



2020/0310(COD)

20.4.2021

DRAFT OPINION

of the Committee on Women's Rights and Gender Equality

for the Committee on Employment and Social Affairs

on the proposal for a directive of the European Parliament and of the Council
on adequate minimum wages in the European Union
(COM(2020)0682 – C9-0337/2020 – 2020/0310(COD))

Rapporteur for opinion: Lina Gálvez Muñoz

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SHORT JUSTIFICATION

For the International Labour Organization (ILO), the purpose of minimum wages is to protect workers against unduly low pay, since they help to ensure a just and equitable share of the fruits of progress to all, and a minimum living wage to all who are employed and in need of such protection. Minimum wages can also be one element of a policy to overcome poverty and reduce inequality, including those between men and women.

This last point is especially relevant having in mind that some studies as Eurofound “Minimum wages in 2020: Annual review”¹, show while women constitute 48% of employees at the European Union, they make up 59% of minimum wage earners. In fact, the majority of minimum wage earners in Europe are women. Women are too one of the main sub-minimum wage earners as well are young workers, workers with lower education, or rural workers with dependent children.

This is especially relevant in some sectors that have proved to be essential during the COVID19 pandemic, as the paid long-term care one. Figures show that around four-fifths (81%) of the EU’s Long Term Care workforce was female, while one-fifth (19%) was male and the biggest impacts of the COVID-19 crisis have been experienced by women working in low-paid services sectors, as care one is².

Care can be provided on unpaid and paid basis, and within paid basis, could be provided from the public sector or from the private one, within formal or informal work arrangement, making this sector extremely sensible to overcome minimum wages agreements especially when talking about domestic workers. Policy action to improve working conditions in Long Term Care and to improve access to high-quality jobs in this sector has a gender dimension, so why extending minimum wages to cover domestic workers can extensively contribute to reducing inequality.

In addition, the current crisis presents an opportunity to re-evaluate the adequacy of wages in some mostly female-dominated low-paid sectors, which have proved to be essential and of a great social value during the crisis³. In this sense, the European Framework Directive has to contribute to upward social and wage convergence and to fight against poverty, inequalities and the gender pay gap, especially to avoid undervaluing of work predominantly done by women. Therefore, deductions from fair minimum wage must be prohibited. Actually, some Member States employers are allowed to modify the payment of minimum wages by introducing deductions or including bonuses, tips or seniority payments in the calculation of the wage. Deductions from statutory minimum wage, such tips and other extra-payments, must be excluded from the calculation of the minimum wages in order to end any unfair practices⁴.

¹ [Minimum wages in 2020: Annual review \(europa.eu\)](#).

² [Public services - Long-term care workforce: Employment and working conditions \(europa.eu\)](#).

³ [Women and labour market equality: Has COVID-19 rolled back recent gains? \(europa.eu\)](#).

⁴ https://www.theguardian.com/society/2021/mar/19/sleep-in-care-workers-not-entitled-minimum-wage-supreme-court?utm_term=Autofeed&CMP=tw_t_gu&utm_medium&utm_source=Twitter#Echobox=1616150141.

The gender employment gap (11.4 %), gender pay gap (14 %) and gender pension gap (30 %) remain unacceptably high and the close of the gender employment gap is a social and economic imperative also for reducing poverty and child poverty. The use of intersectional disaggregated data by gender and the periodical assessment are needed in order to check the advance of improving employment opportunities for women and different groups of women. Ensuring equal pay and facilitating a good work-life balance, also for men, are vital to sustainable economic growth and development, productivity, and long-term fiscal sustainability in the EU and their population well-being including children.

AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Employment and Social Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) According to the International Labour Organization (ILO), the purpose of minimum wages is to protect workers against unjustifiably low pay, which is predominant in the care sector. Policy to improve working conditions and access to high-quality jobs in long-term care has a gender dimension, and extending minimum wages to cover care workers can extensively contribute to reducing inequality.

Or. en

Amendment 2

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) During economic downturns, such as the COVID-19 crisis, the role of minimum wages in protecting low-wage workers is particularly important and is essential for the purpose of supporting a

sustainable and inclusive economic recovery. The COVID-19 crisis presents an opportunity to reassess the adequacy of wages in some low-paid, mostly female-dominated, sectors that have proven to be essential and of great social value during the crisis.

Or. en

Amendment 3

Proposal for a directive Recital 8

Text proposed by the Commission

(8) Women, young and low-skilled workers and persons with disabilities have a higher probability of being minimum wage or low wage earners *than other groups. During economic downturns, such as the Covid-19 crisis, the role of minimum wages in protecting low-wage workers becomes increasingly important and is essential to support a sustainable and inclusive economic recovery.* Addressing minimum wage contributes to gender equality, closing the gender pay and pension gap as well as elevating women out of poverty.

