origin;

5. stresses the urgent need for 'upward convergence' of minimum wages, not least given that low wages remain a feature of employment in the European Union. It is estimated that about one in six workers are on low wages. In recent years, low wages have not kept pace with other wages in many Member States, leading to an increase in wage inequality. The share of workers at risk of poverty increased from 8,3 % in 2010 to 9,3 % in 2018. Moreover, the COVID-19 outbreak has had a negative impact on workers' wages, particularly those on the lowest incomes such as cleaning, retail, health and long-term care and residential care. Sectors that are partially or entirely under the competence of local and regional authorities. According to a Eurofound online survey carried out in 2020, almost 40 % of respondents in the EU declared their financial situation was worse than before the pandemic, and nearly half indicated their households could not make ends meet (47 % in April 2020). In addition, while making up 48 % of employees in general in the European Union, women constitute 59 % of minimum wage earners. This contributes to the gender pay and pension gaps and in-work poverty of women <sup>(3)</sup>. Upward convergence would, thus, help reduce in-work poverty as well as the gender pay and pension gaps;

6. takes the view that, in keeping with the subsidiarity principle and based on the case-law of the Court of Justice of the European Union (C-268/06 Impact, 2008), the legal basis of Article 153 TFEU proposed by the Commission does not allow for a direct role in setting remuneration within the European Union. The Commission proposal can only provide for objectives, a process that fully recognises existing national minimum wage legislation and the role of the social partners;

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<sup>(1)</sup> See point 31 of CoR Opinion on A Strong Social Europe for Just Transitions (rapporteur Anne Karjalainen) (OJ C 440, 18.12.2020, p. 42).

<sup>(2)</sup> 6. Wages: Workers have the right to fair wages that provide for a decent standard of living. Adequate minimum wages shall be ensured, in a way that provides for the satisfaction of the needs of the worker and his/her family in the light of national economic and social conditions, whilst safeguarding access to employment and incentives to seek work. In-work poverty shall be prevented.

<sup>(3)</sup> Eurofound (2017), In-work poverty in the EU, Publications Office of the European Union, Luxembourg.

7. draws the Commission's attention to the need for a multifaceted approach to combating in-work poverty. The Commission's own analysis shows that combating in-work poverty is a complex challenge, with other factors such as the tax system, training initiatives, the level of social benefits and employment policies, as well as the monitoring of the positive law also playing a crucial role. These are areas where competence lies primarily with the Member States and therefore the success of a European process for adequate minimum wages will depend largely on the willingness of the Member States themselves to adjust to these parameters;

8. notes that, in accordance with Article 154 TFEU, the Commission undertook a two-stage consultation of the social partners regarding potential EU action in the field of minimum wages prior to publishing its draft. In the first phase, running from 14 January to 25 February 2020, the Commission consulted the social partners on the need for an initiative on minimum wages and on what direction it could take. In the second phase, between 3 June and 4 September 2020, the Commission consulted the social partners on the content of and choice of legal instrument for the planned proposal. The proposal for a directive takes account of the parties' input, in particular with regard to the autonomy of the social partners. It is therefore particularly important for the Commission to support both future capacity building and the autonomy of the social partners at European and national level, as legislation does not guarantee strong social partners. The view of the general public were also gathered in the responses to Standard Eurobarometer 92 (autumn 2019), which included questions on the European Union's priorities — including the minimum wage;

9. considers that a decent wage does more than remove extreme poverty. Its purpose is to ensure that people can have a basic quality of life and participate in social and cultural life. It is context-specific and seeks to go beyond 'poverty wages' to ensure that people can meet their basic needs;

10. points out that, on the basis of Article 153(1)(b) TFEU and in full compliance with Article 153(5), a number of directives with provisions on remuneration have already been adopted<sup>(4)</sup>;

11. stresses that the principle of equal pay for work of equal value should be respected in cases where minimum wages are set by sector;

