

**Lorenzo Repetti**  
**ETUC Senior Advisor**

# **DIRECTIVE ON ADEQUATE MINIMUM WAGES IN THE EU**

## **FOCUS ON MEASURES FOR THE PROMOTION OF COLLECTIVE BARGAINING (CB) AND THE DEFENCE OF THE RIGHT TO CB**

**Defending and strengthening trade union rights in public services**

**Final Conference, Skopje, North Macedonia,  
22 September 2022**

# CORE ETUC DEMANDS

**The ETUC responded to the proposal from the Commission for a Minimum Wage Directive with six core demands:**

a. ensure statutory minimum wages are adequate for the worker and their family and specifically to secure a threshold of decency of 60% of the median and 50% of the average wage;

b. we aimed to prevent the use of sub-minimum rates that leave workers on wages below the statutory minimum wage and to end the practice of employer deductions from workers minimum wage;

c. all categories of workers, in the private and public sectors, must be protected;

d. our key and ultimate aim is to ensure adequate wages by promoting collectively bargained wages: Member States should have in place systems and laws that support trade unions, the right to collective bargaining and the right to organise;

e. ensure that Member States public procurement rules no longer drive a race to the bottom on wages and conditions of employment but rather ensure the respect of the right to collective bargaining;

f. we would seek to achieve these advances and at the same time safeguard against the Directive undermining any well-functioning systems.

ETUC Core Demand	COM proposal	EP Report	Council General Approach		Result
Demand 1: Adequacy	😐	😊😊	😞		💪
Demand 2: Deductions	😞	😐	😞		😐😞
Demand 3: All workers	😊	😊😊	😊	😞	💪
Demand 4: Collective Bargaining	😊😞	😊😊😊	😐😞		💪💪
Demand 5: Public Procurement	😊	😊😊	😐		💪
Demand 6: Safeguards	😐	😐	😐		😊

## RESULT – Final text of the Directive : Promotion of Collective Bargaining & Role of Public Procurement

The final agreement for Article 3 safeguards trade union prerogatives by providing an improved definition of collective bargaining (Article 3(3)) referring to “*trade unions*”. The definition of collective agreement has been modified as well (Article 3(4)). The definitions apply “*for the purposes of this Directive*” (Article 3 – chapeau).

Article 4 has the objective to increase the collective bargaining coverage and to facilitate the exercise of the right of collective bargaining on wage setting “*with the involvement of the social partners, in accordance with national law and practice*”. It also includes provisions to support trade union rights and protect workers and trade union representatives participating or wishing to participate in collective bargaining, amongst others ensuring Member States take measures to protect the exercise of the right to collective bargaining and protect workers and trade union representatives who engage or wish to engage in collective bargaining from discrimination with regard to their employment.

Also, Article 4 specifically requires all countries with less than 80% collective bargaining coverage to “*provide for a framework of enabling conditions for collective bargaining*” and to develop a national action plan “*to promote collective bargaining*”. The final agreement clarifies: “*The action plan shall set out a clear timeline and concrete measures to progressively increase the rate of collective bargaining coverage, in full respect of the autonomy of social partners*”. The action plan shall be reviewed regularly (at least every five years) and updated if needed. The final text ensures thus that the national action plans can bring real improvements.

According to the final agreement, Article 9 of the Directive is modified to guarantee that the right to organise and collective bargaining – also in light of ILO Conventions 87 and 98 – is clearly included in the obligations economic operators must respect in public procurement contracts. This is the maximum which could be achieved without reopening the public procurement Directives.

## ARTICLE 3 - DEFINITIONS

- For the purposes of this Directive, the following definitions apply:

‘collective bargaining’ means all negotiations which take place according to national law and practice in each Member State between an employer, a group of employers or one or more employers’ organisations on the one hand, and one or more trade unions on the other, for determining working conditions and terms of employment;

‘collective agreement’ means a written agreement regarding provisions on working conditions and terms of employment concluded by the social partners that have the capacity to bargain on behalf of workers and employers respectively according to national law and practice, including collective agreements that have been declared universally applicable;

‘collective bargaining coverage’ means the share of workers at national level to whom a collective agreement applies, calculated as the ratio of the number of workers covered by collective agreements to the number of workers whose working conditions may be regulated by collective agreements in accordance with national law and practice.

