

## **ETUC REPLY to the First Phase Consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages**

## Outline of the ETUC reply

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## Introduction

1. Overall, the ETUC welcomes that the European Commission has opened a consultation on the possible direction of EU action to address the challenge of ensuring fair minimum wages for workers in the EU with the European social partners in accordance with Article 154 TFEU. Fair wages are a key ingredient of the social market economy and it is time that the EU takes action to uphold a threshold of decency, including by raising statutory minimum wages to a level of at least 60% of the median wage and testing that threshold to ensure a living wage. However, the ETUC regrets that the first stage consultation document falls short when it comes to identifying solutions to tackle the underlying problem of low wages in general. Our key message is that the best tool to achieve the objective of fair wages is through the safeguarding, strengthening and promotion of autonomous sectoral and cross-sectoral collective bargaining. Any EU initiative in this field must strengthen national collective bargaining models and fully respect the autonomy of social partners. It must not result in negative outcomes for workers and their unions.
2. The ETUC sets below its reply to the three questions put forward by the Commission:
  - 1) Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for EU action?
  - 2) Do you consider that EU action is needed to address the identified issues? If so, what should be the scope of that action?
  - 3) Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?
3. **In the second stage of the consultation, the ETUC urges the Commission to be clear about the legal form of the initiative and, if the proposal will be a Directive, a clear outline of the approach and objectives of the Directive should be published as part of the second phase consultation.**

## ETUC REPLY

<p><b>I. Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for EU action?</b></p>
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4. **Only in part.** The assessment of the ETUC is that the Commission has only partly identified the symptom, namely that statutory minimum wages are set at rates that are too low to be fair, but has largely failed to identify the leading cause of unfairness and the core problem related to low wages in Europe, namely the absence of adequate promotion, protection and support for collective bargaining by Member States.
5. Against this background, **the consultation document focuses almost exclusively on minimum wages.** The ETUC is convinced that it is urgent and necessary to make sure that

Member States live up to their commitments/obligations, under the relevant ILO Conventions, the European Social Charter, and the European Pillar of Social Rights, to promote collective bargaining, in particular sectoral collective bargaining, and to ensure that workers' rights of association and bargain collectively as well as to a fair (minimum) wage are fully respected and enforced.<sup>1</sup> Fair minimum wages will only be created in labour markets with vibrant collective bargaining that raises the whole wage structure in the Member States, thus also lifting the minimum wage. The ETUC, therefore, stresses the necessity for effective measures to promote workers' rights to organise and bargain collectively to be included in the initiative. Collective bargaining in Member States must be promoted and strengthened, also through EU initiatives, however it must not become subject to EU conditions, rules or interpretations that would undermine trade unions' and workers' rights, including the rights to bargain collectively, to organise and of association.<sup>2</sup>

6. Any initiative on wages should also address the need to strengthen, promote and, where needed, protect autonomous collective bargaining in Europe, in order to foster upward wage convergence, and thus reinvigorate a sustained internal demand and growth. **Only a European initiative which ensures adequate statutory minimum wages, strong and autonomous collective bargaining systems and increases the ability and capacity of trade unions so that they can bargain for fair wages can fully deliver on the promise of fair minimum wages for European workers, thus contributing to build wider public support for the EU project as whole.** We want to underline that any measures in this area must fully respect social partners' autonomy and safeguard well-functioning collective bargaining and industrial relation systems.
7. For the ETUC, any EU action in this area must therefore deliver on the dual objective of:
  - promoting and safeguarding collective bargaining, in particular sectoral collective bargaining, and
  - increasing statutory minimum wages to a level where they ensure at least a decent standard of living.

## **I.1 General assessment of the problems**

- **Wages are too low**

8. Today in the European Union **too many workers are faced with unjust working conditions and wages that do not guarantee decent living conditions** for them and for their families. Higher wages would not only benefit workers and deliver in terms of the much needed upward social and wage convergence, but would also contribute to sustainable economic growth and price stability.<sup>3</sup> Action is urgently needed.

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<sup>1</sup> See also the Council Conclusions *A new start for a strong Social Dialogue*, adopted by the EPSCO Council on 16 June 2016. See in particular Paragraph 20: "Support the improvement of the functioning and effectiveness of social dialogue at national level, which is conducive to collective bargaining and creates an appropriate space for social partners' negotiations. [...]".

<sup>2</sup> Any EU actions should not in any case run counter/be contradictory to the objectives of promoting and strengthening collective bargaining and the obligations Member States have under relevant international instruments (and their case law) such as ILO Conventions and the European Social Charter.

<sup>3</sup> As recognised also by the 2014 IMF paper by Ostry, Berg and Tsangarides, lower inequality "is robustly correlated with faster and more durable growth" and "redistribution appears generally benign in terms of its impact on growth". Jonathan D. Ostry, Andrew Berg, and Charalambos G. Tsangarides, *Redistribution, Inequality and Growth*, IMF Staff Discussion Note SDN/14/02, February 2014, Also the OECD acknowledged that 'rising inequality is bad for long-term growth' in its 2015 report: *In it together – why less inequality benefits all*, p. 22.  
OECD, *In it together – why less inequality benefits all*, 2015.

9. **The grim current situation is also the result of the attacks that collective bargaining and wage-setting institutions have suffered in recent years**, often in the framework of austerity policies and negative reforms endorsed or promoted by the European institutions, including through the European Semester. Deregulation of the internal market and competition rules still prevail to the detriment of the social dimension of the European Union, the right to organize and bargain collectively as well as employment protection. The consultation document rightly states that *“diverse performances across and within Member States in achieving workers’ right to fair wages contradict the promise of shared economic prosperity and undermine the objective of upward convergence. They are therefore a matter of concern at European level”*.<sup>4</sup>
10. Working is still the best route out of poverty, but this is not the case for a significant and growing number of workers in Europe. Over recent years, the rate of workers at poverty risk has risen. **One in ten workers live in households that are at risk of poverty**, that is an alarming 20.5 million persons (Figure 1 – Annex I).<sup>5</sup>
11. **Despite improved economic performance and growing productivity, many workers have seen their pay flatline and their conditions of employment put under threat** (Figure 2 – Annex I). Wages have not followed productivity resulting in a decrease in the wage share in the EU for decades with no significant signs of recovery (Figure 3 – Annex I). Many workers have yet to feel any improvement from Europe’s slow economic recovery. In 2018, workers in eight EU countries earned less in real terms than they did ten years ago, after the start of the crisis.<sup>6</sup> The consultation document also correctly states that *“the situation of low wage workers has worsened and wage inequalities have increased. A number of these workers have seen their wages relative to others and the purchasing power of their wages deteriorating”*.<sup>7</sup>
12. **The disappointing and stagnating wage developments are also linked with the precarious employment and working conditions of non-standard workers and involuntary part-time workers**. New economic research from the OECD on the course of the increasing divergence in terms of wage developments between countries and between sectors within countries, point towards the weakening position of non-standard workers.<sup>8</sup> Zero hour contracting, pay rolling and forced self-employment have a devastating effect on wage levels in the whole labour market.
13. **Statutory minimum wages in the EU are stubbornly low and, in most cases, fail to lift workers out of poverty**. In some countries the statutory minimum wage continues to lose relative value when compared to the median wage They do not ensure at least a decent standard of living. In addition, they are in most of the cases set without the necessary involvement of social partners and, in certain cases, they foresee the exclusion of certain categories of workers or subminimum rates. Actions are necessary to ensure that statutory minimum wages – where they exist – respect workers’ right to a fair remuneration which ensures a decent standard of living.

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<sup>4</sup> Consultation document, *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*, p. 1.

<sup>5</sup> The Social Protection Committee also acknowledged a deepening of in-work poverty in many Member States. Social Protection Committee, *Key Social Challenges - Report drawn from the 2017 SPC Annual Review of the Social Protection Performance Monitor (SPPM)*, October 2019, p.6.

<sup>6</sup> ETUI, *Benchmarking Working Europe 2019*, 2019, pp. 48-52.

<sup>7</sup> Consultation document, *cit.*, p. 2.

<sup>8</sup> OECD, *The future of work. OECD Employment outlook 2019*, 2019.

