

SUPPORT2SME4SD

Second training

6 June 2023



European Pillar of Social Rights

2017: adoption of the Pillar

2021: adoption of the Action Plan at the Porto Social Summit

2023: follow up at the Porto Social Forum

... Possible institutionnalisation of the Forum on a bi-annual basis

Chapters of the EPSR

I. Equal opportunities and access to the labour market

II. Fair working conditions

III. Social protection and inclusion

European Pillar of Social Rights



Most relevant principles

Principle 2: Gender equality

Principle 4: Active support to employment

Principle 5: secure and adaptable employment

Principle 6: Wages

Principle 7: Information about employment conditions and protection in case of dismissals

Principle 8: Social dialogue and involvement of workers

Principle 9: Work-life balance

Principle 10: Healthy, safe and well-adapted work environment and data protection

Principle 12: Social protection

Targets of the Action Plan

78 % of people aged 20-64 should be in employment by 2030

60% of all adults should participate in training every year

The number of people at risk of poverty should be reduced by at least 15million by 2030

Background information: Recommendation on Social Dialogue

- Principle 8 of the European Pillar of Social Rights: Social Dialogue and involvement of workers
- EC announced the two initiatives in the Action Plan for the EPSR (Communication on EU Social dialogue and Council Recommendation on national social dialogue)
- Dedicated hearings of EU social partners all along 2022: at political and technical level

Main points of the Recommendation



- 1. Ensure an enabling environment for bipartite & tripartite social dialogue**
 - Measures to strengthen SP capacity
 - Access to information
 - Promotion of SP engagement in social dialogue
 - Adapt SD to digital age, collective bargaining promotion in new world of work and in fair and just transition towards climate neutrality
- 2. Ensure meaningful SP involvement in the design and implementation of reforms including the European Semester**
- 3. Ensure SPs have access to information in order to participate in social dialogue and in collective bargaining**

4. Ensure that SPs recognised for the purposes of social dialogue
5. Ensure that workers and employers representatives are protected
- 6. Foster trust in and between SP and promote collective agreements**
- 7. Enable collective bargaining at all appropriate levels**
- 8. Promote a higher CB coverage and enable effective CB by:** removing institutional barriers + ensuring that SP have the freedom to decide on issues to be negotiated
- 9. Actively promote benefits and added value of social dialogue and collective bargaining**
- 10. Support SP to participate in SD and CB and in implementing EU Social Partners agreements (for example the Agreement on Digitalisation):** by promoting capacity building + making best use of ESF+ and the Social Dialogue budget line.

- 11.** Member States need to submit a list of measures taken or to be taken for the implementation of the recommendation in consultation with SPs (after 24 months of the publication)
- 12.** SPs might be entrusted with the implementation of the relevant part of the Recommendation

The Commission is asked:

~~13. develop commonly agreed indicators by (12 months from the publication of the Recommendation. This task is entrusted to the Employment Committee and the Social Protection Committee in cooperation with relevant SPs~~

Explore in consultation with the relevant social partners and deliver an opinion to the Council on the possibility to improve the scope and relevance of data collection at Union and national level on social dialogue, including on collective bargaining, appropriate for monitoring the implementation of this Recommendation

14. Monitor regularly as part of the multisurveillance activities in the context of the European Semester where such monitoring would allow social partners to identify situations where they have been excluded or inadequately involved in national level consultations on Union and national policy

15. Report to the Council after 6 years

Questions for discussion

- 1) Are you a recognised social partner?
- 2) Do you have interactions with the other social partners? At which level: bipartite or tripartite?
- 3) Are you satisfied with social dialogue at bipartite and tripartite level? What are the challenges?
- 4) What is the level of involvement of social partners in the national reforms and not only related to the European Semester (for example in social protection, employment, minimum wage directive, working time, unemployment, active labour market policies, pension reforms, etc...)?

Background information: Directive on adequate minimum wages

- Principle 6 of the European Pillar of Social Rights: Wages
- Two stages consultations of social partners and dedicated hearing of EU social partners all along 2020
- Proposal adopted by the Council and the European Parliament
- Member States have two years for the transposition of the directive

General information

What the Directive does: establishes a **framework at EU level** for:

- adequacy of statutory minimum wages
- promoting collective bargaining on wage-setting
- enhancing effective access of workers to minimum wage protection

Member States to put in place conditions for adequate minimum wage protection:

- **No individual right** to a minimum wage
- No interference with **social partners' autonomy**
- No interference with **Member States competence and choice of system**

2 systems:

Collective bargaining: Austria, Italy, Sweden, Denmark, Cyprus, Finland, Belgium (mixed status)

Statutory minimum wages (all other Member States)

Most relevant articles

Chapter 1: applies to all Member States

Art 1: Subject matter

Art 2: Scope

Art 4: Promotion of collective bargaining on wage-setting

Chapter 2: applies only to Member States with statutory minimum wage systems

Art 5: Procedures for setting adequate statutory minimum wages

Art 6: Variations and deductions

Art 7: Involvement of the social partners in the setting and updating of statutory minimum wages

Art 8: Effective access of workers to statutory minimum wages

Chapter 3: applies to all Member States

Art 10: Monitoring and data collection

Article 1



Subject matter

Improving the living and working conditions in the Union, in particular the minimum wages for workers.

The directive creates a framework. The EU cannot intervene on the level of pay or on the choice of system in the Member States (statutory minimum wage or minimum wages established via collective bargaining)

Article 2

Scope

The directive applies to **workers** who have an employment contract or an employment relationship as defined by law, collective agreements or practice in force in each Member State with the consideration to the case law of the Court of Justice.

Three criteria define the employment relationship: remuneration, provision of labour and subordination.

