



Council of the  
European Union

Brussels, 30 October 2020  
(OR. en)

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**Interinstitutional File:**  
**2020/0310(COD)**

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12477/20  
ADD 1

SOC 653  
EMPL 475  
CODEC 1080

#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	29 October 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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No. Cion doc.:	SEC(2020) 362 final
Subject:	REGULATORY SCRUTINY BOARD OPINION: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on adequate minimum wages in the European Union

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Delegations will find attached document SEC(2020) 362 final.

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Encl.: SEC(2020) 362 final



EUROPEAN COMMISSION

6.10.2020

SEC(2020) 362

**REGULATORY SCRUTINY BOARD OPINION**

**Proposal for a  
Directive of the European Parliament and of the Council  
on adequate minimum wages in the European Union**

{COM(2020) 682}

{SWD(2020) 245 }

{SWD(2020) 246 }



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
Ares(2020)

## **Opinion**

**Title: Impact assessment / Fair Minimum Wages in the EU**

**Overall opinion: NEGATIVE**

### **(A) Policy context**

Many workers in the EU are currently not protected by adequate minimum wages. With in-work poverty at almost 10%, having a job is no guarantee for a decent living. In 2018, nine Member States did not have sufficiently high minimum wages to protect against the risk of poverty.

The initiative on fair minimum wages aims to ensure adequate minimum wages for all workers. It is part of a broader action plan to implement the European Pillar of Social Rights.

The report examines options to improve the adequacy and increase the coverage of minimum wages, while respecting national competencies and social partners' contractual freedom.

### **(B) Summary of findings**

**The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.**

**However, the Board gives a negative opinion, because the report contains the following significant shortcomings:**

- (1) The report does not distinguish to what extent the problems, specific objectives, proposed solutions, and their impacts apply across the different types of minimum wage setting systems (statutory minimum wages and collectively agreed wage floors).**
- (2) The report is not sufficiently clear on how the problem analysis assesses the inadequacy of minimum wages across Member States.**
- (3) The report does not sufficiently substantiate how the legislative initiative is in line with the chosen legal base and the subsidiarity and proportionality principles.**
- (4) The rationale behind the composition of the three sets of options is unclear. The impact analysis does not cover all elements.**

**(C) What to improve**

- (1) The report should systematically distinguish between the two types of minimum wage setting systems that exist in Member States.
- (2) The report should be clearer on how it uses both absolute and relative income indicators to show the inadequacy of minimum wages and poverty risks. The problem description should attribute problems and problem drivers to the two types of minimum wage setting systems. In explaining how the problem will evolve, the report should focus on how external drivers of wages (trade and migration, technological change and the Covid-19 crisis) amplify the internal drivers of inadequate minimum wages.
- (3) The main document should include more evidence on how the internal problem drivers have led to inadequate minimum wages. It should for example illustrate how declining collective bargaining has induced lower absolute or relative minimum wages, or how an increase in variations and exemptions has more than temporarily reduced protection of low-income workers.
- (4) The report should better justify why there is a need for horizontal EU intervention in an area where the problem is specific to a number of Member States. The report should better substantiate and explain why EU-level involvement through country-specific recommendations would not suffice.
- (5) In presenting the objectives, measures and their impacts, the report should explain whether and how they are relevant for the two different types of minimum wage setting systems. The options and impact analysis should follow the problem analysis in differentiating between these systems.
- (6) The report should better explain the logic behind the composition of the options packages. It should justify why certain measures are included only in some packages. It should not design the indexation package to be ineffective by not including a measure to improve the adequacy of minimum wages. It should be specific how each measure would change practices across Member States.
- (7) The impact analysis should better clarify which measures matter most for the success of the options packages and whether impacts depend on individual measures. The analysis should consider risks or possible indirect impacts of changing established wage-setting systems.
- (8) The report should clarify what role the criteria of effectiveness and efficiency have for the comparison of the options packages. For example, it is not obvious why the preferred package ranks highest in terms of efficiency. It is not clear how the higher wage cost is valued in comparison to lower administrative and compliance costs.
- (9) The report should explore the unintended consequences of the preferred option on SMEs. It should clarify why they welcome a reduction in unfair competition through a legislative provision while requesting non-binding actions.
- (10) The report should discuss the impact on major stakeholders when comparing options. The distributional effects on stakeholders should be summarised and added in Annex 3.