- **Collective bargaining under attack**

14. **Despite the need for increases in statutory minimum wages, the main instrument to improve wages and working conditions and address inequalities is collective bargaining, particularly sectoral collective bargaining.** There is no path to economic justice without collective bargaining, no fairness at work without it and there is no social market economy when workers are not empowered to bargain for their fair share. However, workers' rights to organise and to bargain collectively are not respected in several Member States and have come under increasing attack over recent years, including cases of outright abolishment of collective bargaining rights for setting minimum wages (e.g. in Greece). It is essential that in those countries these rights are reinstated. In many EU countries, workers are still denied the right to organise. In other places they are threatened with reprisals when they try to organise and bargain collectively or employers flat out refuse to deal with trade unions. In addition, the internal market currently allows for 'social forum shopping' by giving the opportunity to companies to establish their operations in countries where collective bargaining structures are weaker and labour law less protective.
15. **Almost all Member States have seen a drop in collective bargaining coverage since the start of the economic and social crisis.** At least 14 Member States present today a collective bargaining coverage of less than 50% of the workforce, and only seven Member States have a percentage of more than 80% (Figure 4 – Annex I). The situation is particularly worrying in the countries of Central and Eastern Europe, where because of the absence of effective collective bargaining systems, collective bargaining coverage is very low and has been decreasing. In addition, in several Member States, including in some with a high collective bargaining coverage, a negative process of decentralisation of collective bargaining mechanisms was brought forward. In some Member States, where the erga omnes effect is the rule in sectoral collective bargaining through administrative extension of sectoral collective agreements, this process was weakened by reductions in the coverage of collective bargaining.
16. **It takes two to tango.** The proportion of employers who are members of an employers' organization is a key element in the extent of collective bargaining coverage in the EU Member States (Figure 5 – Annex I). Furthermore, workers representation within companies has been affected in recent times, with negative impact on workplace democracy, preventing a real transition towards a strong social Europe (Figure 6 – Annex I). The improvement of the social market economy cannot take place without a real development of democracy at work.
17. In several countries, **Member States do not uphold workers and trade union rights which are necessary to ensure effective collective bargaining** (e.g. rights to organise and form trade unions, to collective action, to information and access to the workplace, prevention against dismissals...).<sup>9</sup>
18. From a macroeconomic point of view, **the excessively low level of wages in most EU Member States and the increasing divergence in terms of wage developments** between countries and between sectors within countries, with wages often lagging behind living costs and productivity, are depressing internal demand, increasing inequalities and unfair competition, so harming the potential of the internal market to deliver sustainable growth. The OECD has recently highlighted that negotiated and actual wage increases for the euro area have

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<sup>9</sup> For a summary of the ECSR Conclusions 2018, which highlight the failure of several Member States to secure the respect for trade unions rights under the European Social Charter, see Annex II: Overview of the European Committee of Social Rights (ECSR) Conclusions 2018.

been below productivity growth over 2000-2016.<sup>10</sup> As repeatedly pointed out by the European Central Bank and the European Commission upward wage convergence is urgently needed. While increases in minimum wages are absolutely necessary, alone they would fall short in delivering such convergence. Well-coordinated sectoral collective bargaining (together with cross-sectoral collective bargaining, where it exists) is in fact the only tool able to achieve it.

19. Upward wage convergence is urgent for Central and Eastern European countries' economies as well as for counteracting the distortions of the whole single market on the long term. **The period up to 2008 saw a reduction of the East-West wage gap with Eastern European countries catching up to some extent, but the trend stagnated in the following years.**<sup>11</sup> **This gap exacerbates the socio-economic divide among countries in the EU, undermining the ambitious goals of the European project.** To narrow such divide, it is crucial to strengthen and promote sectoral collective bargaining, ensuring the development of all wages, including minimum ones. Higher wages provide businesses with the incentive to invest in innovation and to upgrade their activities into more sophisticated parts of the value chain<sup>12</sup>. They are also necessary to retain a skilled and educated workforce in those Member States and to stop the "brain drain" and the loss of workforce.

**The analysis of the Commission misses the point**

## **I.2 Shortcomings in the Commission analysis**

20. The ETUC has identified shortcomings in the Commission's analysis in the following areas:

- 1) Statutory minimum wages,
- 2) Collective bargaining,
- 3) Safeguards.

### **1) Statutory minimum wages**

21. With regard to minimum wages, the document fails to make a clear distinction in the challenges (and in the possible actions) between statutory minimum wages and minimum wage floors defined by collective agreements and on their eventual articulation in some cases. **It is necessary to ensure that any EU action in this area does not limit or undermine social partners' autonomy** to set working conditions including minimum rates of pay through the negotiation, conclusion and enforcement of collective agreements.
22. **It is therefore necessary to clarify that any specific criteria and wage setting mechanisms must only apply to statutory minimum wages and to the role of public authorities in fixing and enforcing them, not to wages set through collective agreements.** For these reasons, it is necessary to distinguish between statutory minimum wages and wage floors defined by collective agreements.
23. The consultation document identifies 4 main possible areas for EU action: wages adequacy, wage coverage, involvement of social partners in setting statutory minimum wages, and national mechanisms guiding the adjustments of statutory minimum wages. All the elements and the challenges below must only refer to statutory minimum wages, where they exist.

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<sup>10</sup> OECD, *Negotiating Our Way Up: Collective Bargaining in a Changing World of Work*, 2019, OECD Publishing, Paris, Figure 3.10, p.125

<sup>11</sup> B. Galgóczi and J. Dražokoupiš, Galgóczi, *Condemned to be left behind? Can Central and Eastern Europe emerge from its low-wage model?* ETUI, 2017.

<sup>12</sup> *Ibid*, p. 26.

• Adequacy of statutory minimum wages

24. The analysis of the adequacy of statutory minimum wages included in the document does not specify yet which thresholds – if any – (and compared to which indicator, e.g. net/gross average/median wage) is being considered by the Commission for EU action, but different elements are presented and assessed.
25. With regard to adequacy, statutory minimum wages should be considered adequate if they are fair vis-à-vis the wage distribution in the country and if they provide at least a decent standard of living. The reference to a decent standard of living should be linked with the indication that statutory minimum wages should provide for more than mere subsistence, instead enabling meaningful participation in society and some scope to insure against unforeseen shocks.
26. The most pragmatic and effective reference is linked with the international poverty research, where the use of relative thresholds as a percentage of median wage is well established. This, together with the explicit commitment to the objective of preventing in-work poverty (also European Pillar of Social Rights – Principle 6), suggests that in order to achieve these objectives **statutory minimum wages should be at least (no less than) 60% of the national full-time median wage**. According to international poverty research, 60% of the median household income is defined as the ‘at-risk-of-poverty’ threshold. Even though in-work poverty can be attributed to a variety of factors such as insufficient working hours or the number of household members to be supported, the low level of wages is the most important factor that contributes to many people across Europe not being able to make a living from what they earn. The consideration of household (net) income is the standard in poverty research, but it is not suitable for determining a poverty-proof minimum wage because the latter is a gross hourly wage. Herein, the number of household members, different national tax and social transfer systems, the social security system of the member states and many other factors should be taken into account. At this point it is therefore more appropriate to use 60% of the median wage of full-time employees for the ‘at-risk-of-poverty’ wage threshold. Accordingly, 60 per cent of the national median wage can be seen as the ‘at-risk-of-poverty’ wage threshold established with the goal of ensuring that workers are not dependent on the state (through tax credits or in-work benefits) for relief from poverty. Thus, in order to achieve the objective of ensuring that statutory minimum wages, where they exist, ensure a decent standard of living and in order to fight in-work poverty, the EU action should include the requirement for Member States to increase the statutory minimum wage – where it exist – to at least (no less than) 60% of the national full-time median wage (Figure 7 – Annex I). The 60% level is a minimum threshold and must not be considered as an end goal. National governments and national social partners have the full legitimacy to go beyond this level
27. However, since in some Member States a great majority of workers earn very low wages the minimum-to-median-ratio might be very high, although the absolute level is still very low and often not sufficient to cover the costs of a decent living. At the end of the day, 60% of a very low median wage is ultimately still a wage that does not provide for the satisfaction of the needs of the worker and his/her family (Figure 8 – Annex I), as stated in the European Pillar of Social Rights, whose implementation is highlighted in the European Council’s Strategic Agenda for 2019-2024<sup>13</sup> (and by President von der Leyen).<sup>14</sup> **The ETUC, therefore, believes that the EU action should include the requirement for the 60% of the national median wage threshold to be benchmarked for its adequacy in real price terms by the use of appropriate reference budget methodologies established in consultation with the social partners at national level** (e.g. priced baskets of goods and services including the cost of housing that represent a decent living standard for a specific target population beyond the subsistence goods) (Figure 9 – Annex I).

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<sup>13</sup> European Council, *A New Strategic Agenda 2019-2024*, 2019.

<sup>14</sup> U. von der Leyen, *A Union that strives for more. My agenda for Europe. Political guidelines for the next European Commission 2019-2024*, p. 9.

