



European Cleaning and Facility Services Industry

Brussels, 4th September 2020

**European Commission's second phase consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages of 3 June 2020.
EFCI's REPLY**

The EFCI

The European Cleaning and Facility Services Industry (EFCI) brings together *13 European associations representing the industry at national level, in a sector employing over 4 million people in over 283,000 companies.*

The EFCI is an international non-profit association and the recognised Social Partner by the European Commission for the sector. It is the employer's representative in the European Social Dialogue for Industrial Cleaning. The EFCI is an observer member of the European Platform for tackling undeclared work and an active member of the European Business Services Alliance ([EBSA](#)).

Employment overview of the Industrial Cleaning sector¹

A growing industry:

- The cleaning industry (NACE code 81.2) employs *more than 4 million people* in Europe. The number of employees increased with annual rates higher than 2.7% and it kept growing even during the years of the financial crisis.

More stable and quality employment:

- Against the general trends in the European industry, the number of part-timers in the cleaning industry decreased significantly during the last years, stabilizing at a current 68%.
- Additionally, in the last 20 years the wages and salaries in the sector have consistently increased with an annual rate of up to a 3.4%, a trend that has increase by reaching maximums of 5.4% in the last years.
- Furthermore, the percentage of employees currently earning a minimum wage in the industrial cleaning sector has decreased in many countries since collective bargaining agreements allowed a vast majority of employees to earn salaries above the national minimum wage. Good examples of this can be found in Sweden, where collective bargaining already set the wage for cleaning agents a 25% above the 60% of the Swedish median wage. Similarly, thanks to collective bargaining and the active involvement of Social Partners, the minimum sectoral salary in Germany has been systematically set significantly above the minimum national wage.

Steps towards gender balance in a sector employing a large percentage of women: In parallel to the significant and steady increase in the number of employers, the percentage of women working in the sector has seen a decrease from the 78% (in 1996) down to 72% in 2016, what shows trend towards a more gender balanced sector.

A gateway into the labour market:

¹ For further information and data on the sector, please read the Trend Report "The European Cleaning Industry EFCI's report 2020": <https://www.efci.eu/wp-content/uploads/flipbooks/2/>

- In the last years, the cleaning industry has played a major role in the inclusion of migrant and lower-skilled citizens into the labour market and it is one of the sectors that employs the highest percentage of non-European citizens, providing training on the sector but also on languages and digital tools to its workforce. It is also important to highlight that the latest trends also show the capacity of the sector to promote worker's mobility between EU Member States.

Question 1: What are your views on the specific objectives of a possible EU action set out in section 5?

The EFCI understands that the 5 policy objectives are, in general, being systematically achieved in all Member States. This is particularly the case for the European industrial cleaning sector and for those Member States in which the Social Dialogue has been traditionally well-functioning. Therefore, and considering that the involvement and commitment of Social Partners set in the list of policy objectives is already a reality, the EFCI considers that there is no need for an EU legislative action in this area.

1. On the well-functioning of collective bargaining in wage setting

First and foremost, it is paramount to consider that collective bargaining mechanisms count with a long history of successful agreements in all Member States and have proven to be the best system to reach fair wage settings. Further, as proven by the EFCI Members, collective bargaining mechanisms between Social Partners in the industrial cleaning sector systematically and directly contributed to setting sectoral wages significantly above the national statutory minimum wage in each State. Forcing minimum wage floors to well-established and successful collective bargaining systems would be a blunt economic measure that would drastically disrupt wage-setting calculations and procedures with a probable direct and negative effect on the acquisition power of employees over the following years.

While Objective 1 underlines the need to adapt wage setting systems to be more responsive to changing economic circumstances, the EFCI understands that an EU legislative action on this matter would only have the exact opposite effect. As the recent Covid-19 pandemic has shown, rigid wage systems have only proven an obstacle in most sectors that have seen how the adaptation to strong changes in productivity have been very difficult or impossible, resulting in massive lay-off procedures and even bankruptcy. Therefore, especially considering the current strong instability of the European and global economies, the EFCI does not understand how the introduction of more rigid measures, such as an EU Directive on minimum wages, could positively contribute to the competitiveness of any European sector and to well-established and successful collective bargaining systems.