Amendment

(8) Women, young and low-skilled workers and persons with disabilities *still* have a higher probability of being minimum wage or low wage earners. Addressing minimum wage contributes to gender equality, closing the gender pay and pension gap as well as elevating women *and their children* out of poverty. *Ensuring equal pay and facilitating a good work-life balance, including for men, are vital to sustainable economic growth and development, productivity, and long-term fiscal sustainability in the Union.*

Or. en

Amendment 4

Proposal for a directive Recital 12

Text proposed by the Commission

(12) Not all workers in the Union are protected by minimum wages. In some Member States some workers, even though they are covered, receive in practice a remuneration below the statutory minimum wage due to the *non-respect of* existing rules. In particular, such non-compliance has been found to affect notably women,

Amendment

(12) Not all workers in the Union are protected by minimum wages. In some Member States some workers, even though they are covered, receive in practice a remuneration below the statutory minimum wage due to the *failure to respect* existing rules *and due to current variations of and deductions from the statutory minimum*

young workers, people with disabilities and agricultural workers. In Member States where minimum wage protection is provided only through collective agreements, the share of workers not covered is estimated to vary from 2 % to 55 % of all workers.

wage. In particular, such non-compliance has been found to affect notably women, young workers, **low-skilled** workers, people with disabilities and agricultural workers. In Member States where minimum wage protection is provided only through collective agreements, the share of workers not covered is estimated to vary from 2 % to 55 % of all workers.

Or. en

Amendment 5

Proposal for a directive Recital 17

Text proposed by the Commission

(17) This Directive should apply to workers who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, with consideration to the criteria established by the Court of Justice of the European Union for determining the status of a worker. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, bogus self-employed, platform workers, trainees and apprentices could fall within the scope of this Directive. Genuinely self-employed persons do not fall within the scope of this Directive since they do not fulfil those criteria. The abuse of the status of self-employed persons, as defined in national law, either at national level or in cross-border situations, is a form of falsely declared work that is frequently associated with undeclared work. Bogus self-employment occurs when a person is declared to be self-employed while fulfilling the conditions characteristic of an employment relationship, in order to avoid certain legal or fiscal obligations. Such persons should fall within the scope of this Directive. The determination of the existence of an employment relationship

Amendment

(17) This Directive should apply to workers who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, with consideration to the criteria established by the Court of Justice of the European Union for determining the status of a worker. Provided that they fulfil those criteria, **workers in both the private and the public sectors, workers whose pay is calculated on the basis of output, where permitted by national law**, domestic workers, on-demand workers, intermittent workers, voucher based-workers, bogus self-employed **persons**, platform **workers**, **other non-standard** workers, trainees and apprentices could fall within the scope of this Directive. Genuinely self-employed persons do not fall within the scope of this Directive since they do not fulfil those criteria. The abuse of the status of self-employed persons, as defined in national law, either at national level or in cross-border situations, is a form of falsely declared work that is frequently associated with undeclared work. Bogus self-employment occurs when a person is declared to be self-employed while fulfilling the conditions characteristic of an

should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

employment relationship, in order to avoid certain legal or fiscal obligations. Such persons should fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

Or. en

Amendment 6

Proposal for a directive Recital 21

Text proposed by the Commission

(21) Minimum wages are considered adequate if they **are** fair **in relation to the** wage distribution in the country and if they provide a decent standard of living. The adequacy of statutory minimum wages is determined in view of the national socio-economic conditions, including employment growth, competitiveness as well as regional and sectoral developments. Their adequacy should be assessed at least in relation to their purchasing power, **to the productivity developments and to** their relation to the gross wage levels, distribution and growth. The **use of indicators commonly used at international level, such as** 60 % of the gross median wage and 50 % of the gross average wage, can help guide the assessment of minimum wage adequacy in relation to the gross level of wages.

Amendment

(21) Minimum wages are considered **to be** adequate **and** fair if they **improve** wage distribution in the country and if they provide a decent standard of living **for workers and their families on the basis of a full time employment contract**. The adequacy of statutory minimum wages is determined in view of the national socio-economic conditions, including employment growth, competitiveness as well as regional and sectoral developments. Their adequacy should be assessed at least in relation to their purchasing power, their relation to the gross wage levels, distribution and growth. The **internationally recognised level of** 60 % of the gross median wage and 50 % of the gross average wage, can help guide the assessment of minimum wage adequacy in relation to the gross level of wages.