*Some more technical comments have been sent directly to the author DG.*

<b><u>(D) Conclusion</u></b>	
<b>The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.</b>	
Full title	Proposal for a legal instrument to ensure that every worker in our Union has a fair minimum wage
Reference number	PLAN/2019/6127
Submitted to RSB on	9 September 2020
Date of RSB meeting	30 September 2020



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
RSB

## Opinion

**Title: Impact assessment / Adequate Minimum Wages in the EU**

**Overall 2<sup>nd</sup> opinion: POSITIVE WITH RESERVATIONS**

### (A) Policy context

Many workers in the EU are currently not protected by adequate minimum wages. With in-work poverty at almost 10%, having a job is no guarantee for a decent living. In 2018, nine Member States did not have sufficiently high minimum wages to protect against the risk of poverty.

The initiative on fair minimum wages aims to ensure adequate minimum wages for all workers. It is part of a broader action plan to implement the European Pillar of Social Rights.

The report examines options to improve the adequacy and increase the coverage of minimum wages, while respecting national competencies and social partners' contractual freedom.

### (B) Summary of findings

**The Board notes the substantial redrafting and the introduction of a systematic distinction between the two types of minimum wage setting systems that exist in the EU.**

**However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:**

- (1) The report still does not include sufficient evidence on how declining collective bargaining has led to inadequate minimum wages.**
- (2) The rationale behind the composition of option packages is still unclear.**
- (3) The impact analysis does not clarify which measures matter most for the success of the options packages. It remains incomplete in exploring their consequences on labour markets, the internal market, administrative costs and SMEs.**
- (4) The comparison of options is not coherent and is incomplete. It does not sufficiently justify the choice of preferred option. There is no separate analysis of the preferred option for countries relying on collective bargaining of**

This opinion concerns a draft impact assessment which may differ from the final version.

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minimum wages.

**(C) What to improve**

(1) The report provides additional discussion on the decline of collective bargaining on low wages in general. However, it should illustrate specifically how declining collective bargaining has induced inadequate minimum wages. It should be more precise in explaining how the relevance of absolute and relative minimum wage metrics changes with the shape of the wage distribution and the general wage level. The report could also be more explicit on the problems relating to compliance, enforcement and monitoring (under both wage setting systems).

(2) To better link the problem analysis with the options, the report should be clearer on the specific objectives (i.e. to improve adequacy and increase the coverage of minimum wages) by specifying what success of the initiative would look like.

(3) The report should justify why some “not mutually exclusive” measures, which address the same objective, are part of some packages for countries with collective bargaining, but not of others. It should justify why the package with indexation of minimum wages does not include a measure on variations and exceptions or on reinforcing collective bargaining, which reduces its effectiveness. The report should clarify why all options packages contain the same measures for monitoring and enforcement. It should analyse whether some of these measures could be more effective or less costly. The report should better explain why certain reference values (for median wages, collective bargaining coverage) were chosen and whether they are relevant for both types of minimum wage setting systems.

(4) The revised report clarifies better the magnitude of impact (including risks and unintended consequences) of some of the individual measures (e.g. strengthened collective bargaining, collective bargaining coverage ratio, automatic indexation). However, the report should clarify which measures matter most for the success of the options packages and whether impacts depend on individual measures.

(5) The report analyses only the immediate effects of the option packages on minimum wages. It could do more to explore effects on unemployment and productivity. It could also expand on possible indirect effects like induced migration between Member States, and internal market effects due to differences in impacts on national export industries. Furthermore, the report could provide clearer indications of how costs and benefits would be distributed between (groups of) Member States. The report could present the expected changes in minimum wages by Member State for the suggested reference values. The report should provide greater clarity on costs for public authorities.

(6) The report could do more to acknowledge risks for micro and small enterprises that are likely to be affected most by this initiative. The report should clarify why SMEs welcome a reduction in unfair competition through a legislative provision while requesting non-binding actions.

(7) The report should integrate the economic impacts separately and more visibly into the comparison of options. It can do this either under the effectiveness analysis (as the economic impacts are part of the general objective) or by focussing the efficiency analysis more on the cost side.

