



HOTREC Position Paper on “Adequate minimum wages in the EU”

GENERAL REMARKS

HOTREC takes note of the Commission proposal for a Directive on “Adequate minimum wages in the European Union” (COM(2020)682 final).

HOTREC fully supports the main objectives of the Directive: **improving the adequacy of minimum wage across Europe and the access of workers to minimum wage protection in the EU.**

Nevertheless, HOTREC **deeply regrets the choice of instrument** chosen by the European Commission

as expressed in the two-stage social partner consultation. **A Council Recommendation would have been the correct instrument to put forward.**

In any case, HOTREC is willing to explain its views to both the European Parliament and the Council and hopes that its position is taken into account.

What is the way forward?

- Encourage the continuation of well-established collective bargaining on minimum wage settings considering different economic and social factors such as taxation; career and training opportunities; social benefits
- Support a stronger involvement of social partners in setting statutory minimum wages (with the agreement of social partners and in respect of national competences)
- Support the respect for statutory minimum wage systems
- National and EU skills policies should be developed to allow better productivity of low skilled workers. This will then originate better incomes for those workers
- International indicators should be deleted from the text. They don't take into account political, economic, social or national traditions of the different countries and might increase the pay gap between countries
- Promote different forms of work: this will motivate workers to hire more. Moreover, it will improve work-life balance; support career choices; foster social inclusion; enable personal choices
- Use the European Semester process to implement effective structural reforms, boost investment strategies and encourage responsible fiscal policies
- All the above will help tackle poverty and safeguard good living conditions across Europe.

ECONOMIC CONTEXT

According to the European Commission's Communication Europe's moment: Repair and Prepare for the Next Generation¹, **travel and tourism is one of the most affected ecosystems by the COVID-19 and requires € 161 billion² worth of investment** to bounce back to pre-crisis levels.

COVID-19 crisis is putting the **survival of companies** in our sector at risk and **millions of jobs are at stake**.

Before COVID-19, the hospitality sector, the voice of hotels, restaurants, and cafés, provided 12 million jobs, represented 2 million companies (90% of them are micro-enterprises) and contributed with 5% of the GDP to the EU economy.

Nevertheless, during March and May 2020, most hotels, bars, restaurants, cafés were closed either due to the lockdown measures or due to the lack of customers (no consumer trust and travel restrictions). During Q2 2020, the sector's turnover in the EU dropped by 63.25% compared to Q2 2019³.

Despite the fact that since June 2020 most companies re-opened again, the summer was still a challenge for the sector across Europe. According to Eurostat, some Member States recorded drops in overnight stays of 90%⁴. Food and beverage services also recorded massive drops in turnover during Q2 2020 across the EU (the turnover was divided by at least 2 in most EU countries compared to Q2 2019)⁵.

Overall, and in employment terms, the European Commission foresees a decrease of 6 million jobs for the tourism sector in the months ahead⁶. Comparing Q2 2020 to the same time range in 2019, a 19% drop of employment in accommodation, food service and beverage was witnessed, meaning that 1.84 million jobs lost.

Moreover, since early October 2020, a second wave of lockdown/partial lockdown or restrictive measures are being taken by Member States. National measures directly target the hospitality sector and imply either the closure of restaurants, cafés and bars or curfew measures mandatory to all citizens. Bankruptcies are expected to hit thousands of establishments.

Now it is not the correct time to put forward a Directive on adequate minimum wage.

SECTOR SPECIFICITIES

It is also to take into account that 90% of the 2 million companies represented by the sector are micro-enterprises (while 9.8% are SME's). This means that the sector has low profit margins. Without a certain profit margin it is not possible to develop a business (and even harder to develop actions related to re-skilling, upskilling or making the business ready to meet the digital transition challenges, or becoming more environmental friendly).

EUROPEAN COMMISSION IMPACT ASSESSMENT

The European Commission Impact Assessment acknowledges that the proposal **will increase minimum wages** in half of the Member States. Nevertheless, this also means **increased labour costs for firms, increased prices and lower profits**⁷.