Or. en

Amendment 7

Proposal for a directive Recital 22

Text proposed by the Commission

(22) To promote adequacy of minimum wages for all groups of workers, ***variations and deductions from*** statutory minimum wages ***should be limited to a minimum, while ensuring that social partners are duly consulted in their definition. Some deductions to*** statutory minimum wages ***may be justified by a legitimate aim, including overstated amounts paid or deductions ordered by a judicial authority. Others, such as*** deductions ***related to the equipment necessary to perform a job or deductions of*** allowances ***in kind***, such as accommodation, ***may be unjustified or disproportionate.***

Amendment

(22) To promote ***and ensure the*** adequacy ***and fairness*** of minimum wages for all groups of workers, ***it is necessary to apply the principle of equal treatment. The exclusion of any worker from the protection of a*** statutory minimum wage ***cannot be justified. Variations of*** statutory minimum wages ***as well as*** deductions ***resulting in levels of wages below the statutory minimum wage undermine the principle of equal treatment of workers and the objective of this Directive. Work-related expenses, such as*** equipment necessary to perform ***the job, or in-kind*** allowances, such as accommodation, ***should therefore not be deducted from statutory minimum wages. Extra payments, such as tips, overtime and end-of-year and holiday payments and bonuses, should not be included in the calculation of statutory minimum wages.***

Or. en

Amendment 8

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

1. Member States with statutory minimum wages shall take the necessary measures to ensure that the setting and updating of statutory minimum wages are guided by criteria ***set to promote*** adequacy with the aim ***to achieve decent*** working and living conditions, social cohesion and upward convergence. Member States shall define those criteria in accordance with their national practices, either in relevant national legislation, in decisions of the competent bodies or in tripartite agreements. The criteria shall be defined in a ***stable and*** clear way.

Amendment

1. Member States with statutory minimum wages shall take the necessary measures to ensure that the setting and updating of statutory minimum wages are guided by criteria ***to ensure*** adequacy ***and fairness*** with the aim ***of improving*** working and living conditions, ***social protection***, social cohesion and upward convergence, ***as well as preventing and reducing poverty, especially child poverty.*** Member States shall define those criteria in accordance with their national practices, either in relevant national legislation, in decisions of the competent bodies or in tripartite agreements. The criteria shall be

defined in a clear way.

Or. en

Amendment 9

Proposal for a directive Article 6 – title

Text proposed by the Commission

Amendment

Variations and deductions

Equal treatment and deductions

Or. en

Amendment 10

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States *may allow different rates of statutory* minimum wage *for specific groups of workers*. Member States shall *keep these variations to a minimum, and ensure that any variation is non-discriminatory, proportionate, limited in time if relevant, and objectively and reasonably justified by a legitimate aim.*

1. Member States *shall ensure equal treatment of workers in the application of* minimum wage *protection*. Member States shall ensure that *statutory minimum wages, where they exist, apply to all workers.*

Or. en

Amendment 11

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States *may allow* deductions *by law* that reduce the remuneration paid to workers to a level below that of the statutory minimum wage. *Member States shall ensure that these deductions from* statutory minimum wages *are necessary, objectively justified and proportionate.*

2. Member States *shall ensure that there are no* deductions, *such as work-related expenses*, that reduce the remuneration paid to workers to a level below that of the statutory minimum wage. *Extra payments, such as tips, overtime and end-of-year and holiday payments and bonuses, shall be excluded from the*

calculation of statutory minimum wages.

Or. en

Amendment 12

Proposal for a directive

Article 7 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the establishment of variations and deductions in statutory minimum wages referred to in Article 6;

deleted

Or. en

Amendment 13

Proposal for a directive

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall task their competent authorities **with developing** effective data collection tools to monitor the coverage and adequacy of minimum wages.

1. Member States shall task their competent authorities, **in collaboration with social partners, with the development of** effective data, **disaggregated by gender and with an intersectional approach,** collection tools to monitor the coverage and adequacy of minimum wages.

Or. en

Amendment 14

Proposal for a directive

Article 10 – paragraph 2 – point a – point ii

Text proposed by the Commission

Amendment

(ii) the existing variations and the share of workers covered by them;

deleted

Or. en

Amendment 15

Proposal for a directive

Article 10 – paragraph 2 – point a – point iii

Text proposed by the Commission

Amendment

(iii) *the existing deductions;*

deleted

Or. en

Amendment 16

Proposal for a directive

Article 10 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall assess the data transmitted by the Member States in the reports referred to in paragraph 2, and shall report *annually* to the European Parliament and to the Council.

4. The Commission shall assess the data transmitted by the Member States in the reports referred to in paragraph 2, and shall *submit an annual* report to the European Parliament and to the Council. *The European Parliament and the Council may submit observations on that report. The report shall take into account a gender perspective.*

Or. en