28. **The ETUC rejects the approach**, included in the consultation document amongst the possible approaches, **to use the net minimum wage as a reference for achieving adequate statutory minimum wages**. Firstly, taking net statutory minimum wages as the reference for adequacy shifts the responsibility of establishing an adequate minimum wage level to the Member States by lowering taxes and contributions to social security systems (including pensions). It, therefore, externalizes the costs incurred by the employers pursuing a business model based on wages that are not adequate and enables them to keep pursuing such a model. Such approach would run counter to the principles of a social market economy and the Commission's stated objective of 'upgrading the EU's social market economy'. Secondly, a net wages threshold is more difficult to evaluate because it involves the complex issues of taxes and social security contributions – and therefore concerns the broader issue of the features of the welfare state in a particular country, which makes it more difficult to establish some common European principles.
29. With regard to the adequacy of statutory minimum wages, the analysis would have benefited from a recognition of the results of the recent research led by A. Dube which provided a review of the international evidence of the impact of minimum wages. The report by Dube allows to go beyond the rather sterile discussion that at some point minimum wages will cause job losses. In his report, Dube refers to research focusing on minimum wages in the US which illustrates that minimum wages as high as 60% of the median didn't lead to any negative effects on the economy.<sup>15</sup> Also, the research of Godoey and Reich analyses the impact of raising pay in areas with the largest share of minimum wage workers. This research confirms positive wage effects and significant improvements with regard to household and child poverty following minimum pay raises, and it does not detect adverse effects on employment, weekly hours or annual weeks worked.<sup>16</sup> In addition, raises in statutory minimum wages would not have a negative impact on competitiveness on the basis of the ETUC proposal, since all statutory minimum wages would be required to reach at least the same relative rate in term of median gross wage. In this regard, **the Consultation document wrongly implies that there is a negative correlation between increases in minimum wages and employment and competitiveness. This is not based on the most recent scientific evidence.**
30. With regard to adequacy of statutory minimum wages, the analysis needs also to take into consideration that **in several Member States employers are allowed to circumvent the application of statutory minimum wages by making deductions (e.g. for breakages or the purchase of equipment) or including premiums, bonuses, tips or seniority payments in the calculation of the wage**. The Council of Europe European Committee of Social Rights (ECSR) ruled in its most recent Conclusions (2018) that in different candidate countries and Member States the permitted deductions were violating workers' right to earn a fair remuneration.<sup>17</sup> According to the ECSR, "*deductions must be subject to reasonable limits and should not per se result in depriving workers and their dependents of their means of subsistence*".<sup>18</sup> Also monitoring bodies at UN and ILO level have put forward requests and observations on these issues to different Member States. Any EU initiative in this area should address the challenge of statutory minimum wage deductions, which is not analysed in the consultation document.
31. **Other real life factors such as the impact of zero hour type work arrangements and bogus self-employment 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.** The term

<sup>15</sup> A. Dube, *The impact of minimum wages – review of the international evidence*, 2019, London: HM Treasury.

<sup>16</sup> A. Godoey, M. Reich, *Minimum Wage Effects in Low-Wage Areas*, IRLE Working Paper 106-19, June 2019.

<sup>17</sup> ECSR Conclusions 2018 on Article 4 European Social Charter.

The ECSR Conclusions can be consulted in the European Social Charter [HUDOC ESC Database](#).

See also *The European Committee of Social Rights' Conclusions 2018. Protection of workers' rights in Europe: shortcomings found, but also positive developments in certain areas*, European Committee of Social Rights.

<sup>18</sup> *Digest of the case law of the European Committee of Social Rights*, Council of Europe, 2018, p. 92.

‘minimum wage’ suggests that the worker can expect a minimum amount of money to be earned each week (or month – or day, for specific categories). However, minimum wages often only define a minimum hourly rate and therefore do not guarantee the provision of a sufficient weekly, monthly or annual salary. In this regard it is important to consider that at EU level, the share of people aged 20-64 in part-time work stood at 19% in 2018 with an increase on average by 12.6% over the last decade.<sup>19</sup> What is more, nearly 25% of part-time workers in the EU are “involuntary part-time employees” as they had to accept this working pattern against their willingness. In some EU countries this share reaches extremely high levels and is one of the most frequent forms of precarious employment affecting in particular low wage jobs.<sup>20</sup> Thus, progress is also required towards ensuring that workers have sufficient weekly/monthly/ (daily, for specific categories) hours of work to enable them to achieve a real decent wage. Also fraudulent registration of working times and overtimes is too often used to circumvent the payment of due wages, including statutory minimum wages.

- Coverage of statutory minimum wages

32. With regard to the **coverage of statutory minimum wages**, the consultation document refers to some categories of workers which are exempted from its application in certain Member States. The consultation document recognises that “*major gaps in minimum wage coverage may contribute to labour market segmentation, especially if earnings mobility is low*”.<sup>21</sup> The ECSR has already ruled that the exclusions from the statutory minimum wages for certain categories of workers (as well as some subminimum rates) are not in conformity with the European Social Charter.<sup>22</sup> **It is necessary for an EU action in this area to ensure that subminimum statutory wages, for example for young workers, are removed. Likewise exemptions from the application of the statutory minimum wages for certain categories of workers (e.g. domestic workers, platform workers, public sector workers, seafarers, long-term unemployed workers, workers with disability, retired workers, third-country national workers, non-standard workers – which may include self-employed workers...) must not be allowed.**

- Involvement of social partners in setting statutory minimum wages

33. As stressed inter alia by the ILO Minimum Wage Fixing Convention of 1970, social partners should be fully involved in setting minimum wages. However, in several Member States, social partners are not genuinely involved in the definition of statutory minimum wages, and some governments do not always respect the recommendations of minimum-wage specialised bodies involving the social partners. This is an issue which the EU action should tackle: **all Member States should ensure that social partners be genuinely involved in statutory minimum wage setting and that agreed recommendations are respected by governments.**

- National mechanisms for the adjustments of statutory minimum wages

34. With regard to the mechanisms guiding the adjustments of statutory minimum wages, it is important to ensure that statutory minimum wages are updated and increased on a regular basis following a clear procedure which fully involves the social partners. The objective of upwards wage convergence should be included in the considerations. However, it is also necessary that **any procedural requirements must not introduce obstacles or limits to**

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<sup>19</sup> Source: database Eurostat

<sup>20</sup> Involuntary part-time work is extremely high in certain Member States, for example Greece (70.2% of persons employed part-time), Cyprus (67.4%), Italy (62.5%), Spain (61.1%), Bulgaria (58.7%), Romania (55.8%), Portugal (47.5%), France (43.1%), Source: Database – Eurostat Ilsa epgaed 2018.

<sup>21</sup> Consultation document, cit., p. 10.

<sup>22</sup> ECSR Conclusions 2018 on Article 4 and 7 European Social Charter.

The ECSR Conclusions can be consulted in the European Social Charter [HUDOC ESC Database](#).

**achieving increases in statutory minimum wage nor provide any possibility to EU or national institutions to hold the necessary increases back.**

**2) Why the Commission must include in its planning the need to promote collective bargaining, in particular sectoral collective bargaining**

35. Collective bargaining and social partners should play a pivotal role in setting higher minimum wages in particular and wages and working conditions in general throughout Europe. The consultation document states that “*collective bargaining is central to wage-setting as it sets the terms of employment and working conditions of a large share of workers and tends to reduce wage dispersion. Countries with a higher collective bargaining coverage tend to have a lower proportion of low paid workers*”. It also recognises that “*between 2000 and 2015, collective bargaining coverage has decreased in many EU Member States, from an estimated average of 68.5% to 59.5%, with particularly strong declines in Central and Eastern Europe*”.<sup>23</sup> It also recognises: “*collective bargaining, which is a key component of a well-functioning social market economy, plays a key role in contributing to fair working conditions for all*”.<sup>24</sup> However, **it does not include an analysis of the challenges that workers’ rights to organise and bargain collectively are currently facing and of the need for EU action to include measures to tackle those challenges.**
36. The consultation document wrongly attributes the decline in collective bargaining coverage since 2000 solely to structural shifts of economies towards less-unionised sectors, notably services, and to a sharp decline in trade union membership related to the increase of atypical and non-standard forms of work.<sup>25</sup> This narrow view is in contrast to the recent OECD report on collective bargaining which stated that the drivers of the decline in union density are ‘numerous and vary between countries and over time’ and which, unlike the consultation document, does acknowledge that increasing management resistance such as the use of union avoidance consultants, threats to close workplaces, or illegal firings of workers’ representatives, may be in part responsible for the decline in union density.<sup>26</sup>
37. **In many Member States, social partners and trade unions are currently unable to exercise their rights and to deliver on their responsibilities with regard to collective bargaining.** For a wide range of different reasons, social partner organisations meet obstacles in the deployment of a system of autonomous and robust industrial relations and, in particular, of sectoral collective bargaining.
38. In addition to the above-mentioned data, which show how collective bargaining coverage has decreased in the past years, **also the most recent Conclusions (2018) of the ECSR confirm the existing serious challenges in this area, with several Member States found not to be in conformity with the rights to organise and right to bargain collectively as defined in the European Charter of Social Rights.**<sup>27</sup>
39. In the consultation document, **the Commission states that “an EU initiative on fair minimum wages would help Member States achieve upward convergence in working conditions”.** This element has to constitute one of the main objectives of any initiatives in this area.<sup>28</sup> However, without effective measures to address also the existing challenges

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<sup>23</sup> Consultation document, cit., p. 4.

<sup>24</sup> Consultation document, cit., p. 9.