Article 4

Promotion of collective bargaining on wage-setting

Art 4 (1)

Sets the conditions for effective collective bargaining on wages: the aim is to increase collective bargaining coverage and facilitate the exercise of the right to collective bargaining on wage-setting

Member States with the involvement of SPs shall:

- promote the building and strengthening of social partners' capacity
- encourage constructive, meaningful and informed negotiations with access to appropriate information
- protect the exercise of the right to collective bargaining on wages, and protect workers and trade union representatives from acts of discrimination
- protect trade unions and employers' organisations against any acts of interference

Article 4

Promotion of collective bargaining on wage-setting

Art 4 (2)

In Member States with a **collective bargaining coverage rate less than a threshold of 80%** (all agreements are taken into consideration, not just the ones on wage setting) need to provide a framework of enabling conditions for collective bargaining, either by law after consulting social partners or by agreement with them → obligation of effort, not of result

Establish an **action plan** to be reviewed every five years: clear **timeline** and **concrete measures** to progressively increase the rate of collective bargaining coverage, in full respect of social partners autonomy

Article 5

Procedures for setting adequate statutory minimum wages

“Adequacy” has 2 dimensions (Recital 28): fairness and decent standard of living

Article 5 (1)

- “Member States with statutory minimum wages shall establish the necessary procedures for the setting and updating of statutory minimum wages. [...]”
- Elements of “sound procedures”:
 - criteria to guide the setting and updating [Articles 5(2), 5(3)]
 - indicators to assess their adequacy [Article 5(4)]
 - regular and timely updates [Article 5(5)]
 - existence of consultative bodies [Article 5(6)]

Article 5

Article 5 (2): the criteria should include at least the following

(a) the purchasing power of statutory minimum wages, taking into account the cost of living; ADEQUACY

(b) the general level of wages and their distribution; FAIRNESS and PRODUCTIVITY

(c) the growth rate of wages; FAIRNESS

(d) long-term national productivity levels and developments. PRODUCTIVITY

This is a minimum requirement → Member States can use additional criteria. It is expected that the combined use of the four criteria will be effective in ensuring minimum wage adequacy.

d) **Productivity at macroeconomic level** (not at the level of individual workers)

- **National:** avoid giving grounds to lower minimum wages for some workers based on productivity measured at individual level
- **Long-term:** Avoid giving grounds to lower minimum wages in crisis times; Allow minimum wage earners to benefit from national productivity gains

Article 5

Article 5 (3):

“Without prejudice to the obligations set out in this Article, Member States may additionally use an automatic mechanism for indexation adjustments of statutory minimum wages, based on any appropriate criteria and in accordance with national laws and practices, provided that the application of that mechanism does not lead to a decrease of the statutory minimum wage.”

(Semi) automatic indexation mechanisms are compatible with the Directive

Article 5

Article 5 (4):

“Member States shall use indicative reference values to guide their assessment of adequacy of statutory minimum wages. To that end, they may use indicative reference values commonly used at international level such as 60 % of the gross median wage and 50 % of the gross average wage, and/or indicative reference values used at national level.”

- **Member States shall use indicative reference values** to guide their assessment of adequacy, **but are not obliged to reach them**
- **Essential element** to ensure adequacy
- **Wide flexibility to choose these values:**

either commonly used at international level, and/or used at the national level
guidance and examples (Recital 28)

Article 5

Article 5 (5):

”Member States shall ensure that regular and timely updates of statutory minimum wages take place at least every two years or, for Member States which use an automatic indexation mechanism as referred to in paragraph 3, at least every four years.”

- **Minimum frequency** of updates taking into account Article 5(2) criteria:
- **(Semi) automatic indexation systems:** at least every **4 years**
- **Other Member States:** at least every **2 years**

Article 5

Article 5 (6):

“Each Member State shall designate or establish one or more consultative bodies to advise the competent authorities on issues related to statutory minimum wages, and shall enable the operational functioning of those bodies.”

- *Either existing bodies designated, or newly established bodies*
- *Requirement to enable their “ operational functioning ” s o that they are in a position to carry out their role*

Article 6

Variations and deductions

Variations: Different minimum wage rates for specific groups

Deductions: Reductions lowering remuneration below statutory minimum wage level

Purpose of Article 6: Avoid widespread use of variations and deductions in order to ensure the adequacy of statutory minimum wages

Respect **non-discrimination and proportionality principles**, including the pursuit of a **legitimate aim**

No obligation for Member States to introduce variations and deductions

Article 7

Involvement of social partners in the setting and updating of statutory minimum wages

Member states are required to ensure SPs' participation in **consultative bodies**

- However, Article 7 provides for a **wider role for SPs** than their participation in consultative bodies
- Recital (26) points to conditions for a **meaningful engagement**: relevant information provided to SPs+ opportunity for SPs to provide opinions and receive reasoned responses

→ **Obligation of effort**, not of result (voluntary participation)

- Selection and application of criteria for determining statutory minimum wage levels (Article 5(1) & 5(2)); establishment and modification of automatic indexation formula (Article 5(3))
- Selection and application of indicative reference values (Article 5(4))
- Updates of statutory minimum wages (Article 5(5))
- Establishment of variations and deductions (Article 6); effective involvement for all new variations and deductions
- Data collection and carrying out studies and analyses; no obligations imposed on SPs, but consultation when activities are carried out by Member States

Questions for discussion

- 1) In countries with statutory minimum wages: are you involved in the negotiations? Is there a structure in place to discuss about wages?
- 2) Were you already contacted by your government for the transposition of the directive? What is your current role? Will you initiate some actions towards your government or in cooperation with other social partners?
- 3) Are you consulted by your government?
- 4) How is the minimum wage defined (the criteria for adequacy)?
- 5) Do derogations and variations (apprentices, etc...) exist?