

Reflections and Maltese business position on the European Commission proposal on Adequate Minimum Wages in the EU

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In October 2020, the European Commission published a proposal on adequate minimum wages in the EU. This builds on a suggestion included in the European Pillar of Social Rights.

An EU proposal on minimum wages is a sensitive topic due to the different social systems and national or sectoral ways of determining wages across the EU that have developed over time. The EU's competence in this area is questionable, and currently subject to an opinion by the Council's legal service, however the Commission argues that an EU legislation promoting adequate wages will build fair and resilient economies and societies in the EU in line with the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals.

Background

The context in which this proposal was put forward follows on structural trends that have reshaped labour markets due to globalisation, digitalisation and the rise in non-standard forms of work, especially in the service sector. The Commission considers that these have led to an increased job polarisation resulting in an increasing share of low-paid and low-skilled occupations and have contributed to an erosion of traditional collective bargaining structures. As a result, the Commission claims that now there is more in-work poverty and wage inequality.

In view of the current economic downturn because of the global pandemic, the Commission believes that adequate minimum wages become even more important as the Covid-19 crisis has particularly hit sectors with a higher share of low-wage workers. It is also stated that minimum wage protection supports gender equality, since more women than men earn wages at or around the minimum wage.

Currently, 21 Member States have a statutory minimum wage set by law, while 6 Member States provide minimum wage protection through collective agreements.

In its impact assessment, the Commission observes that national statutory minimum wages are lower than 60% of the gross median wage and/or lower than 50% of the gross average wage in almost all Member States, which are considered to be the international standard.

Based on these considerations, the Commission has proposed a Directive that aims at promoting more collective bargaining on wages in all Member States, as this process plays a key role for adequate minimum wage protection. It concludes that countries with high collective bargaining coverage tend to display a lower share of low-wage workers, higher minimum wages relative to the median wage, lower wage inequality and higher wages than the others.

State of Play

Based on the legal basis adopted by the European Commission, i.e. Article 153(1), which prescribes the Union to support and complement the activities of Member States in the field of working conditions, the legislative procedure to be followed is co-decision between the Council and the European Parliament.

On the side of the Council, several Member States expressed reservations on the legal basis, and the Council's legal services are in the process of adopting an opinion on the matter. Member States, including Malta, have issued a Reasoned Opinion that formally questions whether this proposal respects the principle of subsidiarity.

Minimum Wages in Malta

Malta has a long-standing tradition of establishing statutory minimum wages, with strong social partner engagement. The most recent agreement by the social partners within the Malta Council for Social and Economic Development (MCESD) to reform and increase minimum wages took place in 2017 with a clear roadmap for subsequent years.

The Maltese Business Perspective

Maltese business believes in adequate wages that provide for a decent living and that these should reflect the economic reality of Member States at a given time. Business does not favour a race to the bottom competition on wages, but a market-driven wage structure that reflects and safeguards the country's economic competitiveness. It is for this reason that national social dialogue plays an important role to ensure that wage-related discussions reflect a fair outcome.

Maltese business acknowledges the importance of social cohesion across the EU and recognises that the European Commission can address gaps in employment issues, and raise wage level concerns, bilaterally, with the Member States concerned, through the European semester process¹. Furthermore, the European Commission could have used a non-legally binding

¹ The European Semester provides a framework for the coordination of economic policies across the EU. It allows EU countries to discuss their economic and budget plans and monitor progress at specific times throughout the year.

instrument, such as a Council Recommendation, which would have been a more appropriate solution to meet the same objectives.

In our view, an EU Directive on minimum wages goes beyond the competence allowed by the EU Treaties. These exclude a binding legal instrument on the level of minimum wages or on collective bargaining and the representation of workers' and employers' interests. The choice of this legal instrument, therefore, gives power to legislators and excludes social partners. While the proposed directive does not regulate the level of wages, it looks to set binding criteria, and sets threshold guidelines on what constitutes an adequate wage as an expressed percentage of median and average wages. This, without accounting for other social schemes, income schemes and tax benefits that could contribute to boosting wage levels for minimum income earners. Furthermore, it is our view that through a legally binding instrument, the European Court of Justice (ECJ) will acquire jurisdiction on national collective agreements and wage setting mechanisms, which as stated above, traditionally are matters of national competence, and protected by the EU Treaties.

Maltese business disappointedly notes that apart from some reference to productivity, important aspects such as the impact on competitiveness and employment are not considered, and this is particularly surprising in the context of the unprecedented challenges created by Covid-19, which has put many companies in survival mode, and equally so many employees at risk of losing employment. This is furthermore surprising, when the Commission itself recognises that this proposal will lead to increased labour costs for firms and increased prices. In the current economic circumstances, the EU should rather focus on the effective implementation of the Recovery and Resilience plans to re-build a robust economy, protect vulnerable workers at risk of unemployment, and support national skills policies that aim to improve the productivity of low-skilled workers, which in turn improve their income prospects. High unemployment and expensive employment costs could lead to an unwelcome increase in undeclared work, which results in a loss of tax revenues, and exposes vulnerable workers to lose out on certain social protections, including an impact on the level of future pension earnings.

Conclusion

The Malta Business Bureau believes in social fairness and on matters relating to wages considers that this is best achieved at a national level through a strong social dialogue and in full respect of the subsidiarity principle. An EU Directive will not make social dialogue strong in those countries where it is currently weak, and therefore its role should be to continue supporting social partners through capacity-building initiatives and follow employment and wage-related issues through the European semester process. A non-legally binding Council Recommendation could promote a set of guidelines for Member States to implement according to established national wage-setting traditions and according to current economic circumstances.

Meanwhile, in view of the current EU proposal, the MBB encourages further consideration to introduce more flexibility that would cover other allowances in addition to the basic salary as part of the total income earned by minimum wages in the context of the international average and median wage indicators. Also, to reassess the implementation/transposition of this Directive considering the sensitive time of economic recovery. Furthermore, aside from EU discussions on minimum wages there should be further EU and local discussions on initiatives to combat in-work poverty, promote job security, and look at ways to promote better employability initiatives for youth.

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