

# Adequate minimum wages – Ceemet disagrees with and regrets confirmation of the legal basis

The analysis of the Council Legal Service on the question if the Commission's 'Adequate Minimum Wages' proposal has a legal basis confirms the Commission's choice. Ceemet is highly surprised by this conclusion as the matter of 'pay' is explicitly excluded from the EU competences.

**Brussels, 12 March 2021** – Upon request of several Member States, the legal service of the European Council has analysed whether the Commission proposal for a Directive on adequate minimum wages had a legal basis. The outcome presented earlier this week is surprising to Ceemet as the analysis does not follow the European Treaties and the case law of the European Court of Justice (ECJ), in which pay and collective bargaining are excluded from the EU level.

## Determining the level of pay

The Council Legal Service came to the conclusion that the text of the Directive does not establish the level of the various constituent parts of pay and that it does not directly interfere in the determination of pay.

Ceemet strongly disagrees with this analysis. The Commission's proposal states that wages should be adequate and imposes the use of indicative reference values and pre-defined criteria on Member States in order to determine the adequacy of minimum wages. Member States will thus have to take into account the criteria in their established practices and procedures when assessing their national figures, which inevitably will result in a set level of minimum wage. Unavoidably, the proposal will thereby have an effect on the level of pay which goes far beyond the limits set in the European Treaties and case-law of the ECJ and interferes directly in a purely national competence.

## Breach of social partners autonomy

The lack of legal basis is not the only problem with the proposal. Collective bargaining and pay are at the heart of social partners competences. Wage setting is explicitly excluded from the EU level and a mere national competence. In many countries it is even a core responsibility of mandated social partners at the appropriate level. According to Art. 152 TFEU, the EU must recognise the role of social partners and respect their autonomy. Furthermore, Art. 153§5 does not only exclude pay from the EU competences, but also the right to associate. Accordingly, any measures related to these topics should be taken at national level, in full respect of national regulations and practices. The Legal Service of the Council fails to analyse these aspects in the legal opinion – which is very unfortunate.

Therefore, Ceemet calls on the Member States and Members of the European Parliament to duly take this into account when considering this proposal.

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## About Ceemet

Ceemet represents the metal, engineering and technology-based industry employers in Europe, covering sectors such as metal goods, mechanical engineering, electronics, ICT, vehicle and transport manufacturing.

Member organisations represent 200,000 companies in Europe, providing over 17 million direct and 35 million indirect jobs.

Ceemet is a recognised European social partner at the industrial sector level, promoting global competitiveness for European industry through consultation and social dialogue.