The Commission impact assessment predicts that 3/4 of the economic costs of higher minimum wages are borne by consumers, while 1/4 is borne by firms. HOTREC has doubts on this assumption. In fact, due to COVID-19, and as mentioned before, unemployment raised all over Europe, while companies in the hospitality sector strive to bring the customer confidence back. Under these circumstances, prices cannot increase, otherwise there won't be any customers. On the contrary: marketing strategies need to be developed to attract clients to our industry. Moreover, our sector is highly competitive. This means that

¹COM(2020)456 final.

²SWD(2020)98 final.

³Eurostat [source](#).

⁴Bulgaria, Greece, Spain, Italy, Portugal, Hungary, Malta and Finland.

⁵Eurostat [source](#).

⁶COM(2020)550 final.

the costs would fall mostly on the companies (not on consumers). As a consequence, **employment might be cut**, as companies will not have the economic capacity to pay the correspondent mandatory salaries. In any case, even the impact assessment foresees a **negative impact on employment** of 0.5% of total employment in most cases (but recognizes this could reach 1% in three Member States)⁸.

Overall, and given the present COVID-19 crisis, measures should be taken by the EU to help the sector survive (and not to bring more economic burdens to the already challenging reality).

In addition, minimum wages should not be confused with salary raise. Increases in salary should not be automatic, but directly related with **productivity and performance levels by workers**.

LEGAL BASIS AND INSTRUMENT

Article 153/5 of TFEU and different European Court of Justice (ECJ) ruling stipulate that the EU has no competence to introduce a binding legal instrument on the level of pay.

In its essence the Directive does not determine the level of minimum wages in Member States. Nevertheless, the text interferes with the independence of social partner's collective bargaining and with the statutory national systems in place (see arguments under the general provisions section).

In addition it gives ECJ the right to dictate through court rulings whether the level of minimum wage in a member state is adequate or not.

It is to be noted that an **absolute majority of Member States in the Council favoured a Council Recommendation**. At the same time, and during the consultation procedure, **employers showed unanimously a clear opposition to a legal binding instrument** and proposed a Council Recommendation as a possible solution.

A Council Recommendation would have been a much more appropriate instrument, as it would not imply a direct implementation of the text in all Member States. At the same time, Member States would, in any case, need to find ways to implement the principles that would have been established in the Recommendation.

ANALYSIS OF MOST RELEVANT ARTICLES

Article 1 (subject) + Article 13 (implementation)

Article 1 of the present text tries to protect the independence of both traditional collective bargaining structures (developed in 6 member States⁹) and statutory minimum wages set by law (in place in 21 Member States).

Nevertheless, these safeguards might not be viable to implement at national level, **due to the legally binding nature of the text** and because the Directive will be subject **of interpretation by the ECJ**.

For instance, Art. 13 allows Member States to entrust social partners with the implementation of the Directive. Nevertheless, it adds that it is also up to Member States to take all necessary steps to ensure that the results thought by the Directive are guaranteed at all times. This undermines the freedom of social partners to decide.

Article 3 – Definitions

Definitions such as collective bargaining, collective agreement and collective bargaining coverage in a legal document **should be set at national level or left to social partners to decide**. Otherwise, subsidiarity might be undermined or the autonomy of collective bargaining not respected.

We **support** the fact that statutory minimum wage is **set by law** or other **legally binding** provision.

⁷ Commission Staff Working document on adequate minimum wages: [link](#)

⁸ COM(2020)5682 final – page 10.

⁹ Denmark, Italy, Cyprus, Austria, Finland and Sweden.

Article 4 – Promotion of collective bargaining on wage settings

Well-functioning collective bargaining in wage settings ensures that workers are protected, implies that both employers and employees are represented and ensures that wage conditions are consistent with worker's and employee's needs.

As highlighted during the consultation phase, HOTREC **welcomes more involvement of social partners in setting minimum wages and in encouraging the development of constructive and informed negotiations**. Nevertheless, we don't understand how this type of recommendation can fit in a binding document.

In fact, by making it mandatory, **the autonomy of social partners is not being respected, as well as the national competences**. Actually, **social partners need to be willing to do it** (this should not be an imposition), while **statutory national systems** need to be **respected**.