2. On the provision of updated regulatory frameworks.

Regarding Objective 2, it is important to consider that these frameworks are already in place in all Member States. While the EFCI agrees on the need to ensure clear and stable criteria in the update of national and sectoral wages, the introduction of an EU Directive in this matter would only provoke an undesired opposite effect. National and sectoral Social Partners are best placed to assess the specific socio-economic circumstances, such as productivity and labour market, that shape the collective bargaining and wage-setting systems in each country and sector. As a result, **an EU-wide legislative action in this area would completely lack the necessary understanding and flexibility to be applicable to the particularities and circumstances of each State and sector.** To remain competitive, each country and sector must ensure that the wages can be negotiated and adapted swiftly to the rapidly changing markets.

3. On the involvement of Social Partners

In line with the aforementioned factors and circumstances, the EFCI shares the general principles set in Objective 3 of the communication. As already stated above, the knowledge that Social Partners possess of each sector is critical to understand and support the necessary evolution of not only minimum wage calculation systems but also of all other factors contributing to the evolution of each market and the configuration and adaptation of each regulatory framework. In line with this, capacity building is key to address the matter in Member States in which collective bargaining is less developed. Considering all these, and the successful history of wage setting agreements through collective bargaining in Europe, especially in the European industrial cleaning sector, **the EFCI does not consider an EU legislative action in this field as necessary.**

4. On minimum wage exemptions

Further, the EFCI would like to express its concerns on the lack of clarity of Objective 4 proposal. Whilst being in favour of limiting the exemptions to the minimum necessary, we understand that again only national and sectoral Social Partners have the full capacity and knowledge to negotiate, together with national authorities, the clear and fair regulatory frameworks on which these exemptions are based. Exemptions to minimum wages are necessary in many sectors to ensure the inclusion of many population sectors into the labour market. **The specificities of each sector in each Member State on this matter make it impossible for an EU directive to adapt to each one of them.** Furthermore, many of these exemptions are directly linked to other national legislation such as Vocational Education and Training systems, social inclusion policy, and short-time work schemes regulations. Therefore, it would be impossible to successfully tackle this matter without a profound modification of major national policy, a fact that would directly conflict with the legislative autonomy of each Member State.

5. On implementation of frameworks and undeclared work.

Finally, the EFCI shares with the European Commission its deepest concerns on the high levels of undeclared work in many countries that continue to damage the efforts of sectors like ours and the overall economy. The fight against undeclared work is even more important in the current crisis context. Further, and in the context of the consultation, disregarding or bypassing the crucial role of national Social Partners by forcing new wage setting procedures through an EU Directive could only empower and increase the cases of systematic undeclared work. The EFCI understands that fighting to eradicate this phenomenon entirely is a pre-requisite to any EU initiative willing to work on minimum salaries. In many service sectors, such as the industrial cleaning, undeclared work represents not only a form of unfair competition but also the main source of gender and origin- based discrimination, inexistent work safety measures or lack of social protection. This phenomenon not only puts affected sectors in danger but also directly undermines any efforts to improve the pay conditions for declared workers. With this, we understand that **increasing the public and private efforts and resources to tackle this issue in each Member State would have a much more direct and positive effect on working conditions than any forced changes to wage setting systems.**

Regarding the “well-established mechanisms and procedures to ensure proper implementation of minimum wage rules and frameworks” we would like to highlight again that Social Dialogue in each country is the most efficient mechanism to ensure fair wages in all sectors. In our understanding, these mechanisms are already set and have proven successful in the continuous and sustainable increase of pay conditions. Therefore, we do not see how a forced modification of such mechanisms could improve its functioning.

General overview and new forms of work.

Overall, as stated, **an EU Directive on minimum wages would only disrupt well-established collective bargaining systems and undermine the role of national and sectoral Social Partners who, at the same time, are the only actors with the knowledge to lead any structural changes on pay conditions in all sectors. In our view, an EU Directive would be a blunt measure that would lack the accuracy of national and sectoral expertise, would disrupt well-functioning collective bargaining systems and would add more rigid rules to an economy that requires permanent and full flexibility.**

Additionally, the Commission proposal does not take into consideration the new emerging and non-standard forms of work. As a result of the digitalisation of the economy, organisation of work, and new customer habits, the change in the nature of work is one of the main transforming factors in European economies. Therefore, labour legislation must ensure that tailored working arrangements contracts are fit for, for example, seasonal variations, customer demand variations and the fact that some employees choose more flexible and/or reduced working schedules to improve their work-life balance. In this sense, strict EU initiatives can become a serious obstacle by lowering the EU’s market flexibility and seriously endanger the Union’s post-pandemic recovery.