<sup>25</sup> Consultation document, cit., p. 4.

<sup>26</sup> OECD (2019), *Negotiating Our Way Up – Collective Bargaining in a Changing World of Work*, cit., Figure 3.10, pp. 15, 125.

<sup>27</sup> For a summary of the ECSR Conclusions 2018, which highlight the failure of several Member States to secure the respect for trade unions rights under the European Social Charter, see Annex II: Overview of the European Committee of Social Rights (ECSR) Conclusions 2018.

The ECSR Conclusions can be consulted in the European Social Charter [HUDOC ESC Database](#).

<sup>28</sup> Consultation document, cit., p. 9.

to collective bargaining rights, the initiative cannot reach that objective. As anticipated, **while increases in statutory minimum wages can only ever be a first step in delivering such convergence, well-coordinated sectoral collective bargaining is in fact the only tool able to achieve it.**

40. A recent report by the OECD illustrated that coordinated multi-employer bargaining at sectoral not only leads to better results as regards wage inequality, more employment and lower unemployment.<sup>29</sup> **Sectoral collective bargaining also helps to lift up the whole wage structure which in turn is essential to ensure that a rate of statutory minimum wage of 60% of the median is actually a wage from which a worker can make ends meet.**
41. **Challenges to collective bargaining rights in the European Union currently include *inter alia* the following elements:**
- **Collective bargaining coverage is too low** in most Member States and has significantly decreased since the start of the economic and social crisis. It is also under pressure in some Member States with a traditional high ratio of collective bargaining coverage;
  - In several Member States, a negative process of decentralisation of collective bargaining mechanisms was introduced following a push from the European Commission;
  - Several Member States are ignoring their responsibility to promote collective bargaining, in particular sectoral collective bargaining;<sup>30</sup>
  - In several Member States employers refuse to enter into collective bargaining. In some cases, sectoral (and cross-sectoral) collective bargaining is also undermined by agreements signed by yellow unions, with fewer protections and lower standards;
  - In several Member States collective bargaining is denied by EU or Member State rules to certain sectors of the economy (e.g. the public sector) or certain categories of workers (e.g. domestic workers, platform workers, non-standard workers, which often include self-employed workers...);
  - In several Member States an increasing number of workers are forced to change their status from employees to (bogus) self-employed to reduce employer's liabilities, social security contributions, as well as workers' rights. This practice is causing unfair competition, social dumping and – in conjunction with the previous point – is today a major threat to collective bargaining rights;
  - In several Member States workers and trade union rights which are necessary to ensure effective collective bargaining are not respected (e.g. rights to organise and form trade unions, to collective action, to information and access to the workplace, prevention against dismissals...). Legislative and non-legislative obstacles still prevent in several Member States the development of sectoral collective bargaining.
42. **Despite improvements, public procurement rules do not yet properly support collective bargaining.** Public authorities should prevent wages and working conditions being used as an element of competition for public contracts and should ensure that public contracts do not exert downward pressure on wages and working conditions, but rather promote fair working

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<sup>29</sup> OECD, *Negotiating Our Way Up: Collective Bargaining in a Changing World of Work*, cit. .

<sup>30</sup> In accordance to the European Social Charter, Member States are under the obligation "to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements" [Article 6(2)]. Such obligation is also recognised in the 1949 ILO Convention on the Right to Organise and Collective Bargaining. Article 4 states: "Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements". The European Committee on Social Rights (ECSR) has stated that "if necessary and useful, i.e. in particular if the spontaneous development of collective bargaining is not sufficient, positive measures should be taken to facilitate and encourage the conclusion of collective agreements". *Digest of the case law of the European Committee of Social Rights*, cit., p. 99.

conditions and support the right to collective bargaining. Every year, over 250 000 public authorities in the EU spend around 14% of GDP (around €2 trillion per year) on the purchase of services, works and supplies. Public procurement processes could give a decisive support for the development of sectoral collective bargaining and the respect of fair working conditions. Similarly, the Common Agricultural Policy (CAP) and other EU funds could be decisive. However, it is still possible for companies which do not respect workers' rights, in particular the right to collectively bargain, or the applicable working conditions, to be awarded public contracts and grants. In addition, in several Member States abusive subcontracting practices undermine sectoral collective bargaining and are one of the main causes of collective bargaining dumping.

43. Any EU action must address the existing challenges to the right to organise and to bargain collectively. It must therefore include in its area of action effective and ambitious measures to overcome those challenges and put a positive obligation on Member States to promote, respect and enforce collective bargaining, in particular sectoral collective bargaining.

### 3) The ETUC evaluation of the Commission analysis on the safeguards

44. The consultation document states that *“any possible EU action in the field of minimum wages would not seek to harmonise directly the level of minimum wages across the EU. It would also respect national traditions, social partners’ autonomy and the freedom of collective bargaining. It would not seek to establish a uniform mechanism to set minimum wage and would not establish the level of pay which falls within the contractual freedom of the social partners at a national level and within the relevant competence of Member States. Therefore minimum wages would continue to be set either through collective agreements or legal provisions, in full respect of national competencies and social partners’ contractual freedom. In particular, an EU action would not seek the introduction of a statutory minimum wage in countries with high coverage of collective bargaining and where wage setting is exclusively organised through it”*.<sup>31</sup>
45. **However, the consultation document does not clarify what safeguards to protect industrial relation systems** where minimum wages are mainly or exclusively set via collective bargaining would be included in the possible EU action. As already mentioned, the document also raises concerns by not making a clear distinction between statutory minimum wages and collective agreements which determine minimum levels of pay for workers.
46. **Any EU action in the area of collective bargaining and minimum wages needs to build upon the recognition that one size will not fit all.** It is positive that the document confirms that the action must not aim at harmonisation or at introducing a single system of industrial relations or a minimum wage for the whole of the EU. Any instrument that would damage existing rights to bargain or undermine collective agreements, particularly sector level collective agreements would be unacceptable. The impact of any proposals needs to be assessed against each national system and the ETUC will actively oppose any instrument if it will negatively impact on trade union rights and social partners’ autonomy anywhere in the EU.
47. **Wages, as a fundamental rule, are autonomously agreed by national social partners,** therefore minimum wages should not be introduced in countries where the national social partners do not consider them necessary. No Member State should be required to introduce statutory minimum wages, where they do not currently exist. Likewise, many Member States have multiple minimum wages, for example a national minimum wage set in law along with higher sector minimum wages set through collective agreements, and it is equally important that these systems and the autonomy of social partners are safeguarded.
48. Any EU action in this area must not undermine social partners’ autonomy to negotiate, conclude and enforce collective agreements. A clear distinction must be set between statutory

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<sup>31</sup> Consultation document, cit., p. 2.

minimum wages and minimum wages established through collective agreements. **Collective bargaining in Member States must be promoted and strengthened, also through EU initiatives, however it must not become subject to EU conditions, rules or interpretations that would undermine trade unions' and workers' rights, including the rights to bargain collectively, to organise and of association.**

**II. Do you consider that EU action is needed to address the identified issues? If so, what should be the scope of that action?**

49. **Yes. Ambitious actions at European level are needed to deliver on the dual objective of:**  
- **promoting and safeguarding collective bargaining, in particular sectoral collective bargaining; and**  
- **increasing statutory minimum wages to a level where they ensure at least a decent standard of living.**

50. Whatever the EU action is, it should be firmly grounded, as mentioned in the consultation document and the recently adopted Commission Work Programme 2020,<sup>32</sup> on Articles 151 and 153 TFEU (including the limits of Article 153(5) TFEU). Such a legal basis would embed the EU action(s) in the 'Social Policy' Title of the TFEU and would thus be safer for workers, unions and collective bargaining rights than an obscure internal market/freedom of services legal basis. It would also mean that any initiative would be directed towards the achievement of the objective of 'improved living and working conditions' as foreseen in Article 151 TFEU and confirm that, in line with the CJEU case law and existing Directives, pay can be considered as a key working condition.

51. **The ETUC urges the Commission to be clear about the legal form of the initiative and, if the proposal will be a Directive, a clear outline of the approach and objectives of the Directive should be published as part of the second phase consultation.**

**1) EU action on statutory minimum wages**

52. The EU action should ensure that **statutory minimum wages – where they exist – ensure at least a decent standard of living.**

53. **EU action with regard to statutory minimum wages should include the following measures:**

- a) Member States should ensure that **social partners are genuinely involved in setting statutory minimum wages;**
- b) Member States must be free to set the rate of their statutory minimum wage. However, Member States should be required to ensure that **statutory minimum wages have to progressively reach a level of at least (no less than) 60% of the full-time national median wage.** The 60% level is a minimum threshold and must not be considered as an end goal. National governments and national social partners have the full legitimacy to go beyond this level;
- c) Statutory minimum wages should always progressively increase and **the threshold target of 60% of the national median wage should be benchmarked for its**

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<sup>32</sup> Consultation document, *cit.*; European Commission, *Commission Work Programme 2020. A Union that strives for more. Annex I. New initiatives*, COM(2020) 37 final, 29 January 2020, p. 2.

