

RESOLUTION OF THE STANDING COMMITTEE ON EUROPEAN UNION POLICIES ON THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ADEQUATE MINIMUM WAGES IN THE EUROPEAN UNION (COM(2020) 682 FINAL)

adopted on 20 January 2021

(RAPPORTEUR: NANNICINI)

The Committee,

following consideration of the proposal of the European Parliament and of the Council for a directive on adequate minimum wages in the European Union:

– believes that adequate minimum wages should be ensured in EU Member States, such that may be sufficient to ensure a free and decent standard of living for workers and their families (Article 36 of the Italian Constitution) and in compliance with Principle No 6 of European Pillar of Social Rights (Recommendation 2017/761);

– notes that, within the European Union, minimum wages are set by law in twenty-one Member States and by collective bargaining in six countries, including Italy;

– notes that the proposal includes rules aimed at making the systems adopted by EU Member States more effective, by pursuing the common goals of promoting adequate wages and making minimum wage protection accessible to all workers, by strengthening and increasing collective bargaining coverage, in compliance with the principles of subsidiarity and proportionality;

– believes that the setting of adequate minimum wages should be ensured on the basis of decisions made at Member State level and following the actions of social partners in defining the essential elements of an employment contract. In this regard, the proposal does not interfere with the traditions and specificities of each country, nor does it affect the power of national legislators to choose whether minimum wages should be set by law or by collective bargaining. At the same time, the proposal respects the common goal of ensuring a minimum wage not lower than internationally adopted indicators, *i.e.* 60% of the gross median wage or 50% of the gross average wage. Specifically, the proposal complies with the traditional Italian approach of setting wages through collective bargaining, a system which has been estimated to cover more than 70% of workers;

– notes that the Commission has chosen Article 153 TFEU as the legal basis for the proposal, by considering the large differences in the rules on adequate minimum wage to be within the scope of the "working conditions", which fall within the Union's scope of action established by the Treaty. During negotiations in the Council and also in some national

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parliaments, it was noted that Article 153(5) TFEU seems to exclude wages from European competence. The Committee argues that, because the proposal has no direct impact on wage levels, it may not possibly violate the requirement of Article 153(5) TFEU prohibiting the adoption of directives on pay, the right to strike and the right of association. The rationale of the proposal is, therefore, totally legitimate under the Treaty, and aims to ensure full access to a decent wage for "workers" (according to a broad definition that includes precarious work, training and bogus self-employment);

– considers therefore that the legal basis of the proposal is rightfully identified. There is no objection, however, to an extension of the legal basis, in order to overcome the doubts on TFEU compliance raised by some States. For example, Treaty provisions on free movement of services may be recalled. *i.e.* the same provisions that were used for the European legislation on the posting of workers, for the purposes of protecting the remuneration of posted workers.

– also considers that the use of the legal instrument of the directive confers "European" coverage and legitimization to national regulations, through early harmonization of the conditions of access to and effectiveness of social protection systems. The adoption of a recommendation instead, with a view to safeguarding the specificity of each individual Member State and the role and autonomy of social partners, would ultimately strip workers of EU protection against violations of EU legislation;

– notes that, by not taking a stance on national decisions on whether to set a minimum wage by law or through strengthened collective bargaining, the proposal complies with the principle of subsidiarity. Whether a minimum wage should be enshrined in legislation, in addition to collective bargaining, therefore rests entirely with the Member States, including Italy;

– believes that, with reference to the principle of proportionality, the proposal should be better fine-tuned by making clear that "collective bargaining" means the process where major employers' organisations and trade unions are involved, as measured by standards defined by national law or, better still, by a common EU system of measurement and monitoring. This would also combat the so-called "pirate contracts", which may undermine the effectiveness of a minimum wage. A text different from the wording suggested above might make it impossible to tell a collective bargaining agreement reached by major organizations, which is the only one that should be promoted, from an agreement reached by minor organizations, which may give rise to contract dumping;

– notes that the previous paragraph is about affirming the principle that a minimum wage should be adequate, in case of collective bargaining agreements, where there are workers who do not enjoy the coverage of a collective agreement. A principle should be included whereby, in those States where wages are determined through collective bargaining, the enforcement of a sectoral agreement ensuring that all workers receive decent remuneration should be envisaged. The setting of adequacy parameters should then be left to the discretion of Member States. By accommodating this principle in a European directive, the same effect would be achieved that is achieved today in the [Italian] domestic system through court rulings on compliance with Article 36 of the Constitution, and a broader contractual coverage would be attained, such to enforce a minimum wage;

– believes that the key importance attached by the proposal to collective bargaining as a source of fair remuneration should be strengthened, with an emphasis on measures promoting freedom of association, trade unions' right of access to the workplace and the right

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of workers to be represented by unions, recalling the concrete implementation of International Labour Organization conventions and the sources of EU legislation on freedom of association.