

## **HOTREC reply to the Commission consultation on First Phase consultation of Social Partners under Article 154 THEU on a possible action addressing the challenges related to fair minimum wages**

### **HOTREC in a nutshell**

HOTREC is the umbrella Association of hotels, restaurants, bars and cafés in Europe, which brings together 45 national associations in 33 European countries and is the voice of the hospitality industry in Europe. The industry contributes with 5% of the EU GDP to the EU economy and is composed of 2 million enterprises, 90% of which are micro-sized (i.e. employing less than 10 people). The European hospitality sector, together with the other tourism industries, is the 3rd largest socio-economic activity in Europe. Indeed, the hospitality industry alone created over 2 million new jobs between 2013 and 2017 taking its workforce from 10,3 million employees to almost 12,5 million. In addition, 30,2% of the workers in the sector are relatively unskilled, compared to 17,7% in the overall economy, meaning that the sector provides jobs to a broad range of profiles. Moreover, 20,2% of the employees are aged under 25 years compared to 8,2% in the overall economy, therefore, fighting youth unemployment. The sector **also promotes gender balance**: while in the overall economy 46% of people employed are women, in the sector the figure rises to 54,1%. The hospitality sector is, consequently, an entry door to the labour market and a facilitator in terms of social inclusion.

### **Questions to social partners**

#### **1) Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for EU action?**

##### **1.1) The EU Acquis and Instruments**

Adequate wages are essential to ensure fair working conditions and decent living standards for European workers. At national level minimum wages are set through collective agreements or legal provisions and help prevent low-wage workers to fall into poverty.

According with Art.145 TFEU Member States and the Union shall, in accordance with this title, work towards developing a **coordinated strategy for employment** and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 3 of the Treaty on European Union.

Art. 147 TFEU clear emphasises that “The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by **supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected**”.

Finally, from art. 151 TFEU, 153/5 TFEU and the case-law of the European Court of Justice (EJC) it is clear that the **EU cannot legislate when it comes to payment. This means that any possibility for the EU to propose a Directive on the matter of minimum wages needs to be ruled out.**

Overall, HOTREC agrees with Principle 6 of the European Pillar of Social Rights, which mentions that workers have the right to fair wages that provide for a decent standard of living; that adequate minimum wages shall be ensured, in a way that provide for the satisfaction of the needs of the worker and his/her family in the light of national economic and social conditions; and that all wages shall be set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners.

## 1.2) HOTREC's general comments

### 1.2.1) Wage coverage

HOTREC acknowledges that wage coverage is set up differently by the Member States. Two mechanisms are foreseen by Member States:

- **Statutory national minimum wage** – where the minimum wage of all workers are covered through law and where exemptions are well defined (e.g. young workers in education and training);
- **Collectively agreed wages** – where minimum wages are set by social partners, at national level (namely the cases of Denmark, Italy, Cyprus, Austria, Finland and Sweden). Traditionally, the Nordic countries tend to have a low level of conflict, close cooperation and a high degree of trust between the social partners, and between the social partners and the authorities. Moreover, they enjoy comparatively high average salaries by following this system and relatively small wage differences, which makes a very valuable contribution to the economy and social life<sup>1</sup>.

HOTREC considers that **further involvement of social partners, in the minimum wage-setting process of statutory national minimum wage** (in case statutory minimum wages exist at national level) could be positive<sup>2</sup>. Recommendations by both social partners could allocate the interests of both employers and employees. This should help gathering all important economic and sectoral conditions information and would help collective bargaining to be better articulated (as it is already the case in the Nordic countries).

HOTREC also believes that the national **mechanisms guiding the adjustments of statutory minimum wages should be left to the Member States to decide**. Common criteria settings include labour market and economic conditions, wage and price developments. In any case, subsidiarity shall prevail, in order to allow the economic situation of each country to adapt to society needs’.

Any intervention by the EU on countries where collective wages are agreed would reduce the autonomy and lower the interest of employers in adhering to collective agreements and collectively agreed wages. In

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<sup>1</sup> For instance in Denmark, paying labour costs reached €43.50 an hour per worker in 2018 – the highest in the EU.

Italy has also one of highest levels of minimum wages expressed as a percentage of the gross median wage of full-time workers.

In Austria the minimum wages are revised by employers and trade unions on an annual basis to ensure a reasonable increase at or above the inflation rate. Minimum wages in the sector in Austria take into account job related activities, education and experience. This avoids that an untrained apprentice would earn the same as an experienced chef (this situation could happen, in case the EU intervenes).