# ARTICLE 4 – PROMOTION OF CB ON WAGE SETTING

1. With the aim of increasing the collective bargaining coverage and of facilitating the exercise of the right to collective bargaining on wage-setting, Member States, with the involvement of the social partners, in accordance with national law and practice, shall:

- (a) promote the building and strengthening of the capacity of the social partners to engage in collective bargaining on wage-setting, in particular at sector or cross-industry level;
- (b) encourage constructive, meaningful and informed negotiations on wages between the social partners, on an equal footing, where both parties have access to appropriate information in order to carry out their functions in respect of collective bargaining on wage-setting;
- (c) take measures, as appropriate, to protect the exercise of the right to collective bargaining on wage-setting and to protect workers and trade union representatives from acts that discriminate against them in respect of their employment on the grounds that they participate or wish to participate in collective bargaining on wage-setting;
- (d) for the purpose of promoting collective bargaining on wage-setting, take measures, as appropriate, to protect trade unions and employers' organisations participating or wishing to participate in collective bargaining against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

# ARTICLE 4 – PROMOTION OF CB ON WAGE SETTING

2. In addition, each Member State in which the collective bargaining coverage rate is less than a threshold of 80 % shall provide for a framework of enabling conditions for collective bargaining, either by law after consulting the social partners or by agreement with them. Such a Member State shall also establish an action plan to promote collective bargaining. The Member State shall establish such an action plan after consulting the social partners or by agreement with the social partners, or, following a joint request by the social partners, as agreed between the social partners. The action plan shall set out a clear timeline and concrete measures to progressively increase the rate of collective bargaining coverage, in full respect for the autonomy of the social partners. The Member State shall review its action plan regularly, and shall update it if needed. Where a Member State updates its action plan, it shall do so after consulting the social partners or by agreement with them, or, following a joint request by the social partners, as agreed between the social partners. In any event, such an action plan shall be reviewed at least every five years. The action plan and any update thereof shall be made public and notified to the Commission.

Recital:

*In a context of declining collective bargaining coverage, it is essential that the Member States promote collective bargaining, facilitate the exercise of the right of collective bargaining on wage-setting and thereby enhance the wage-setting provided for in collective agreements to improve workers' minimum wage protection. Member States have ratified the ILO Freedom of Association and Protection of the Right to Organise Convention No 87 (1948) and Right to Organise and Collective Bargaining Convention No 98 (1949). The right to bargain collectively is recognised under those ILO Conventions, under the ILO Labour Relations (Public Services) Convention No 151 (1978) and the Collective Bargaining Convention No 154 (1981), as well as under the Convention for the Protection of Human Rights and Fundamental Freedoms and the ESC. Articles 12 and 28 of the Charter guarantee, respectively, the freedom of assembly and association and the right of collective bargaining and action. According to its preamble, the Charter reaffirms those rights as they result, in particular, from the Convention on the Protection of Human Rights and Fundamental Freedoms and the Social Charters adopted by the Union and by the Council of Europe. Member States should take, as appropriate and in accordance with national law and practice, measures promoting collective bargaining on wage-setting. Such measures might include, among others, measures easing the access of trade union representatives to workers.*

## ARTICLE 9 – PUBLIC PROCUREMENT

In accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU, Member States shall take appropriate measures to ensure that, in the awarding and performance of public procurement or concession contracts, economic operators and their subcontractors comply with the applicable obligations regarding wages, the right to organise and collective bargaining on wage-setting, in the field of social and labour law established by Union law, national law, collective agreements or international social and labour law provisions, including ILO Freedom of Association and the Protection of the Right to Organise Convention No 87 (1948) and the ILO Right to Organise and Collective Bargaining Convention No 98 (1949).