**adequacy in real price terms** by the use of appropriate reference budget methodologies established in consultation with social partners (e.g. priced baskets of goods and services including the cost of housing that represent a living standard for a specific target population beyond the subsistence goods);

- d) Statutory minimum wages should cover all workers, defined by national law and practice in consultation with social partners, and should include currently excluded categories of workers**, such as domestic workers, non-standard workers – which may include self-employed workers -, platform workers, seafarers, long-term unemployed workers, workers with disability, retired workers, third-country national workers. **In addition, all sub-minimum rates should be removed**, for examples those that apply to young workers.
- e) Deductions from statutory minimum wage** (e.g. for buying uniforms, breakages or other equipment necessary for work) **should be prohibited** and tips and other extra-payments, such as overtime or seniority payments, should be excluded from the calculation of the statutory minimum wages (these should be paid on top of them);
- f) Statutory minimum wages**, where they exist, should be updated and increase on a regular basis following a clear procedure which fully involves the social partners. However, it is also necessary that any procedural requirements do not introduce obstacles or limits to increases in statutory minimum wage nor gives any possibility to European or national institutions to hold the necessary increases back;
- g) The costs coming with the increase of the minimum wage should in principle be borne by the employers**. The use of tax deductions and other compensations mechanisms can only be the result of social dialogue.
- h) Member States should ensure that workers have sufficient weekly/monthly/ (daily, for specific categories) hours of work to enable them to achieve a real decent wage**. Complementary measures to a fair statutory minimum wage based on full-time employment are required that take full account of the fact that an increasing number of workers are in precarious, casual or part-time employment whose working time is below the level they desire. In order to ensure a decent living standard for these workers there should be a minimum guaranteed number of hours;
- i) No Member States should be obliged to introduce a statutory minimum wage system, where it does not exist.**

## **2) EU action on the promotion of collective bargaining, in particular sectoral collective bargaining**

54. As anticipated, fair minimum wages can only be created in labour markets with effective collective bargaining systems which ensure an adequate coverage. The reason being *inter alia* that statutory minimum wages are benchmarked against median of wages in a national economy, so increasing all wages in a Member State is key to increasing its minimum wages.

55. Any EU action should include **ambitious and effective measures to ensure that Member States promote collective bargaining**, in particular sectoral collective bargaining, and to guarantee that the EU also supports collective bargaining in the framework of its competences, policies and actions.

56. Member States **should be required, when their collective bargaining coverage is below 70% of the national workforce, to take positive actions**, in consultation with the social partners, **to promote collective bargaining** and to bring the level of collective bargaining coverage to that threshold as soon as possible.

57. However, Member States should in any case promote collective bargaining even when their collective bargaining coverage is above 70% of the workforce, against negative trends leading towards the decline of collective bargaining coverage such as decentralization of collective bargaining.

58. **Any EU action should ensure that Member States properly promote collective bargaining, in particular sectoral collective bargaining, *inter alia* by:**

- a) **Having the necessary institutions in place to support collective bargaining**, in particular sectoral collective bargaining and cross-sectoral bargaining, along with resources and legal backing especially protecting workers and their unions;
- b) Ensuring that **collective bargaining is available for all sectors of the economy including the public sector and for all workers**, regardless of their employment status; this means non-standard and self-employed workers should have access to trade union representation, collective bargaining, collective agreements and collective actions;<sup>33</sup>
- c) Ensuring **the right to organise for collective bargaining is properly respected**, for example by guaranteeing right for unions to access the workplace, including digital access, to be able to meet with the workforce whether or not it is organized in trade union, along with protection for workers and unions from threats, reprisals, victimisation and other union busting actions;
- d) **Tackling collective bargaining dumping** (e.g. by/via agreements with less protections and weaker standards signed by ‘yellow’ unions, via abusive subcontracting practices, or by employing mobile workers based in countries with no collective bargaining structures) and resolve situations in which private and public sector employers’ refuse to recognise trade unions and the application of collective agreements and/or to enter into collective bargaining;
- e) Without prejudice to existing extension mechanisms, guaranteeing that Member States introduce extension mechanisms, only in circumstances when they are proposed by the social partners at national level;
- f) Ensure **proper implementation of international labour standards**, in particular ILO Conventions, the European Social Charter and the European Convention of Human Rights;
- g) Require that **public procurement and concessions, funding, grants, structural funds, Common Agriculture Policy (CAP) subsidies, lease contracts, access to licences to operate whenever required, etc. support collective bargaining** by requiring tenders and beneficiaries/setting conditionalities to respect workers’ right to collective bargaining and the full implementation of collective agreements, as well as the applicable working conditions;
- h) Ensuring **adequate resources (national and EU) are ringfenced to promote and support sectoral collective bargaining** including through capacity building and training initiatives;
- i) Ensure that **Member States have in place effective and dissuasive sanctions** so that employers do not breach the right to organise and collective bargaining;

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<sup>33</sup> *ETUC Action Programme 2019-2023, inter alia pp. 7, 30, 33, 38, 61.*

- j) **Including the respect of right to collective bargaining as part of review of the EU Rule of Law** so that violations of right to organise/collective bargaining should lead to sanctions in terms of EU funding;
  - k) Ensuring that **social partners at national level are fully involved** in the implementation of any measures arising from the initiative, including in monitoring its effectiveness;
  - l) In addition, any measures should provide for the exchange of practices and to set benchmarks to promote and measure upward convergence in terms of overall coverage by collective agreements, including through the activities of Eurofound.
59. In order to meet these objectives, a roadmap with an action plan should be defined, in agreement with social partners, to promote collective bargaining coverage in the EU and Member States. The action plan should be supported with additional EU resources.

### 3) Safeguard for the different well-functioning industrial relation and collective bargaining systems

60. **All possible EU actions in the area of minimum wages and collective bargaining need to fully respect and safeguard systems of collective bargaining which work well, as underlined in the objectives previously defined.** Any EU action needs to be carefully drafted to ensure that it does not damage existing rights to bargain or undermine collective agreements, particularly sector level collective agreements.
61. **Any EU action needs to respect and uphold fundamental trade union and workers' rights** as recognised in the relevant ILO Conventions, the Council of Europe European Social Charter and the Charter of Fundamental Rights of the European Union, in particular the freedom of association, right to organise, the right to collective bargaining and the right to a fair (minimum) wage;
62. **Any EU action also needs to ensure the position of those rights and avoid that neither economic freedoms nor competition rules have priority over and/or infringe upon those rights** (i.e. provide for a Social Progress clause as part of the initiative);
63. Any EU action must ensure that wages, as a fundamental rule, are autonomously agreed by national social partners, therefore minimum wages should not be introduced in countries where social partners do not consider them necessary. **No Member States should be required to introduce a statutory minimum wage system, where it does not exist.**
64. Likewise, many Member States have multiple minimum wages, for example a national minimum wage set in law along with higher sector minimum wages set through collective agreements, and it is equally important that these systems are safeguarded.
65. Any measures must be taken in full consultation with social partners and must always strengthen and not potentially undermine social partners' autonomy to negotiate, conclude and enforce collective agreements. For this reason, it is therefore necessary to clarify that any specific criteria defined at EU level must only apply to statutory minimum wages, not to collective agreements. **Social partners' autonomy must be respected.** Collective bargaining in Member States must be promoted and strengthened, also through EU initiatives, however it must not become subject to EU conditions, rules or interpretations that would undermine trade unions' and workers' rights, including the rights to bargain collectively, to organise and of association.
66. **Any EU action must not aim at harmonisation or the introduction of a single system of industrial relations or a minimum wage for the whole of the EU.** For the autonomy of social partners it is crucial to limit EU action, especially on the functioning of the internal market. In

particular, the EU must not define conditions or procedures for negotiating collectively. **Wording will be critical and the ETUC will resist any instrument that will damage existing rights to bargain or undermine collective agreements, particularly sector level collective agreements. The impact of the proposals will be assessed against each national system and the ETUC will actively oppose any instrument if it could have a potential negative impact on trade union rights and national labour market models anywhere in the EU.**

67. Any possible EU action in this area must include a **strong non-regression clause** to ensure that it cannot in any case be used to lower the level of protection for collective bargaining or minimum wages.

**III. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?**

68. **The ETUC are open to start negotiations with the employers under article 155 TFEU and reaffirms its full commitment to social dialogue, as stated – amongst others – in the Quadripartite declaration "A new start for social dialogue" signed in July 2017.<sup>34</sup>** However, considering the issues mentioned above and without any further specification and clarification from the Commission on the different points raised, **the ETUC considers it premature to initiate a dialogue under Article 155 TFEU at this stage of the consultation.** If these points were addressed and clarified to our satisfaction, the ETUC would naturally review the situation.