<sup>2</sup> **This suggestion should of course, not apply, if wages are collectively agreed.**

fact, applying statutory minimum wages in countries such as Denmark and Sweden would break with more than 120 years of collective bargaining tradition.

### 1.2.2) Wage adequacy

HOTREC agrees with the assumption that minimum wages are considered adequate if they are fair vis-à-vis the wage distribution in the country and if they provide a decent standard of living.

HOTREC agrees with the following points:

- To assess wage adequacy, the impact of taxes and social contributions need to be taken into account. As the Commission points out, the net wedge between net wage and total labour cost ranged between 15% and 45% during 2018. Employers tend to make their hiring decisions on total labour cost (including social contributions, which are sometimes agreed in collective bargaining agreements), whereas employees will probably decide to take a job offer or not based on the net wage;
- Minimum wage should take into account price levels in the country – minimum wages expressed in purchasing power standards indicate the real value of wages in each country

In any case all these specificities should **be dealt with at national level, and subsidiarity shall prevail**. Therefore, no **definitions of wage should be provided at EU level**.

In addition, EU action **should not consider** assessing the take-home pay of minimum-wage earners in relation to income levels that protect against poverty (be it either through the use of an **“absolute” reference** or through the **comparison of the net income of minimum-wage earners to 60% of median household income**). For instance, the absolute reference is used in Ireland and the UK, whereas the second parameter is used by Portugal and France. These are, once again, choices that should be done by each of the Member States, taking political, economic and social reasons and national traditions into account. The EU would not have a legal basis to legislate on this matter.

HOTREC also points out that a median wage is not an appropriate point of comparison at EU level, as leads to an increased income disparity between Member States, and it does not seem to take into account workers productivity or the different social security, fiscal system or industrial relations system in the different Member States (e.g. healthcare, childcare, support for house rental). It might also not allow to reach an improved minimum wage in countries that might need one.

### 1.3) Possible Actions by the EU

Any possible EU action needs to be in line with the Treaty of the Function of the EU. In this sense, **a legislative instrument on payment is ruled out (153/5)**.

With reference to the **ECJ-case** mentioned on page 2 of the consultation document C-268/06, Impact, point 123 and 124 **any further initiative must respect Member States where social partners have no wish for legislation extending already well-functioning systems, which de facto ensure minimum wages**.

HOTREC believes that EU action could eventually influence negatively collective bargaining agreements that function in a very positive way at national level (e.g. Nordic countries). **Negotiations and recommendations should continue being left on the hands of both employers and trade unions.** Implementing a standard minimum wage in these countries would mean an EU interference usually left in the hands of social partners. As a result, the level of existing minimum wage established by the collective agreements could be affected.

In addition, it is important to highlight that wages should as well be based on productivity, competences and talent of the employees. Companies should keep their freedom when attributing wage levels.

HOTREC considers that the EU could eventually focus on the development of the European Semester Process, namely on country specific recommendations focusing on **implementing effective structural reforms, boosting investment strategies and encouraging responsible fiscal policies.** Ad hoc solutions based on the individual needs of Member States could be worked upon. But, the EU should not jeopardise the economic reality of each one of the Member States and should not politicise the procedure. Therefore, the voice of each country should be heard.

Moreover, countries in the EU with a low minimum wage should tackle the challenge at national level.

Overall, the EU should help Member States to increase sustainable jobs and reduce unemployment, which is a precondition for better working conditions and wages.

In addition, it is to note that economic forecasts may diverge from reality, especially as unforeseen events adversely affect the European. Therefore, no national government could follow a unified EU “minimum wage” rule, since the divergence between the initial economic forecast of the EU and the final growth from each country can be very different.

**2) Do you consider that EU action is needed to address the identified issues? If so, what should be the scope of that action**

Please see reply to question 1.

HOTREC considers that any EU legislative act is ruled out by art. 153/5 TFEU.

HOTREC would welcome further action on the European Semester Process. **Country specific recommendations could focus on implementing effective structural reforms, boosting investment strategies and encouraging responsible fiscal policies.**

**3) Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation**

HOTREC does not have the competency to start negotiations on the matter with the trade unions. Nevertheless, if negotiations would take place, HOTREC would be willing to be as much involved as possible in the discussion procedure.

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