The members of the EFCI prioritise and promote fair pay conditions to its workers and engage permanently in initiatives to promote quality work and quality-based selection of services providers. In this sense,

together with our Social Partner UNI Europa we have developed tools such as the [Selecting Best Value guide](#) to assist public and private organisations in purchasing quality cleaning services. As such, the EFCI and its Members believe that artificially increasing or forcing minimum wages is nothing but an added challenge for labour-intensive sectors. We understand that the focus on pay conditions should be on the worker's overall acquisition power rather than on base income. For this reason, **we strongly believe that any efforts to improve pay conditions should be made in areas such as taxation, public services, flexibilization of wage setting schemes, prioritisation of selecting quality services in public procurement contracts or public education.** A significant improvement in these areas would directly and positively improve the working and living conditions of millions of workers in Europe and would ultimately help sectors such as the industrial cleaning to offer better pay.

Question 2: What are your views on the possible avenues for EU action set out in section 6.1 of this document?

Collective bargaining

The EFCI would welcome a Council recommendation to all Member States to provide incentives to promote well-functioning collective bargaining on wage issues. This recommendation could be accompanied by an exercise to invest in capacity building to ensure that Social Partners are well equipped throughout the EU (and especially, for our sector, in Central and Eastern Europe) to ensure a highly performing Social Dialogue.

Further, the EFCI considers that, especially for labour-intensive services sectors, a closer mapping of the implementation of the Public Procurement Directive 2014/24/EU28 in all Member States would be needed. Additionally, the EFCI insists that a shift towards quality criteria (leaving price-focused procurement aside) would be the best measure to improve working conditions through procurement. Indeed, moving forward in the use of quality criteria, while forbidding malpractices leading to abnormal pricing that result in tightening the margin regarding employment conditions would be an alternative and a lasting way to improve social standards in sectors like ours, which are central to Europe's social recovery².

Clear national frameworks to set and update statutory minimum wages

Through the strong role of Social Partners and the collaboration of national administrations, collective bargaining systems have proven successful. Therefore, the EFCI does not understand how an EU initiative could make any improvements to well established systems. However, **the EFCI would welcome any initiative by the EU to ensure that the role of national and sectoral Social Partners is enhanced in Member States in which their role or functioning is not sufficiently ensured.**

Further, **the EFCI opposes any initiative to interfere with Social Partners role and independence, especially by disrupting basic provisions of wage setting systems** such as the frequency of minimum wage updates which is one of the main areas of collective agreement negotiations.

The EFCI considers that a Council recommendation to include specific indicators for minimum wage assessment in national frameworks could be a positive tool for Social Partners to reach stable agreements in the framework of collective bargaining. However, the reliability and availability of data on factors such as the gross median or average wage or the net median wage is a serious concern in many national contexts and would require clear guidelines to ensure quality criteria in data collection. As mentioned on Question 1, an added factor to the collection and analysis of data is the fact that new forms of work, especially seasonal, part-time and on-demand can lead to the misinterpretation of employee income data if a new and more flexible EU approach towards the new job market trends is not considered.

Involvement of Social Partners in statutory minimum wage setting

The EFCI will welcome any form of Council recommendation aimed at strengthening the involvement of Social Partners in minimum wage setting in all cases. However, the EFCI does not support the Commission proposal to provide for independent experts to be associated with minimum wage setting and updating,

² EFCI vision paper: The European Cleaning Industry: A key partner for the post-covid-19 Europe. Available [here](#).

based on serious concerns on the selection procedure, knowledge and neutrality of such experts and the need to preserve the role and independence of Social Partners.