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<sup>34</sup> *A new Start for Social Dialogue, Statement of the Presidency of the Council of the European Union, the European Commission and the European Social Partners, 2016.*

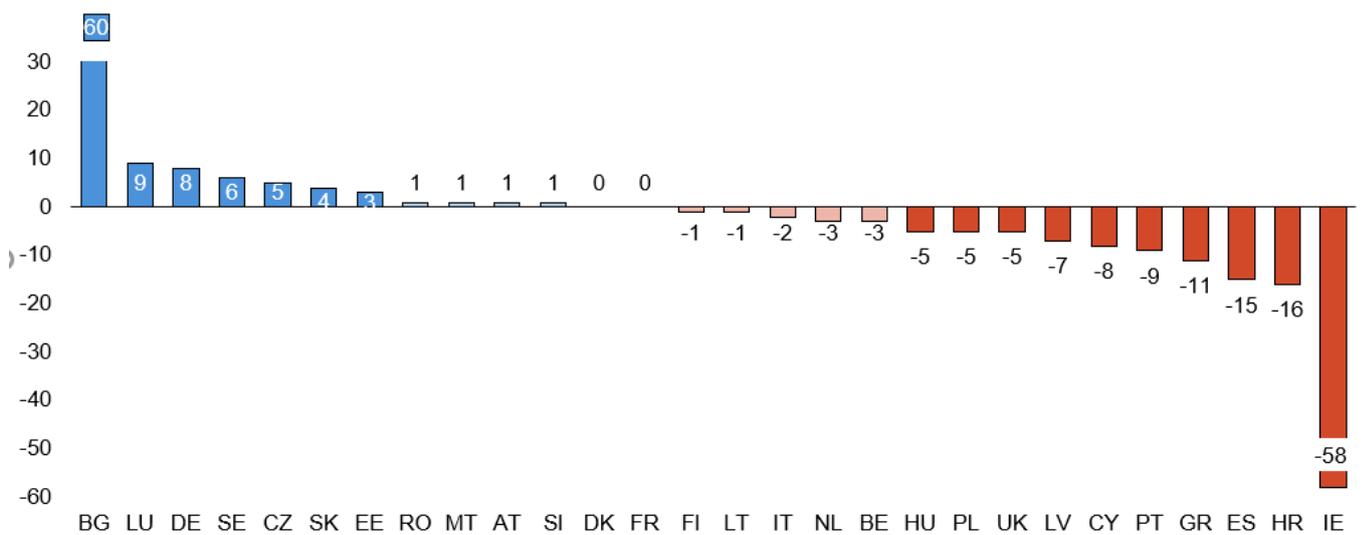
## ANNEX I: Graphs and tables to illustrate current state of play

**Figure 1. In-work at-risk-of-poverty rate, 2018** (share of employees living in a household with an equivalised disposable income below 60 % of the national median equivalised disposable income)



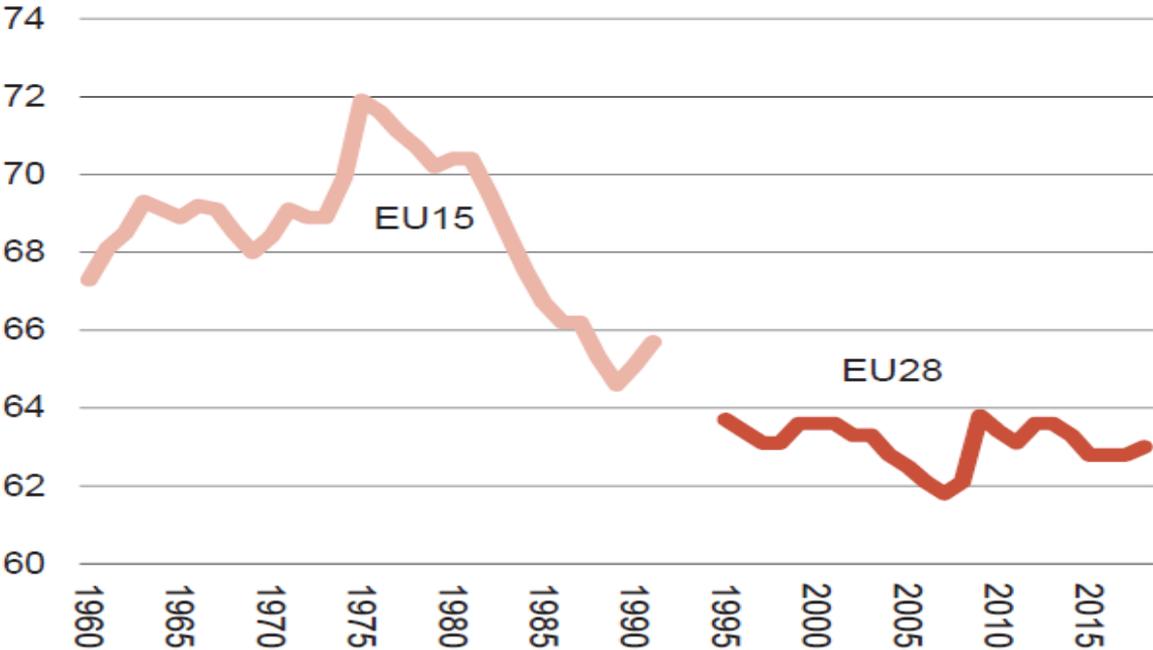
Source: Eurostat

**Figure 2. Development of real wages and labour productivity per person employed (2009-2018): gap between development of real wages and labour productivity (percentage points)**