In addition, art. 4/2 imposes to Member States where collective bargaining coverage is less than 70% to provide a regulatory framework (either by law after consulting social partners or in agreement with them). This provision **does not respect collective bargaining systems** where wages are determined by social partners alone. As it is, the provision allows Member States and courts to interfere on collective bargaining (instead of allowing social partners to discuss alone). If this is the case, certain collective bargaining systems might start being ruled by Chapter II of the proposed text.

Moreover, art. 4/2 might imply that all companies and workers will probably be included in the collective agreements (even if not enrolled in an employer association or trade union). This directly interferes on the autonomy of collective bargaining agreements.

It is also to note that some workers are not covered by collective agreements, as they have high salaries.

HOTREC proposes that art. 4/2 is deleted from the text.

Article 5 – Adequacy (and international indicators – recital 21)

Art. 5 stipulates criteria to promote the adequacy of statutory minimum wages. We believe, the article does not respect Art. 153/5 of TFEU, which rules out the possibility for the EU to legislate on payment.

In any case, art.5/2 should include a broader economic perspective, namely:

- The concepts of “employment” and “competitiveness” (in accordance with recital 21)
- Foreseeing training possibilities

Art.5/2/b & c includes gross wages in the criteria. We don't support this approach. We consider that the right criteria is the **total labour cost** (including taxes and social contributions, which are sometimes agreed in collective bargaining agreements).

It is to take into account that if minimum wages become higher in certain countries, social partners might find it more difficult to agree upon at sectoral and company level. At the same time, unemployment might raise, especially for the small companies.

HOTREC agrees with the objective of the national legislator and/or social partners to provide for national frameworks allowing for statutory minimum wages to be set and regular updates to be established according to clear and stable criteria. But this should be done in respect of the national competences. .

International indicators

We are also extremely concerned with recital 21 of the proposed Directive, referring to the use of indicators at international level, such as 60% of the gross median wage and 50% of the gross average wage for the following reasons:

- These indicators do not take into account the **political, economic or social context of the different countries or national traditions in place**;
- The EJC might rule on the topic;
- The indicators **are aimed at equality, not poverty reduction**. In fact, the 60% target is not enough to avoid poverty in low-wage countries. And in high-wage countries, on the other hand, the target is far too high and prevents the employment of young, unqualified workers, in particular. In the current

labour market situation, this is harmful.

- In fact, these indicators **might increase the pay gap between countries**. As the graphs in Annex 1 show, some countries that have a minimum wage legislation in place, fulfil 60 % of median wage criterion. Nevertheless, the amount of the hourly minimum wage is only a few euros, as the wage level in country is very low. At the same time, some other Member States imposing similar legislation would not fulfil the 60 % criterion although the amount of the hourly minimum wage is almost 10 euro. It might happen that the measures proposed by the draft Directive lead to an increase of salaries in the Member States where salaries are already quite high. But the measures might have a small effect in the Member States where salaries have lower minimum wages.

For these reasons, HOTREC proposes the **deletion of the reference to indicators or international level**. The system is not viable and does not take into account the different economies.

Article 6 – Variations and deductions

According to the proposal, variations are very limited, and deductions from the minimum wage have to be objectively justified and proportionate. These limits can undermine minimum wage exemptions and variations agreed by social partners or designed by national legislation.

In addition, this level of detail can lead to different ECJ ruling.

Article 7 – Involvement of social partners in statutory minimum wage setting and updating

We fully agree with the objective of further involving the social partners in statutory minimum wage setting and updating. The existence of regular formal consultation mechanisms could be considered.

Nevertheless, this further involvement should be done **in agreement with the social partners** themselves otherwise it can jeopardise their autonomy.

At the same time, it is crucial that **national competences are respected** (which is not the case with the current wording of art.5).

