

Second phase consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages

Before entering into the detail of the questions raised in this document, CEC European Managers would like to state its support for the overall policy objective to guarantee that in every EU country mechanisms are in place to identify a minimum wage level that applies to all those who are involved in work, independently from the formal employment status that they enjoy, the sector in which they are active or any other criteria. As stated in its response to the first-stage consultation, CEC European Managers esteems that the objective of ensuring that working “pays” at a level “that is sufficient to guarantee the basic living standards (and a meaningful participation in society) is in the first place a duty that our societies – which all share the common belonging to the « European social model » - need to fulfil”. Additionally, it is also important to remind the beneficial effects a robust wage dynamics can have on consumption and other macro-economic indicators of the economic activity of a country, among which – declined for the specificity of the role minimum wages play in the overall wage policy – significant positive “spillover” effects.

This consultation comes at a very timely moment, when we – collectively - are asked to reflect on the impact that the Covid crisis has had on our societies, the way they organize work and assess the contribution to general welfare of the different groups in which the labour force is structured. The reflections expressed in the document about how the groups most affected during the crisis are at the same time those for which low-wage occupations are most frequent demonstrate a reality that needs to be tackled, also in respect to the phenomenon of “in-work poverty”, which (as the analytical document provided by the European Commission states) is on the rise in Europe and disproportionately affects precisely these categories of workers. The Commission had identified this point as essential for the strengthening of social Europe in 2017 through point 6 of the European Pillar of Social Rights, which provides that “Workers have the right to a fair wage allowing a decent standard of living. ”. At a time when the European Commission is conducting a major consultation aimed at establishing an action plan for the concrete implementation of the European Pillar of Social Rights, the adoption of an initiative on fair minimum wages would be coherent and could help meet the challenges.

Besides the reflection about the “what” – the objective of ensuring that all European countries set rules and procedures for identifying a minimum threshold below which wages cannot be considered as “decent” and therefore compatible with EU social values – the present consultation (and in general the whole exercise EU social partners are asked to perform) calls also for reflecting on the “how”. Precisely on the “how” such objective could be achieved, the debate that has sparked among and within social partner organizations, as well as other civil society groups and even ordinary citizens on this topic testifies how still highly diversified the perception of the role of social Europe (and its concrete implementation) can be. In this respect, CEC wishes to bring forward the clarification, repeated once again in the text of this consultation, that “any possible EU action in the field of minimum wages would neither seek to harmonise the level of minimum wages across the EU nor to establish a uniform mechanism for setting minimum wages. It would also respect national traditions, social partners’ autonomy and the freedom of collective bargaining”. The reference to the respect of national traditions and social partners’ autonomy extends clearly to excluding not only that a uniform model of statutory minimum-wage setting should apply to all Member States, but also that EU countries should be bound to introducing such a mechanism if foreign to their national industrial relations “culture” . At a moment when Europe needs more than ever political cohesion and policy “understanding” to overcome its differences and embark jointly on the path towards recovery, it is of the outmost importance to propose initiatives that would not be perceived as an unjustified intrusion in the domestic domains of competence and are therefore more likely acceptable by the greatest number of Member States.

1. What are your views on the specific objectives of a possible EU action set out in section 5?

CEC European Managers shares to a large extent the specific objectives identified in the document, as they correctly identify the areas to be covered.

An effective and pervasive collective bargaining system is a precondition for well-functioning labour markets. Countries where social dialogue – of which solid collective bargaining is the core - is strong show more resilience, are better at facing and solving more quickly imbalances of the labour markets and generally demonstrate more competitiveness. Incidentally, they are also the countries where wage levels are usually higher and disparities more reduced. Furthermore, a wide diffusion of collective bargaining reduces the areas of the labour market for which setting an “external” minimum wage becomes necessary. As a social partner organization representing the interests of managers, CEC European Managers strongly supports any initiative aiming at reinforcing

the capacity of representatives of economic actors to negotiate autonomously, ensuring a fair coverage and providing additional guarantees for a correct implementation of the measures adopted. The strengthening of collective bargaining is also achieved by clearly formalizing the principle that, in those countries where statutory minimum wage provisions are applied, the intervention of social partners is guaranteed at all stages of the legislative process, in a way that ensures their effective involvement and the possibility for them to share their informed views.

The observations above call for the definition of clear, predictable and well-defined schemes identifying the procedures for the setting of minimum wage, regulating the interaction among the different actors that are involved in the process of wage setting (according to the specificity of the national system) and setting precise rules for regular updating of the levels.

