



EUROPEAN COMMISSION

Brussels, 6.4.2021  
C(2021) 2504 final

*Dear Speaker,*

*The Commission would like to thank the Riksdag 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.*

*Providing jobs that pay an adequate wage is essential to guarantee adequate working and living conditions for workers and their families, and to build fair and resilient economies and support inclusive growth.*

*The proposed Directive aims to ensure that workers in the Union are protected by adequate minimum wages allowing for a decent living wherever they work. To this end, the proposal establishes a framework to improve the adequacy of minimum wages and to increase the access of workers to minimum wage protection. These objectives are relevant both for statutory minimum wage systems and for those relying on collective bargaining.*

*In order to reach these objectives, the proposal aims at promoting collective bargaining on wages in all Member States. Collective bargaining plays a key role for adequate minimum wage protection. For the countries where statutory minimum wages exist, the draft Directive aims at ensuring that Member States put in place the conditions for statutory minimum wages to be set at adequate levels. Finally, the proposal aims at promoting compliance, and strengthening enforcement and monitoring in all Member States, so that workers can benefit from effective access to minimum wage protection and businesses can benefit from fair competition.*

*The proposed Directive fully respects national competencies and the autonomy of social partners. The proposal does not seek to harmonise the level of minimum wages across*

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Speaker of the Riksdag  
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*the EU nor to establish a uniform mechanism for setting minimum wages in all Member States. Minimum wage protection would continue to be provided through collective agreements or through legal provisions.*

*The proposed Directive would give a renewed impetus to reform efforts in those Member States where there is a need for improving the functioning of minimum wage setting systems. These efforts would meet the EU's commitment to upgrading Europe's social market economy to fit the ambition of socially fair digital and green transitions and the promise of shared prosperity in the Union.*

*The Commission notes the concerns raised by the Riksdag in its reasoned Opinion, notably in relation to the respect of the subsidiarity principle, the EU competence in the field of wages and the possible effects of the interpretation of the proposed measures by the Court of Justice of the European Union on the Swedish labour market model. The Commission is pleased to have the opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the concerns of the Riksdag. It would like to refer to the attached Annex, in response to the more technical comments in the Opinion.*

*Following the adoption of the Commission proposal on the 28 October 2020, the ordinary legislative procedure has started. Both the European Parliament and the Council of the EU are examining the legislative proposal.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Riksdag in its reasoned Opinion and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Nicolas Schmit  
Member of the Commission*

*The Commission has carefully considered each of the issues raised and welcomes the inquiry that the Riksdag has carried out in its reasoned Opinion into this important subject. Whilst the Commission does not share the conclusions drawn in the Opinion, the detailed work that the Riksdag has undertaken constitutes an important contribution to the debate that is currently underway.*

*As regards the specific points to which the Riksdag has drawn the attention of the Commission, the Commission would like to make the following comments:*

*Cross-border dimension of the initiative and principle of subsidiarity*

*The Explanatory Memorandum as well as the Impact Assessment provide the elements on the basis of which the Commission assessed the EU level dimension of this initiative.<sup>1</sup>*

*The Impact Assessment accompanying the proposal found that the majority of Member States are affected by the problem of insufficient adequacy and/or coverage of minimum wage protection and action at national level has proven insufficient to address the problem. The already existing EU instruments, most notably the European Semester, although helpful, have shown not to have the potential to fully address the problem.*

*As stated in the Explanatory Memorandum, having access to minimum wage protection guaranteeing a decent standard of living is a pivotal element of adequate working conditions. While pay at national level falls unequivocally under the competence of the Member States, the large differences in standards for accessing adequate minimum wage protection are part of working conditions. These differences create important discrepancies in the Union, which may undermine achieving the Union's goals as set in Article 3 of the Treaty on the European Union, notably as concerns "the sustainable development of Europe, based on [...] a highly competitive social market economy, aiming at full employment and social progress". On these grounds, such discrepancies can be best addressed at Union level.*

*Over the years, Member States have taken steps towards improving their minimum wage systems, but national action has often not been enough to address existing problems. Without policy action at EU level, individual countries may be little inclined to improve their minimum wage settings because of the perception that this could negatively affect their external cost competitiveness.*

*By setting clear expectations across the Union and by providing the necessary momentum for reforms towards common objectives, action at EU level can be more effective in strengthening minimum wage setting systems than action at national level, and in ensuring that progress is not partial or uneven across countries.*

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<sup>1</sup> For more details, see Section 2 of the Explanatory Memorandum and Section 3.2 of the Impact Assessment accompanying the Proposal.

*EU action on adequate minimum wages would improve the fairness of the EU labour market, promote economic and social progress and cohesion, help reduce the gender pay gap, and contribute to upward social convergence. These objectives are clearly set out in the EU Treaties and reflected in the European Pillar of Social Rights.*

#### Article 153 (5) TFEU limitations

*As stated in the Explanatory Memorandum and in the Impact Assessment accompanying the proposal,<sup>2</sup> Article 153 TFEU is the appropriate legal basis for an EU initiative on adequate minimum wages. 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’.*

*In view of this, and of the constant case law of the Court of Justice of the EU in relation to Article 153 (5) TFEU<sup>3</sup>, any EU action in the field of minimum wages shall not seek to harmonise the level of minimum wages across the EU, nor would it seek to establish a uniform mechanism for setting minimum wages. Action at EU level could thus consist in setting up a framework to ensure that national minimum wage setting systems allow workers to access adequate minimum wage protection, either in the form of a statutory minimum wage or of wages set in collective agreements. This approach would not interfere with Member States’ and social partners’ competence to determine the detailed modalities of their minimum wage setting frameworks, and in particular the level of their minimum wages, in line with the Treaty.*

