

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. CESI represents public and private sector workers.

As an advocate of decent pay,¹ CESI greatly appreciates the commitment of the 'new' European Commission to fair wages for all, especially lower income earners. CESI supports many of the considerations laid out in the European Commission's consultation document C(2020)3570 final of June 6 2020.² At the same time, CESI believes that an initiative on minimum wages is only one -even if central- 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.

1. WHAT ARE YOUR VIEWS ON THE SPECIFIC OBJECTIVES OF A POSSIBLE EU ACTION SET OUT IN SECTION 5?

On point 5.1/point 6.1 'Collective bargaining'

CESI affirms that wages are best determined through collective agreements and that this should be supported and facilitated. However, they are beneficial in cases of lack of coverage and/or when they are not generally applicable.

In any case, a statutory minimum wage can have a positive, supportive effect. Measures by the European Commission to encourage an increase in the scope of the coverage of collective agreements in the workforce, 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 positive pressure to raise the general wage level. Importantly, also parts of the public sector would benefit from an ambitious minimum wage floor.

¹ 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>

² See [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=PI_COM:C\(2020\)3570](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=PI_COM:C(2020)3570)

Furthermore, CESI would welcome tying public tender awards effectively to the social clause of the Public procurement directive. Given the large monetary volumes that governments and authorities spend on public tenders, governed by binding EU minimum standards, this would represent a strong incentive and almost de-facto requirement for many companies and firms to pay minimum wages. Indeed, also in cases of subcontracting, a general undertaking liability for minimum wages would be a highly forceful tool to counter abusive employment conditions.

On point 5.2/point 6.2 'Clear national frameworks to set and update statutory minimum wages'

In order to set minimum wages at “adequate” levels, the benchmark to consider as a minimum standard should follow the spirit of the commonly accepted ‘at-risk-of-poverty’ threshold rate and be set, correspondingly, to at least 60% of the national full-time median wage.

Gross minimum wages should be pursued rather than net wages in order to avoid complicated and case-by-case calculations to determine the taxation and social security contributions to be deducted from gross earnings in order to arrive at net minimum wages. At the same time, to ensure that in all cases the fixed gross minimum full-time wage equivalents also allow for a decent real-world standard of living, country-specific baskets of representative goods and services, defined together by **all** (sic) social partners, should be established and applied to adjust the minimum wage upward, if required.

“Flexibility to account for changing socio-economic conditions and adjustment needs” when setting and updating minimum wage levels must in no circumstance mean that the minimum wage floor can fall below the ‘at-risk-of-poverty’ threshold. 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.

The minimum wages should be adjusted at least every two years, and updates of the wage levels should feature objectivity and a certain degree of automaticity, such as following the results of collective bargaining in a country.

On point 5.3/point 6.3 'Involvement of social partners in statutory minimum wage setting'

CESI calls for full involvement of **all** social partners in the whole minimum wage setting and updating processes and procedures. The EU framework should require the involvement of social partner representatives beyond those only from majoritarian unions.

On point 5.4/point 6.4 'Exemptions and variations'

Eliminating existing loopholes and exemptions among de facto dependent workers, or at least reducing to them to a bare necessary minimum (e.g. for mandatory short-term education degree-related internships), must be a central deliverable of a new EU minimum wage framework. According to CESI, the EU minimum wage framework should apply also especially to the vulnerable solo self-employed, in order to decrease precariousness in the frame of their economic activity. In this context, minimum wages for the vulnerable solo self-employed should go hand in hand with the current initiative of the European Commission to give them the right to collective bargaining.³

The framework should also apply to the public sector. However, it should be sensitive to the situation of civil servants that are falling under the so-called alimentation principle, like for instance in Germany. As the German Federal Constitutional Court has specified, "the principle of alimentation imposes the obligation on the state (Dienstherr) to appropriately support civil servants and their families as well as to grant them an appropriate maintenance according to the development of the economic and financial situation as well as the general standard of living."⁴ As such, in cases where the state 'aliments' civil servants already, providing a high level of protection in a separate legal system, it would be legally, systematically and conceptually pointless and void to apply minimum wage frameworks.

On point 5.5:/point 6.5 'Compliance and monitoring'

CESI calls for full involvement of **all** social partners in the whole minimum wage monitoring procedures and processes. The EU framework should require the involvement of social partner representatives beyond those only from majoritarian unions.

CESI stresses that an effective sanctioning system for violations by employers needs well-staffed and well-resourced national labour inspectorates to enforce minimum wages, not least also to fight bogus solo self-employment.

2. WHAT ARE YOUR VIEWS ON THE POSSIBLE AVENUES FOR EU ACTION SET OUT IN SECTION 6.1 OF THIS DOCUMENT?

See combined answer to section 5 and 6.1 above in the reply to question 1.

3. WHAT ARE YOUR VIEWS ON THE POSSIBLE LEGAL INSTRUMENTS PRESENTED IN SECTION 6.2?

CESI calls for an EU directive with binding requirements. A recommendation with non-binding provisions is not likely to make a difference in the Member States.

³ CESI statement on the right to collective bargaining: <https://www.cesi.org/cesi-on-the-right-to-collective-bargaining-for-the-self-employed/>

⁴ See https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2017/05/rs20170523_2bvr088314en.html

4. ARE THE EU SOCIAL PARTNERS WILLING TO ENTER INTO NEGOTIATIONS WITH A VIEW TO CONCLUDING AN AGREEMENT UNDER ARTICLE 155 TFEU WITH REGARD TO ANY OF THE ELEMENTS SET OUT IN SECTION 5 OF THIS DOCUMENT?

CESI is not a recognised cross-sector European social partner but calls on them to 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 especially the vulnerable solo self-employed. The framework should be sensitive enough to exempt national wage-setting mechanisms by social partners which have already proven to deliver adequate wages without loopholes, and consider the situation of civil servants paid under the alimentation principle (see comment above).

In case negotiations by the European cross-sector social partners are not possible, are used to just filibuster, 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 the Treaties. This would further bring to life the social values and objectives of the EU. An ambitious and binding EU minimum wage framework would mean concrete and tangible improvements in employment for many workers across Europe and be an important opportunity to deliver on 'social Europe' and implement the European Pillar of Social Rights.