

**Note For ETUC Affiliates on an initial analysis on First phase consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages - C(2020) 83 final**

Overall the ETUC welcomes the initiative of Commission President von der Leyen and Commissioner Schmit to open a consultation of the European social partners to ensure that every worker in the EU has a fair minimum wage that provides a decent standard of living.

Fair wages are a key ingredient of the social market economy and it is past time that the EU takes action to uphold a threshold of decency.

Action is urgently needed. Statutory minimum wages in the EU are stubbornly low and, in most cases, fail to lift workers out of poverty. In the EU, one in every ten workers lives in a household that is at risk of poverty. Despite improved economic performance and growing productivity many workers have seen their pay flatline and the collective bargaining and union rights that enable workers to get their fair share are not respected.

Delivering on the promise of fair wages for all workers will need an ambitious game changing proposal. However, the Consultation does not provide much information on the Commission intentions. **The promised protections for well-functioning systems are missing.** It is clear that the Commission are still at an exploratory stage and while this is very disappointing it also means that we have an opportunity to influence the proposals.

**Our main message is that the initiative should be more ambitious and aim to deliver on the dual objective of**

**- promoting collective bargaining, importantly sectoral/multi-company collective bargaining and  
- increasing statutory minimum wages to a level where they are at least a dividing line between fair and unfair wages.**

**General points on the consultation document**

The Consultation does not contain any proposals for action nor does it contain an outline what legal initiatives the Commission intends to bring forward. This will undoubtedly be a let-down for many low paid workers and their unions who are expecting to see an outline of the extensively signalled proposal for a fair minimum wage. The Consultation is mainly an analysis of the situation and disappointingly much of the analysis is an all too familiar business as usual approach about how to assesses statutory minimum wages.

The ETUC initial assessment is that there are four main problems with the analysis on the consultation document:

- 1) it fails to identify the improvements needed to increase statutory minimum wages so that they become fair statutory minimum wages;
- 2) it fails to recognise the need for or make any analysis or proposals about how to promote upward converge on wages between member states;
- 3) it fails to make any analysis or point in the direction of proposals for how the EU will ensure that Member States live up to their obligations to ensure that workers can collectively bargain through their trade union and by this secure fair wages;
- 4) it does not clarify how the Commission intends to safeguard well-functioning systems of collective bargaining.

Our overall conclusion is that we will need to use this six week Consultation period to push the Commission to turn this initiative into the game changer it needs to be.

**Changing the narrative - Minimum Wage – Adequacy, coverage and setting mechanisms**

The analysis relating to the adequacy of minimum wages set out in the Consultation contains some good proposals, such as the need to consult with social partners on the setting of minimum wages and importantly the recognition that the adequacy of minimum wage has to be determined

according to the needs of the worker. We can build on this.

But there is also some faulty analysis, incorrect tables in the annex along with problematic ideas that we will need to counteract, such as the emphasis on competitiveness concerns or the problematic consideration that minimum wages can achieve adequacy - by reducing taxes on employers this also needs to be rejected.

We also need to make sure that positive ideas such as predictable improvements in minimum wages don't get turned into negative proposals that will create obstacles or limits to increases in statutory minimum wages.

In other cases the Consultation is a bit more ambiguous, for example it is unclear which thresholds will be used to benchmark a fair statutory minimum wage and the living wage concept has not been properly considered.

Other real life factors such as the impact of zero hour type work arrangements are not included in the analysis nor is the impact of high cost of living or the threat of loss of benefits to unemployed workers for refusing jobs with unfair wages even when the rates of pay are far below what they should be.

**Based on our Orientation Document it will be important to stress the need for:**

- a requirement that statutory minimum wages are no less than 60% of the national full-time gross median wage;
  - requirements for member states to check whether this wage threshold really enables workers to make ends meet. For this purpose, a basket of goods and services needs to be established at national level with the involvement of the social partners;
  - ensuring full involvement of social partners in setting statutory minimum wages;
  - we need to do a lot more to persuade the Commission to tackle the problem of sub minimum rates often faced by young workers and we need to explain why it is important to prevent employer determined deductions that reduce minimum wages, this isn't even mentioned.
  - we need to make the case that all workers, including public servants, domestic workers, seafarers, self-employed and other non-standard workers must be covered by the statutory minimum wage.
- Finally, we need to make it clear that Member States that do not have a statutory minimum wage should not be forced to introduce one.

**Changing the narrative to promoting collective bargaining**

It is clear that significant pressure will be needed to push the Commission towards including measures to promote the right to collective bargaining. There are some references in the document to the role of collective bargaining, but these are too vague to provide an indication about what the Commission might be contemplating.

Next to this, the document fails to identify safeguards to protect industrial relation systems where minimum wages are mainly or even exclusively set via collective bargaining. The expected guarantees, to ensure that well-functioning collective bargaining systems will be protected are missing. A demand which is vital to ETUC.

The proposals sometimes seem to suggest that there is a choice of either statutory minimum wages or collective agreements, that is a flawed analysis most systems combine both. At other times the analysis mixes up statutory minimum wages with collective agreements that set a minimum floor. This becomes a real problem if this means the Commission plans to make collective agreements subject to criteria defined for statutory minimum wages. Any legal instrument must be clear that the purpose is not to make collective bargaining subject to EU rules, but rather to guarantee the promotion and the respect of collective bargaining

One thing is clear we have a lot of work to do to get this objective into the proposal.

**Based on our Orientation Paper it is important to stress the need for:**

- a) on obligation on Member States to take action to promote collective bargaining, in particular for

those member states that have less than 60-70% of workers covered by collective bargaining (our Orientation Document sets out a number of ways in which this can be achieved);

b) a targeted amendment of the public procurement directive to establish that public contracts require contractors being party to a collective agreement;

c) guarantee the right for unions to access the workplace, including digital access, to be able to meet with the workforce for purposes of representation, organising and collective bargaining along with protection for workers and unions from threats, reprisals, victimisation and other union busting actions;

d) ensuring that collective bargaining is available for all sectors (including the public sector) and all workers, regardless of their employment status (i.e. including non-standard and self-employed workers);

e) Substantive EU funding for capacity building of social partners (with a focus on sectoral and national collective bargaining), in particular in Central and Eastern Europe. Such funding must be ring-fenced nationally and include dedicated funding that is channelled through the European sectoral and cross-sectoral social partners.

We will need to ensure that none of our red lines have been, or will be, crossed.

**In conclusion, it is disappointing that the Consultation is not providing much information about what the Commission intends to do. But we can seize this as an opportunity to influence the second stage.**

We need to hold the Commission to their promise for fair wages. We need to be clear on our communications that fair wages includes a couple of concepts - the ability to collectively bargain for a fair share through a trade union, to be paid similar to what others are paid in the industry, occupation, or sector and to be able to afford a decent standard of living. Fairness has a claim to agency through collective bargaining and adequacy that means more than bare bones survival wages. That's the overall challenge we need to ensure the Commission meets in the Second Stage Consultation.