Finally, reinforcing the capacity of the system to effectively implement and enforce legislative provisions is a “transversal” objective, that every policy initiative should be aiming to pursue. In this respect too, social partners have a major role to play, supporting and complementing the action of public authorities and other “actors” responsible for monitoring (such as labour inspectorates and local employment agencies)

2. What are your views on the possible avenues for EU action set out in section 6.1 of this document?

Coherently with the position held in the previous question, the definition of the avenues for EU intervention mentioned in the text are valid.

Concerning the support to collective bargaining, this should be achieved as a general objective (irrespective and independently from its recourse in the context of minimum wage setting), especially if one takes into consideration the declining trend in the coverage of collective bargaining that all EU countries have been experiencing in the last decades (as the analytical document in attachment to this document extensively points out). The proposed initiative should acknowledge as a starting point the importance of incentivizing the uptake of collective bargaining, as an efficient tool that allows for a quicker and more effective “regulation” of the system, thus indirectly acknowledging and safeguarding the specificities of those countries where collective bargaining proves effective. Additionally, the initiative should focus on ensuring that all EU countries acknowledge and respect the diversity of social partnership, based on the value of representativeness “adjusted” to the specificities of the different categories that compose the workforce and the representatives

of the employers. To allow for this, access to collective bargaining should be guaranteed to all categories of workers, including managers, as well as to all sectors. In this respect, the importance of capacity building as a mechanism to provide social partners with the right resources and tools to ensure their effective presence on the field should be reflected and stressed in the context of this initiative, too.

When it comes to the identification of the mechanisms for an effective participation of social partners in the wage-setting process when national legislation foresees a responsibility of the legislator, it is essential that the initiative sets the need for stable, structural and meaningful involvement. Provisions regulating the modalities of the process must underline the primary role social partners have in it, to stress the idea that it is only the representatives of the two sides of the industry who know better than anyone else the criteria to be followed. Their consultation must be timely and to a maximum extent binding for policy-makers; the analytical document also mentions the case of those countries where independent expert bodies provide a basis for public decision: also in these cases, the contribution of social partners should not be limited to a simple advisory function, but should be strengthened and made – when relevant - overriding.

The attention to an effective involvement of social partners, ensured by the provision of specific rules clearly identified by the law, is part of the overall necessity to formalize the procedures that have to be followed in the wage-setting process: the initiative should aim at obtaining that Member States not only specify what actors are entitled to participate in the process and what roles each of them plays, but also how the other components of the wage-setting mechanisms are defined. These include for instance the regularity at which updates are required, the criteria to follow – including for instance a list of macro-economic indicators to be taken into consideration. It would also be necessary to include a non-regression clause, to preserve the level of protection already ensured by national collective bargaining systems and enforce the principle that, in those countries where coverage is extensive, the application of the minimum wage is only “residual”.

Looking at the aspect of enforcement and compliance, next to the reinforcement of Member States’ surveillance and fraud-detection systems, it is necessary to increase the capacity of national authorities to collect reliable and complete information about the actual prevalence of minimum-wage on the job market. Also in this respect the cooperation of social partners can be significant. Finally, in this respect, CEC European Managers had already identified in the first-stage consultation the support to the collection of data (in the prospect of their European comparability) as one of the objectives of a possible EU initiative.

3. What are your views on the possible legal instruments presented in section 6.2?

Without entering a debate on the issue from a purely legal perspective, focused on the feasibility of either of the two solutions mentioned in the text (directive or recommendation), it is preferable to express an opinion from the point of view of the opportunity of the initiative, bearing in mind the “how” mentioned in the introduction to this paper. In this light, CEC European Managers adheres to the position already expressed in the first-stage consultation, considering a recommendation as the most effective tool.

In the words used in the first-stage consultation, “To do so, we suggest to consider the recourse to a recommendation, which would give the dimension of the commitment of the European Commission to take a clear position on the issue while at the same time ensuring the full respect of national competences in this field. The recommendation could identify the common objective to reach throughout the Union – ensure every working person in the EU a level of salary that is sufficient to guarantee the basic living standards and allow for his/her full participation in the society) – and provide some technical alternatives on the modalities for the setting of the level of the salary, with the clear reference to the full acknowledgement of the preliminary competence of national social partners in identifying them (and in full respect of national models, traditions and legislative provisions ». The recommendation should also provide the ground to improve the coordination of national practices in the field of the collection of data and information, as well as the identification of mechanisms for benchmarking and best-practice exchange.

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?

As a European social partner organization, CEC European Managers as a principle supports the opportunity to debate with the other social partner organizations, every time an issue relating to the employment and social conditions in Europe is raised. Also in this case, given the intensity of the discussion sparked by this initiative and the consultation, it is important that European social partners that declare their readiness to discussing be given the possibility to do so. For this reason, CEC European Managers would be ready to consider starting negotiating, should the other social partner organizations express such readiness, to exchange overtly and transparently about the mutual views and expectations in a formalized context.