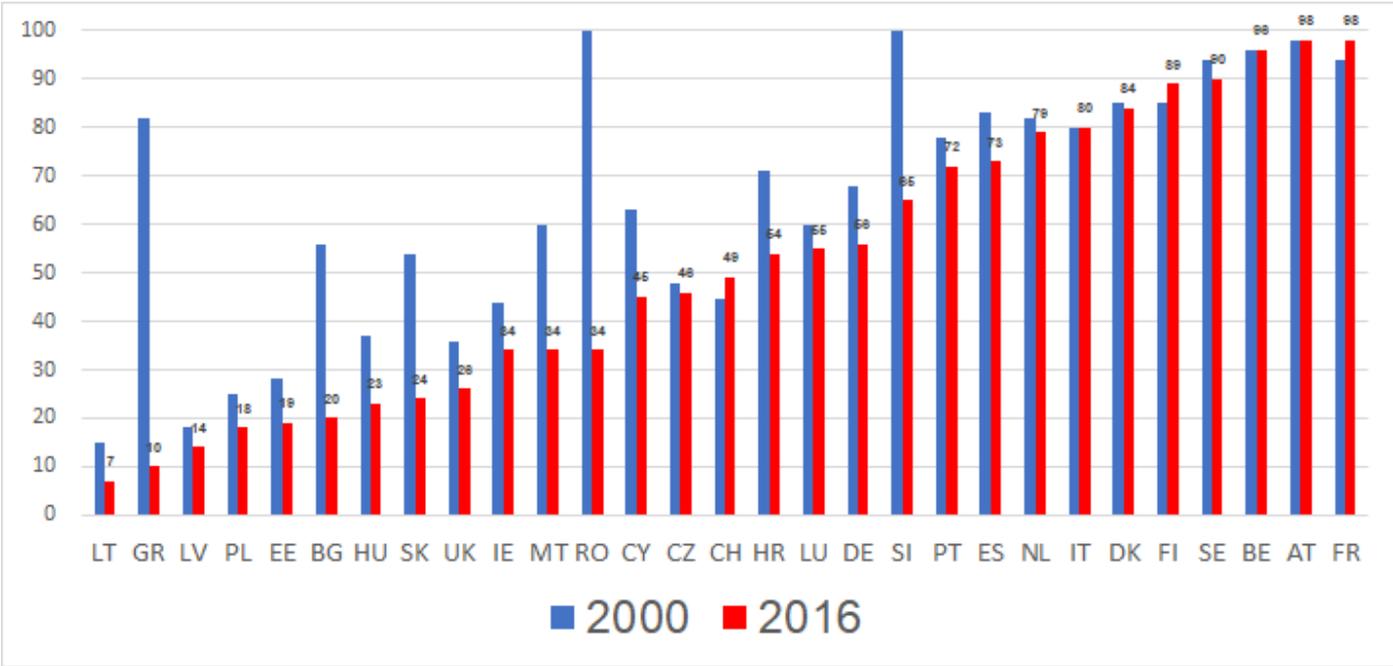
Source: Ameco Database

**Figure 3. Long-term development of the wage share, 1960–2018 (wages in percentage of GDP at factor costs in the EU)**



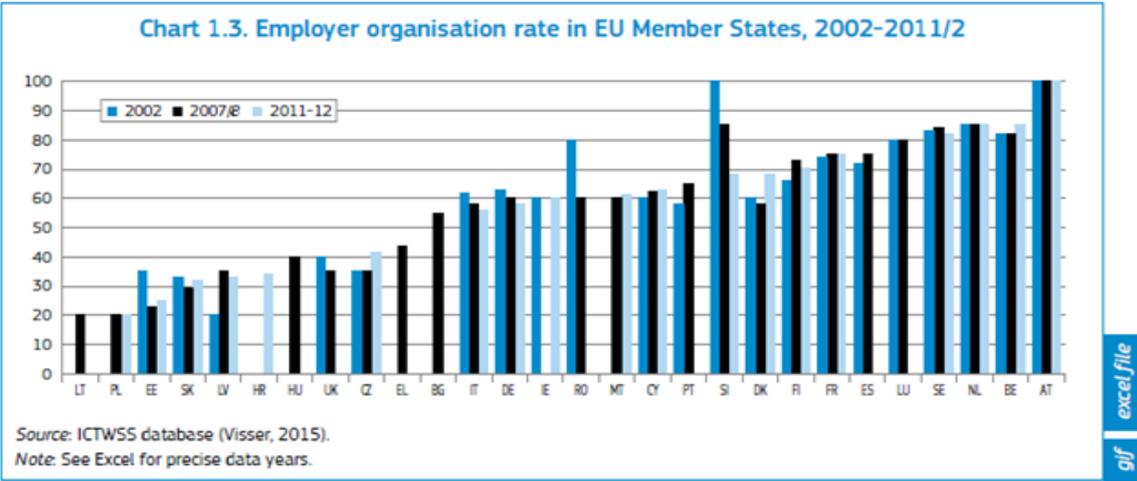
Source: Ameco Database

**Figure 4. Collective bargaining coverage (in % of employees; 2000 & 2016)**



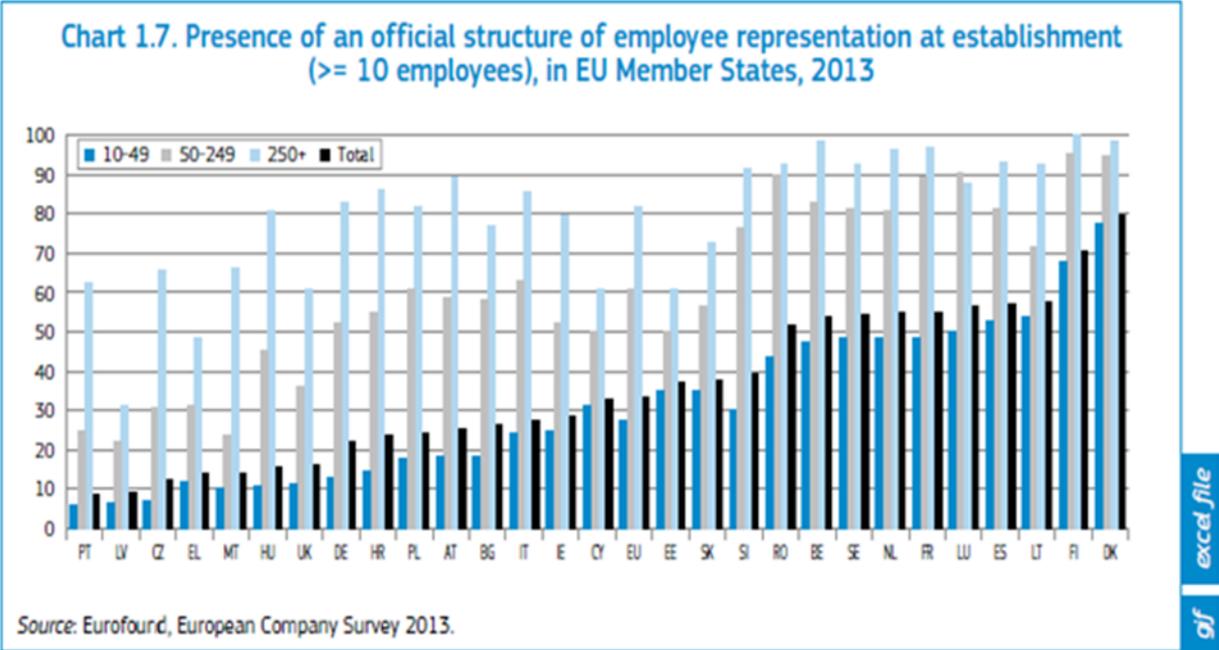
Source: OECD, Visser (2016) ICTWSS Database

**Figure 5. Proportion of companies in the Member States that are members of employers' organizations**



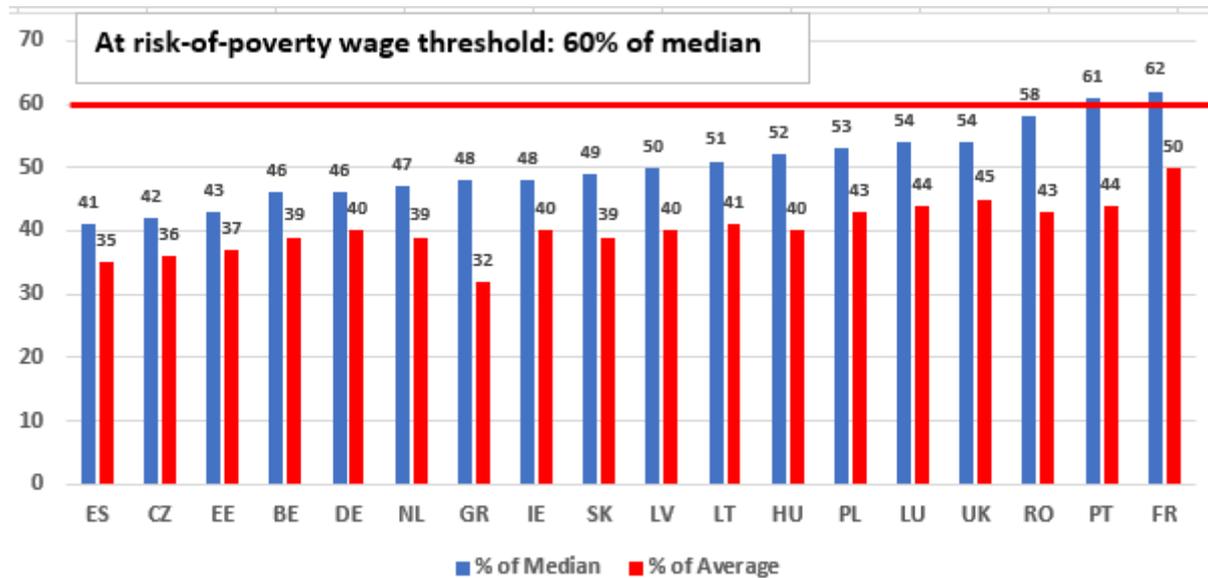
Source: Industrial Relations in Europe 2014

**Figure 6. The proportion of workers who are represented at their workplace**



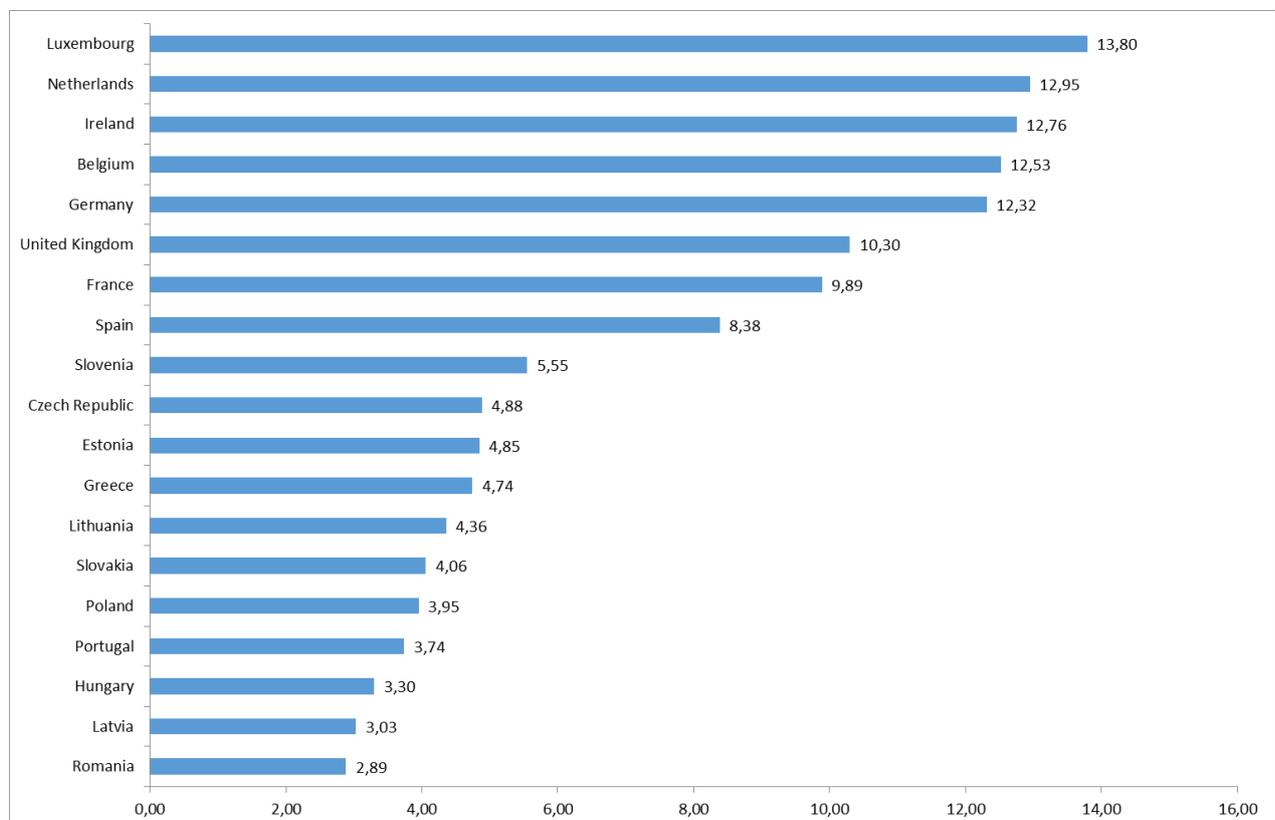
Source: Industrial Relations in Europe 2014

