

*The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. Most of CESI's affiliates are employed in the fields of central, regional and local administration, education, training and research, security and justice, healthcare, postal services and telecommunications, defence and transport.*

As an advocate of decent pay,<sup>1</sup> CESI greatly appreciates the commitment of the 'new' European Commission to fair wages for all, as laid out in the European Commission's consultation document C(2020)83 final of January 14 2020.<sup>2</sup> At the same time, CESI believes that such an initiative is only one necessary element on the broader way towards decent working conditions, the elimination of in-work poverty and the fight against precariousness for the most vulnerable members in the labour markets.

**DO YOU CONSIDER THAT THE COMMISSION HAS CORRECTLY AND SUFFICIENTLY IDENTIFIED THE ISSUES AND THE POSSIBLE AREAS FOR EU ACTION (IN C(2020)83 FINAL OF JANUARY 14 2020)?**

- The European Commission describes many challenges correctly, especially where relating the absence of (adequate) minimum wages to in-work poverty including in many new forms of work (pp. 2-3) and gender inequalities (p. 3).
- The European Commission rightly stresses the central role of the social partners in wage-setting. Indeed, in principle wages should always be set by the social partners in all sectors, covering the de facto dependent workforce in all sectors and at all levels, with very few exceptions such as high-paid senior managerial positions.

However, especially in low-paid sectors prone to precarious employment, the power relation between the workers and employers is often so much tilted towards the latter that workers do not even dare to join a trade union or strive for a coverage via a collective agreement; and a low trade union membership is always an unpromising basis for a collective bargaining and agreement.

<sup>1</sup> See CESI position paper on minimum wages (2019): <https://www.cesi.org/wp-content/uploads/2014/02/Presidium-Resolution-minimum-wages-2019-EN-1.pdf>

<sup>2</sup> See <https://ec.europa.eu/social/BlobServlet?docId=22219&langId=en>

Here, the European Commission should take steps to strengthen social dialogue and social partner negotiations with the objective to increase the share of workers and employees covered by collective agreements. This could include soft measures such as assistance to capacity-building for trade unions as well as hard instruments award criteria for public procurement which take into consideration the coverage and respect of collective agreements.

In this context, binding minimum wage floors can be an important flanking instrument especially in low-paid sectors and areas where unions have so far not always succeeded in negotiating decent collective agreements: Measures by the European Commission to encourage an increase in the scope of collective action, in combination with the need to at least match a given statutory minimum wage level, could increase the prospect of decent wages in low-paid sectors. Ambitious minimum wage floors can also increase the pressure on other, higher paid sectors to raise their wage levels further, which would lead to an overall positive effect of a minimum wage on wage levels more generally. Importantly, also parts of the public sector would benefit from an ambitious minimum wage floor.

- The European Commission does not specify clearly if, and how, (bogus) solo self-employment can be part of the EU minimum wage framework. For this, it would need to be clarified how self-employed who offer services can at the same time join a trade union to represent them in collective bargaining without breaching national or EU competition laws. According to CESI, competition law should not outweigh the fundamental right to joint trade unions.
- The consultation document mentions the need to “*take into account possible effects on competitiveness*” when establishing or updating minimum wage floors. In line with the European Commission’s objective to further ‘an economy that works for people’, minimum wages at a level that ensures a decent living should not fall victim to arguments of competitiveness. There is in fact an economic incentive for minimum wages: More recent scientific evidence suggests that there is no relationship between wage levels and competitiveness. On the contrary, it maintains that a competitive model based on low wages proves to be economically unsustainable. Social inclusion, equality, domestic demand, an economic and social upward convergence between the EU member states and last but not least resilience in times of crisis are arguments in favour of the introduction of higher wages
- To assess the adequacy of a minimum wage (p.5), gross minimum wages would be more appropriate than net figures because gross figures allow avoiding excessively complicated and case-by-case calculations to determine the taxation and social security contributions to be deducted from gross earnings. Based on the gross minimum wage, country-specific baskets of representative goods and services, defined together by the social partners, should be established to ensure that a given gross minimum wage really translates into a decent living wage.

**DO YOU CONSIDER THAT EU ACTION IS NEEDED TO ADDRESS THE IDENTIFIED ISSUES? IF SO, WHAT SHOULD BE THE SCOPE OF THAT ACTION?**

- A binding framework for minimum wages would represent an important commitment of the EU to the implementation of principle 6 on minimum wages of the European Pillar of Social Rights.
- Action at the EU level for a binding minimum wage framework is necessary especially in the context of increasing numbers of persons being economically active in new and atypical forms of work, including via subcontracting and in (outsourced) bogus and/or dependent self-employment (the 'independent dependent') in which the risk of wage exploitation tends to be high. In the case of subcontracting, a general undertaking liability for minimum wages would effectively counter currently existing abusive employment conditions.
- EU level action for a binding minimum wage framework is also necessary in the context of the single market which should ensure that workers and employees are granted the minimum wage applicable in the country where they effectively work, and not the minimum wage of the member state in which the employer happens to have its seat on paper.
- Beyond what the European Commission already considers in the scope of action (wage adequacy, wage coverage, involvement of social partners in setting minimum wages, national mechanisms guiding the adjustments of statutory minimum wages), EU level action should specifically also consider:
  - the strengthening of union recognition, social partner negotiations and the coverage of collective action,
  - work categories such as traineeships or student jobs,
  - fiscal measures, bonuses or top-up payments by the state to counter potential challenges arising from new or higher minimum wages for companies' competitiveness, and
  - the calculation of a minimum wages based on a gross income figure, which is mapped against country-specific baskets of representative goods and services to ensure that they really translate into a decent living wage.



**WOULD YOU CONSIDER INITIATING A DIALOGUE UNDER ARTICLE 155 TFEU ON ANY OF THE ISSUES IDENTIFIED IN THIS CONSULTATION?**

CESI is not a recognised cross-sector European social partner but calls on them establish an ambitious EU-wide minimum wage framework that effectively closes existing loopholes in existing national minimum wage schemes and brings adequate (net) minimum wages to all de-facto dependent workers and solo self-employed (the 'dependent-independent'). This framework should be sensitive enough to exempt national wage-setting mechanisms by social partners which have already proven to deliver adequate wages without loopholes.

In case negotiations by the European cross-sector social partners are not possible, fail or yield unsatisfactory results, the European Commission should come forward with an ambitious legislative proposal for a binding EU framework, exploiting the full potential of articles 153 and 175 TFEU according to which the EU should *"support and complement the activities of the Member States in the field of working conditions"* and *"develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion."* This would further bring to life the social values and objectives of the EU.