12. strongly supports the fact the draft directive does not specify minimum social harmonisation, and understands the proposal to provide for non-regression for existing higher levels of protection in the Member States than that guaranteed by the proposed directive (Article 16);

13. acknowledges that, in its proposal for a directive, the Commission has exempted Member States where wages are set by collective agreements from Chapter II of the directive relating to statutory minimum wages;

14. believes that the European added value of the Commission's proposal is that it creates a basis for triggering upward convergence of minimum wages in dialogue with the Member States;

15. stresses the strong regional dimension of the issue of adequate minimum wages, even though this is not sufficiently reflected in the Commission proposal. The regional dimension stems from the existence of regional collective agreements, from the strong interplay between minimum pay and social and territorial cohesion, and from the fact that local and regional authorities bear ultimate responsibility for wage-setting based on local and regional conditions, including in their capacity as employers;

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<sup>(4)</sup> See, inter alia, (1) Directive 2006/54 EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23), (2) Directive 2008/94 EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (OJ L 283, 28.10.2008, p. 36) and (3) Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019, p. 79).

16. draws attention to the study commissioned by the CoR on 'Fair Minimum Wages — The Local and Regional Perspective' <sup>(5)</sup>. Highlights in particular the conclusion that a general introduction of regional minimum wages cannot be sustained for various reasons, i.a. the institutional frameworks, competencies and traditions placing the setting of minimum wages primarily at national level, but that at the same time a number of possibilities exist for a role of local and regional authorities in enforcing, promoting and monitoring minimum wages;

17. warns that there are significant differences between the amount of people depending on minimum wage in urban and rural areas and highlights that in order to be able to cover the request for convergence towards more adequate minimum wages, innovative approaches need to be found to help local and regional authorities obtain the necessary funding in their budgets, which have been severely devastated by the COVID-19 pandemic;

18. considers that the establishment of national action plans to promote collective bargaining in Member States, as described in Article 4(2), could have been spelt out in greater detail by identifying possible elements of such plans;

19. asks, in principle, whether the concept of the worker underpinning the directive should be revised at EU level. However, the reference to case-law of the European Court of Justice from 1986 (Lawrie Blum case) does not take account of the emergence of new forms of work, especially precarious jobs in the platform economy;

20. highlights, in connection with public procurement, the judgment of the European Court of Justice in case C-115/14 (17 November 2015); according to that judgment, EU law does not rule out excluding, from a contract award procedure, a tenderer who refuses to undertake to pay the staff concerned the statutory minimum wage <sup>(6)</sup>;

21. underlines that the draft directive does not explicitly mention that monitoring its implementation could be linked to the European Semester process, by adapting the social scoreboard for example; would be critical of such an option unless the Semester process overall were to undergo in-depth reform to ensure greater transparency, democratic governance (right of consultation for the European Parliament) and the involvement of local and regional authorities and social partners following an approach based on partnership;

22. believes that the process of convergence towards fairer minimum wages should go hand-in-hand with a Commission proposal for wage transparency measures; among other things, this would also be an important way of closing the gender pay gap and preventing discriminatory practices on the basis of race, belief, age, disability, or sexual orientation <sup>(7)</sup>.

Brussels, 19 March 2021.

*The President*  
*of the European Committee of the Regions*  
Apostolos TZITZIKOSTAS

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<sup>(5)</sup> <https://op.europa.eu/en/publication-detail/-/publication/6f084eaa-879e-11eb-ac4c-01aa75ed71a1/language-en>

<sup>(6)</sup> Legislation of a regional entity of a Member State requiring tenderers and their subcontractors to undertake to pay a minimum wage to staff performing the services covered by the public contract was found compatible with EU law.

<sup>(7)</sup> See point 32 of the CoR Opinion on A Strong Social Europe for Just Transitions (rapporteur Anne Karjalainen) (OJ C 440, 18.12.2020, p. 42).