**Figure 7. Statutory minimum wage relative to median and average wage of full-time workers, 2018**



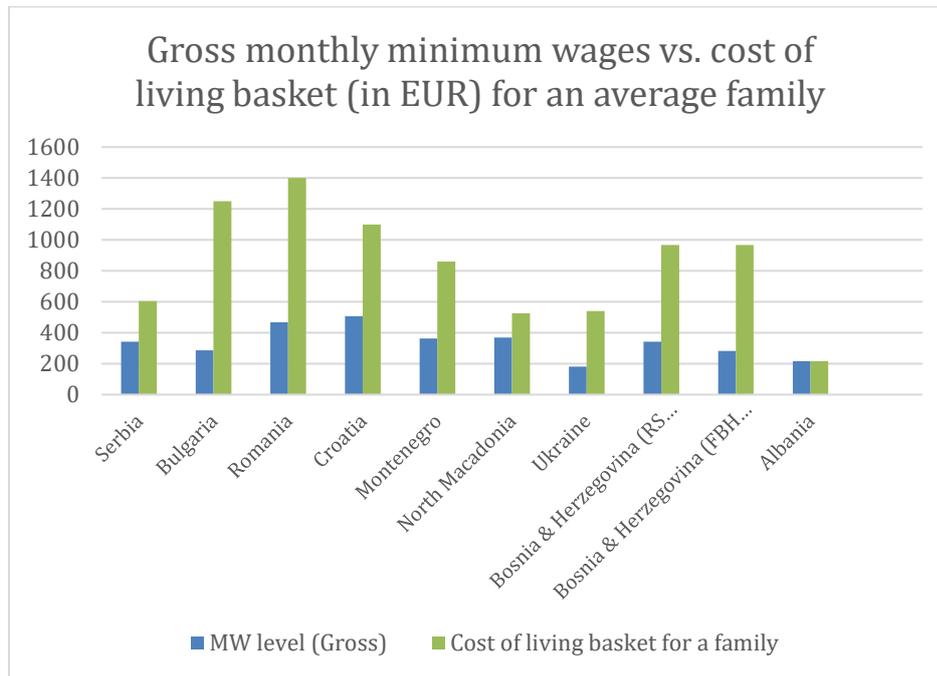
Source: OECD Earnings Database (2018)

**Figure 8. Hypothetical minimum wage corresponding to 60% of the Median Wage (February 2020) – calculated on the basis of the 2018 Kaitz Index**



Source: Own calculation based on the OECD Earnings Database (2018) and the WSI Minimum wage Database (February 2020)

**Figure 9. Some examples of gross monthly minimum wages vs. cost of living basket (in EUR) for an average family**



Source: ITUC calculations based on information provided by national trade union centres (2019)

**ANNEX II: Overview of the European Committee of Social Rights (ECSR) Conclusions  
2018. Member States' violations of the European Social Charter**

**OVERVIEW OF**

**THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
(ECSR) CONCLUSIONS 2018**

**MEMBER STATES' VIOLATIONS OF THE  
EUROPEAN SOCIAL CHARTER**

***ARTICLES 5 (RIGHT TO ORGANISE)  
ARTICLE 6 (RIGHT TO COLLECTIVE BARGAINING)  
ARTICLE 4 (RIGHT TO FAIR REMUNERATION)***



**Article 5 – Right to organize**

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.



## Conclusions Article 5 – Right to organize

- ❖ **LV**: a minimum of at least ¼ of the employees of an undertaking are required to form a trade union in an undertaking and 50 founding members required to form a TU outside an undertaking constitute excessive restriction on right to organise
- ❖ **CZ**: fact that members of Security of Intelligence Service (SIS) are prohibited from forming any type of professional association for the protection of their interest
- ❖ **DK** : legislation on the International Ships Register provides that collective agreements on wages and working conditions concluded by Danish TUs are only applicable to seafarers resident in DK
- ❖ **UK**: legislation which makes it unlawful for a TU to indemnify an individual union member for a penalty imposed for an offence or contempt of court, and which severely restricts the grounds on which a TU may lawfully discipline members, represents an unjustified incursion into autonomy of TUs
- ❖ **ICE**: existence of priority clauses in collective agreements which give priority to members of certain TUs in respect of recruitment and termination of employment infringe right to not join TUs
- ❖ **PL**: some categories of workers are not fully enjoying right to organise (some civil servants and home workers)



3

## Article 6 – Right to collective bargaining

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

- 1 to promote **joint consultation** between workers and employers;
  - 2 to promote, where necessary and appropriate, **machinery for voluntary negotiations** between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
  - 3 to promote the establishment and use of appropriate machinery for **conciliation and voluntary arbitration** for the settlement of labour disputes;
- and recognise:
- 4 the right of workers and employers to **collective action** in cases of conflicts of interest, **including the right to strike**, subject to obligations that might arise out of collective agreements previously entered into.



4

## CONCLUSIONS ARTICLE 6 COLLECTIVE BARGAINING

### Article 6§2 – Voluntary negotiations

- ❖ **EE:** amendments to Collective Agreements Act (incl. criteria for extending collective agreements) not adopted and rate of collective agreements coverage remains low
- ❖ **LT, LV, CZ:** promotion of CB and too low coverage
- ❖ **DK:** right to CB of non-resident seafarers engaged on vessels entered in the International Shipping Register is restricted
- ❖ **ES:** Legislation permits employers unilaterally not to apply conditions agreed in collective agreements
- ❖ **UK:** workers and TUs do not have the right to bring legal proceedings in the event that employers offer financial incentives to induce workers to exclude themselves from CB

### Article 6§3 – Conciliation and voluntary arbitration

- ❖ **MT:** no conformity because decisions of the court of inquiry are binding on the parties even without their prior consent and compulsory arbitration is permitted in circumstances which go beyond limits set by Charter



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## Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

- 1 to recognise the right of workers to **a remuneration such as will give them and their families a decent standard of living;**
- 2 to recognise the right of workers to an **increased rate of remuneration for overtime** work, subject to exceptions in particular cases;
- 3 to recognise the **right of men and women workers to equal pay for work of equal value;**
- 4 to recognise the right of all workers to a **reasonable period of notice for termination of employment;**
- 5 to **permit deductions from wages only under conditions** and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.



6

## CONCLUSIONS ARTICLE 4§1 FAIR REMUNERATION

- ❖ **LT:** minimum wages does not ensure a decent standard of living
- ❖ **MT:** minimum wages does not ensure a decent standard of living
- ❖ **RO:** national minimum wage is not sufficient to ensure a decent standard of living
- ❖ **RS:** national minimum wage is not sufficient to ensure a decent standard of living
- ❖ **ES:** minimum wage for workers in the private sector and minimum wage for contractual staff does not secure a decent standard of living
- ❖ **UK:** minimum wage is not sufficient to ensure a decent standard of living



7

## CONCLUSIONS ARTICLE 4§5 PERMITTED DEDUCTIONS FROM WAGES

- ❖ **EE:** after maintenance payments and other authorised deductions wages of workers with the lowest pay do not allow them to provide for themselves and their dependants  

Idem for LT, LV, North Macedonia, NL, RO, SK, TR, PL
- ❖ **MT:** not established that the safeguards preventing workers from waiving their right to limits wage deductions are adequate
- ❖ **NL:** deductions in cases when the wage is higher than the statutory minimum wage and no collective agreement applies are left to the discretion of the employer
- ❖ **RS:** deductions from wages upon employee's consent are not subject to a limit
- ❖ **SK:** workers may waive their right to limitations on deductions from wages
- ❖ **UK:** absence of adequate limits on deductions from wages equivalent to the National Minimum Wage results in depriving workers who are paid the lowest wage and their dependents of their means of subsistence



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