(8) The report should better substantiate the ranking of options. It should better align the discussion in the text with the effectiveness, efficiency and coherence ratings. When discussing the preferred option, it should treat all options in a coherent way. The revised

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report includes separate options packages for Member States relying on collective bargaining of minimum wages. It should include a specific comparison of these packages, resulting possibly in a preferred option for these Member States. In doing so, it should describe how well these packages deliver on the specific objectives.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

**(D) Conclusion**

**The DG must revise the report in accordance with the Board’s findings before launching the interservice consultation.**

**If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**

Full title	Impact Assessment accompanying the document Commission proposal for a legal instrument to ensure that every worker in our Union has an adequate minimum wage
Reference number	PLAN/2019/6127
Submitted to RSB on	6 October 2020
Date of RSB meeting	Written procedure



### **ANNEX: Quantification tables extracted from the draft impact assessment report**

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

<i>I. Overview of Benefits (total for all provisions) – Preferred Option</i>		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
<i>Direct benefits</i>		
Increased wages for minimum wage earners.	Wages of minimum wage earners are estimated to increase by 0,4% equivalent to EUR 23 billion (reference value of 55% of median wage) or 1% equivalent to EUR 53 billion.	This effect is a result of all actions. Calculations are quantified based on simulations related to hypothetical minimum wage increases to the non-binding reference value, which is part of the preferred package (55% or 60% of the median wage). See Annex 12.1 for results by Member State.
Higher coverage by minimum wages.		Not possible to quantify. An increase in collective bargaining coverage can be expected in countries without a statutory minimum wage with comparatively lower current coverage.
Reduced uncertainty about future entitlements for workers due to improved frameworks to set statutory minimum wages.		Not possible to quantify.
Reduced uncertainty for firms about future labour costs, better business environment, due to improved frameworks to set statutory minimum wages.		Not possible to quantify.

Improved governance and participation with stronger involvement of social partners.		Not possible to quantify.
Improved working conditions through better access to collective bargaining for workers.		Not possible to quantify.
<i>Indirect benefits</i>		
Reduced wage inequality, in-work poverty, and gender pay gap.	Wage inequality is estimated to be reduced by 5% (8%) across the EU, in-work poverty by 6% (12%) and the gender pay gap by 2% (5%) for a reference value of 55% (60%) of the median wage.	This effect is a result of all actions. Calculations are quantified based on simulations related to hypothetical minimum wage increases to the non-binding reference value, which is part of the preferred package (55% or 60% of the median wage). See Annex 12.1 for results by Member State.
A better level playing field for firms already compliant with minimum wage rules due to strengthened enforcement of minimum wage regulations.		Not possible to quantify.

<i>II. Overview of costs – Preferred Package</i>							
	Citizens/Consumers		Businesses		Administrations		
	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent	
<b>(1) Action related to collective bargaining</b>	Direct costs	None	None	Costs related to increased minimum wages included in costs under point (2).	Possible financial burden to introduce administrative reforms.	Some financial burden of actions related to capacity-building of social partners.	
	Indirect costs	Costs related to higher min. wages included in costs under point (2).	None	None	None	None	
<b>(2) Action related to national frameworks</b>	Direct costs	None	None	Costs for firms of 25% of the cost of increased wages, amounting to about EUR 6 (13 bn per annum for a reference value of 55% (60%) of the median.	Possible financial burden to introduce administrative reforms.	Some financial burden related to regular assessment of criteria and consultation activities.	
	Indirect costs	Indirect cost to consumers of about 75% of increased wages, or about EUR 17 (40) bn per annum for a reference value of 55% (60%) of the median.	None	None	None	None	
<b>(3) Action related to involvement</b>	Direct costs	None	None	Costs related to increased minimum wages included in costs under point (2).	Possible financial burden to introduce	Some financial burden related to regular and timely	

of social partners	Indirect costs	None	Included in the costs under point (2) to the extent that these actions contribute to more adequate minimum wages.	None	None	administrative reforms.	consultations.
	Direct costs	None	None	None	Costs related to increased minimum wages included in costs under point (2).	Possible financial burden to introduce administrative reforms.	None
(4) Action related to variations	Indirect costs	None	Included in the costs under point (2) to the extent that these actions contribute to more adequate minimum wages.	None	None	None	None
	Direct costs	None	None	None	Small increase in costs related to inspections.	Possible financial burden to introduce administrative reforms.	Some financial burden related to strengthened labour inspectorates or other relevant bodies.
(5) Action related to enforcement	Indirect costs	None	None	None	None	None	None
	Direct costs	None	None	None	None	None	None