



## EUROPEAN COMMISSION

*Brussels, 6.4.2021  
C(2021) 2495 final*

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Opinion on the Proposal for a Directive on adequate minimum wages in the European Union {COM(2020) 682 final}.*

*Ensuring that workers in the EU are protected by adequate minimum wages is a priority for the Commission, and part of its ambition for an economy that works for people. In proposing this Directive, the Commission delivers on the commitment of President Ursula von der Leyen in her Political Guidelines for 2019-2024, and takes an important step towards the implementation of the European Pillar of Social Rights, jointly proclaimed by the European Parliament, the Council and the Commission in November 2017.*

*The Commission appreciates that the Senato della Repubblica decided to analyse this Proposal and concluded that it complies with the principle of subsidiarity. It welcomes the support of the Senato della Repubblica for the Proposal's general aim to ensure that the workers in the European Union are protected by adequate minimum wages allowing for a decent living wherever they work, especially by strengthening and extending the coverage of collective bargaining.*

*The Commission would like to refer to the attached Annex, in response to the more technical comments in the Opinion, notably as concerns the provisions related to collective bargaining.*

*The Commission believes that the political dialogue with national Parliaments is essential for linking the institutions and the citizens of the European Union, and looks forward to continuing it with the Senato della Repubblica in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Nicolas Schmit  
Member of the Commission*

*Ms Maria Elisabetta ALBERTI CASELLATI  
President of the  
Senato della Repubblica  
Piazza Madama, 1  
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*The Commission welcomes the analysis that the Senato della Repubblica has carried out of this important subject, and has carefully considered the issues raised in its Opinion. The detailed work that the Senato della Repubblica has undertaken constitutes an important contribution to the debate that is currently underway.*

*As regards the specific points to which the Senato della Repubblica has drawn the attention of the Commission, the Commission would like to make the following comments.*

#### Legal basis of the draft Directive

*As duly noted by the Senato della Repubblica, Article 153 TFEU is the appropriate legal basis for this initiative. Given that wages, including minimum wages, are a key component of working conditions, the initiative is based on Article 153 (1) (b) TFEU on 'working conditions'. This is also confirmed by the analysis in the Explanatory Memorandum and in the Impact Assessment accompanying the Proposal<sup>1</sup>.*

*The Commission has analysed the possibility of using other Treaty articles as the legal basis of the Proposal. In principle, there can be a dual legal basis. However, as clarified by the Court of Justice of the European Union<sup>2</sup>, recourse to a dual legal basis is not possible where the procedures laid down for each legal basis are incompatible with each other. The legal basis of a text is then triggered by its centre of gravity, which in this case is represented by the provisions referring to access of workers to adequate minimum wage protection as an essential element of working conditions. At the same time, as the Senato della Repubblica has noted, the benefits of the Proposal are indeed far reaching, leading to improved outcomes beyond the field of working conditions.*

#### Article 4

*The Commission takes good note of the statements made by the Senato della Repubblica with regard to collective bargaining and social dialogue, including those concerning the representativeness of social partners and promotion of trade union freedoms. Indeed, the Commission promotes and supports the role of social partners at its level. The Commission is also available to further support the Member States in the field of social dialogue, in line with the provisions of the Treaties and with due respect to the autonomy of the social partners.*

*The analysis explained in the Impact Assessment of the Proposal shows that Member States with a high collective bargaining coverage (above 70%) tend to have a low share of low-wage workers, low wage inequality and high minimum wages. As a result, the proposed Directive recognises the key role that collective bargaining plays for adequate minimum wage protection and encourages all Member States to take action to promote collective bargaining. The collective bargaining provisions were included in the*

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<sup>1</sup> See Section 3.1 of the Impact Assessment accompanying the Proposal.

<sup>2</sup> E.g. Case C- 377/12, Commission vs Council and Case C 130/10, Parliament v Council

*Proposal as a means to achieve the aim of the Directive, i.e. to ensure achieving adequate minimum wage protection in the EU.*

*The approach retained in the proposed Directive also aims to ensure that the proposed measures does not call into question the specificities of national systems and traditions and fully respects national competencies, the heterogeneity of industrial relations systems at national level and the autonomy of social partners.*

*The design of the concrete measures related to collective bargaining is left to the discretion of the Member States, which will need to design them in line with their national practice and in such a way that is effective to pursue the aim of the proposed Directive. The Member States should also take into account the relevant international labour standards of the International Labour Organisation ratified at national level.*

*With regard to your remarks concerning the need to guarantee all workers the application of a collective agreement in the sector they work in, the Proposal explicitly mentioned in Article 1 (3) that the Directive does not impose an obligation to make collective agreements universally applicable. However, the Member States are free to maintain extension clauses where they already exist or to put them in place as part of their national policy in the field of collective bargaining, with due respect of the autonomy of the social partners and the freedom of collective bargaining.*

*Finally, the Commission takes good note of the considerations put forward by the Senato della Repubblica with regard to a harmonisation of the conditions of access and effectiveness relating to social protection systems. However, it is important to note that this matter is not the subject of this initiative.*