*While the Commission’s proposal establishes a framework, it would clearly leave the Member States or social partners free to set minimum wage levels. That is exactly the freedom guaranteed by Article 153(5) TFEU.*

*In conclusion, when drafting its proposal the Commission fully respected the limitations set out in Article 153(5) TFEU.*

#### On the potential of the Proposal to ensure a level playing field in the Single Market

*Despite being accessory to the main objective of the proposal (improving the working conditions of EU workers ensuring a level playing field in the Single Market is important to ensure that competition is based on high social standards, innovation and productivity improvements, thus contributing to improving the fairness of the EU labour markets. This is in turn a necessary condition for achieving the goals of the Union of “promoting the well-being of its people” and “developing a highly competitive social market economy” set in Article 3 of the Treaty on the European Union.*

#### On minimum wage convergence

*Upward convergence in the sense of the proposal should be understood as social convergence in broad terms. This is the aim of the initiative. Strengthening minimum*

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<sup>2</sup> See Section 3.1 of the Impact Assessment accompanying the Proposal.

<sup>3</sup> E.g. Case C-268/06, Impact, point 124-125; Case C-307/05, Del Cerro Alonso, point 41, Case C-507/13 United Kingdom v Parliament and Council

*wage setting systems in all Member States should lead to better social outcomes, such as improved minimum wage adequacy, a better protection of minimum wage earners, reduced in-work poverty, reduced wage inequality and a reduced gender pay gap.*

*Convergence should not be assessed focusing narrowly on minimum wage levels in nominal terms. As explained in Section 6.1.2 of the Impact Assessment accompanying the Proposal, convergence of minimum wages in nominal terms is ultimately driven by developments in economic output and productivity, and not (solely) by legislation in the area of minimum wages<sup>4</sup>.*

### *Collective bargaining*

*As stated above, the approach retained in the Directive would ensure that the proposed measures will not call into question the specificities of national systems and traditions, and would fully respect national competencies and the autonomy of social partners.*

*The analysis of the Commission 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. The draft Directive therefore 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.*

*With regard to the remarks expressed by the Riksdag concerning the autonomy of the social partners, the Commission stresses that according to Article 1 (1) para 2, the draft Directive shall be without prejudice to the full respect of the autonomy of social partners, as well as their right to negotiate and conclude collective agreements.*

### *Definitions*

*With regard to definitions, the Commission underlines that Article 3 of the draft Directive defines a number of terms and concepts necessary to interpret the provisions of the Directive. Such definitions are a common legislative technique and are provided for the purpose of the Directive to ensure a common understanding across all EU Member States when implementing the Directive. They are not incompatible with more specific definitions at national level.*

### *Consultation of social partners*

*The Commission attaches great importance to the role and opinions of the EU-level social partners and has duly consulted them on the present initiative, in line with the requirements of Article 154 TFEU.<sup>5</sup> The Commission also acknowledges the opinions of the Swedish social partners it received.*

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<sup>4</sup> Long-term trends in wage convergence have been analysed by the European Commission (2018): “Labour market and wage developments in Europe: Annual Review 2018”, DG EMPL, Chapter II.2.

<sup>5</sup> See Annex 2 to the Impact Assessment.

### Impact of the Proposal on the Swedish labour market

*The Commission regrets that the proposal for a Directive on adequate minimum wages is seen by the Riksdag as a threat to the Swedish labour market model.*

*The Commission assures the Riksdag that it has paid utmost attention to ensuring that the text caters for all national specificities. Moreover, the draft Directive recognises the importance of and promotes collective bargaining as an essential tool to foster minimum wage protection in the EU, which is also a pillar for the Swedish labour market model.*

*As stated in Article 1 (2) and (3) of the proposal, and further explained in Recital (16), the Directive does not interfere with the freedom of Member States to set statutory minimum wages or promote access to minimum wage protection provided by collective agreements, according to the traditions and specificities of each country and in full respect of national competences and social partners' contractual freedom. The Directive does not impose an obligation on the Member States where minimum wage protection is ensured exclusively via collective agreements to introduce a statutory minimum wage nor to make collective agreements universally applicable.*

*The Directive would provide for a general framework at EU level, setting minimum requirements that would not interfere with the modalities of minimum wage setting at national level. Moreover, Member States would be free to choose how to implement the Directive according to their systems, either through collective agreements or by taking legislative action. According to Article 13 of the proposal, Member States may entrust the social partners with the implementation of this Directive, where social partners jointly request to do so. In this case, Member States shall take all necessary steps to ensure that the results sought by this Directive are guaranteed at all times.*

*As a result, minimum wage protection would continue to be provided through collective agreements or through legal provisions, in full respect of national competences, national practice and specificities, and social partners' autonomy.*

### Continuation of common measures in the field of labour law

*With regard to potential future measures in the field of labour law, the Commission would like once more to assure the Riksdag that the Commission, in its role of Guardian of the Treaties, fully respects the competences of the Member States and acts within the limits conferred by the Treaties. Any measure put forward by the Commission in the field of social policy will abide by the provisions of the Treaty on the Functioning of the EU as well as the principles of subsidiarity and proportionality.*