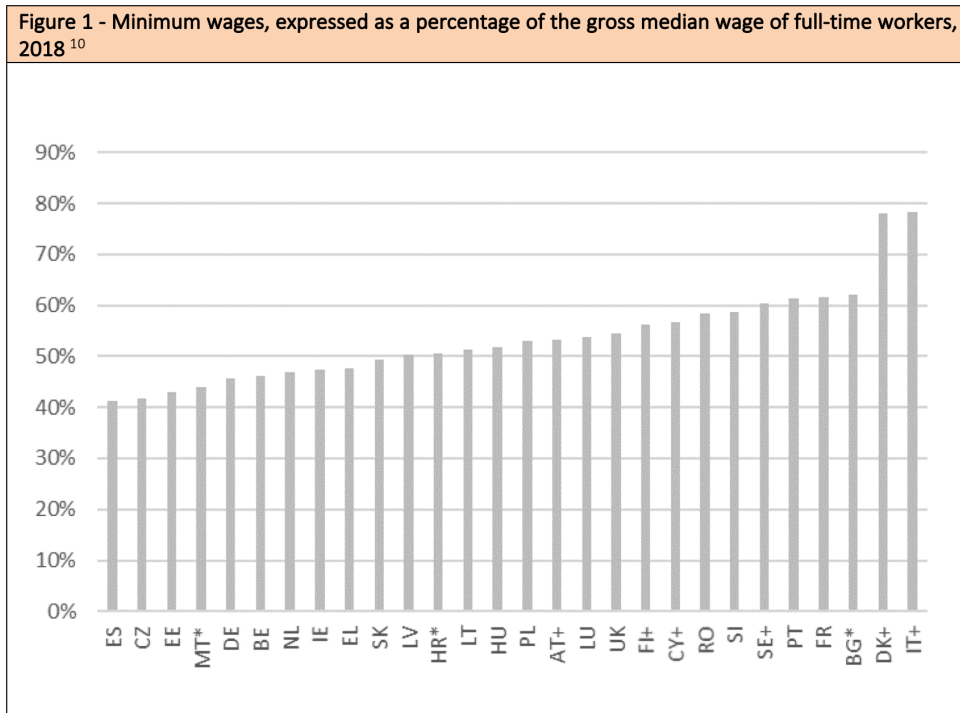
Article 16 – Non-regression and more favourable provisions

The Directive foresees the possibility of having a more favorable provision. Nevertheless, social partners cannot agree on lower terms. This deprives the social partners of their ability to negotiate different terms of employment.

All in all, HOTREC is looking forward to discuss both with the European Parliament and the Council on the aforementioned topics and hopes that our opinion is taking into account.

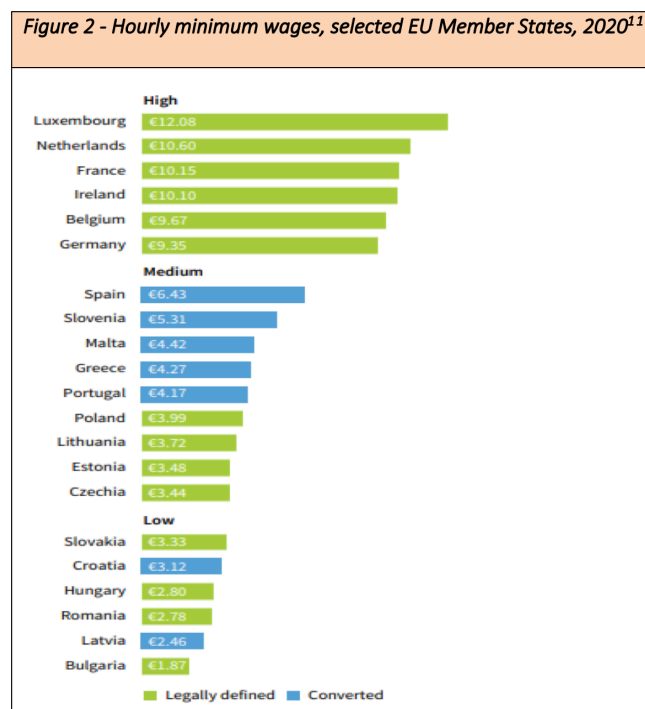
Flexibility should be kept taking into account both social partners' views, as well as the respect of statutory minimum wages.

ANNEX I



Source: OECD Stats and Commission calculations based on OECD TaxBen and Eurofound data.

Notes: For BG, HR and MT, OECD Tax-Benefit data are used for the median wage. + For AT, CY, DK, FI, IT and SE, information on collectively agreed wage floors was taken from Eurofound (2019): Minimum wages in 2019 - Annual review, while information on median wages was taken from the OECD Tax-Benefit model.



¹⁰ European Commission, first consultation, of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages, page 13.

¹¹ Eurofund: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef20005en.pdf.