Exemptions and variations

As explained in question 1, exemptions to minimum wage are necessary in many sectors to ensure the inclusion of many population sectors into the labour market, especially in areas such as VET and social inclusion programmes. Therefore, **the EFCI would oppose any European initiative aimed at the elimination of the existing exemptions. However, the EFCI would welcome a Council opinion or recommendation offering guiding criteria for their fair use.**

Compliance and monitoring

Regarding the Commission's proposal for a call to all Member States to ensure effective implementation and compliance with national minimum wage frameworks, **the EFCI understands that this initiative would directly contradict the autonomy of Social Partners and Member States on this field, and therefore it is clear that there is no need for any EU initiative in this field.**

On the other hand, **the EFCI would support any EU initiative to call on Member States to strengthen enforcement bodies such as labour inspectorates, as well as mechanisms for ensuring the application of collectively agreed minimum wages with the objective to completely eradicate undeclared work.**

Finally, following concerns on wage data availability, reliability, and collection tools, **the EFCI would welcome a Council recommendation to Member States to reinforce their existing data collection tools and monitoring frameworks.**

Question 3: What are your views on the possible legal instruments presented in section 6.2?

First and foremost, we consider that the EU has no competences to introduce an instrument concerning pay based on Article 153 (2) of the EU Treaty as article 153 (5), which explicitly exclude such possibility by stating *"5. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs."* As described, such a measure would strongly interfere with Member States' wage-setting systems. The role of the EU in social affairs is *"1. With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States"*, respecting the division of competences between them and the EU. Indeed, within principle 6 of the European Pillar of Social Rights covering wages, it is clearly stated that Member States and Social Partners are responsible for the definition of wage and minimum wage developments: *"wages should be set in a transparent and predictable way, in full respect of national practices and Social Partner autonomy"*³. This well-established principle seems to be contradicted by an EU Directive aiming to determine aspects of minimum wages at national level. In addition, this issue is already part of the European Semester Process, which is the most appropriate instrument to deal with it. Indeed, the European Semester is the best tool to identify the specific areas that need and encourage reforms at national level.

In parallel, the EFCI would welcome a set of Council recommendations in the following subjects:

- A recommendation on the provision of national incentives to promote and foster well-functioning collective bargaining in each Member State and sector.
- A recommendation to Member States to facilitate and promote the mapping of the social clause 2014/24/EU of the Public Procurement Directive. In parallel, the EFCI would support any other EU initiatives focused on the mapping and promotion of quality criteria in public procurement pursuing the principle of article 67, 67.2 (a) and 67.2 (b) of the Directive.
- A comprehensive guide providing Member States with reference to specific indicators against which minimum wage adequacy could be assessed.

³ Extracted from Article 6 of the European Pillar of Social Rights, available [here](#).

- A set of recommendations to guide Social Partners in keeping minimum wage exemptions to the minimum necessary and considering each sector's and country specificities, circumstances, and needs.
- A call to Member States to ensure effective implementation and compliance with national minimum wage frameworks, and attribute to the Social Partners a key role in that respect.
- A set of guiding tools to improve Member States' existing data collection tools and monitoring frameworks.

Further, the EFCI would like to reiterate its full commitment with the fight against undeclared work. For this reason, the EFCI would support any EU initiatives aimed at strengthening enforcement bodies such as labour inspectorates, as well as mechanisms to eradicate undeclared work practices, increasing the flexibility in recruitment and facilitating the incorporation of companies, especially in sectors specially affected by undeclared work.

Question 4: Are the EU Social Partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in section 5 of this document?

As explained on the previous questions, **the EFCI firmly believes that any actions taken by the European Institutions should come in the form of Council recommendations and opinions. In this context, the EFCI would be willing to enter into negotiations with Social Partners and the European Commission to reach a common agreement.** In line with this, we would consider necessary to include these questions and initiatives in the sectoral European Social Dialogue and analyse how they can be better developed and implemented in each case. As the European Social Partner in the industrial cleaning sector, the EFCI is fully committed with the European Social Dialogue and willing to actively engage in all debates and proposals affecting the sector.

If, however, despite our strong concerns, a legal instrument based on Article 153 and in respect of ECJ rulings, is the Commission's way forward, the EFCI would be inclined to follow BusinessEurope's position on this matter.

The EFCI will be happy to provide further information, national sectoral examples and data at the request of the Commission's services or in the framework of a further consultation to Social Partners. For any question on the above or other request, please contact [redacted] and [redacted] at [redacted]