



First phase consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages

Response Pearle\*-Live Performance Europe

The European Commission invites social partners to a first stage consultation regarding a possible EU action in order to achieve a political commitment made by the von der Leyen Commission on social fairness. Reference is made to the European Pillar of Social Rights, where the principle of right to fair wage is explicitly put forward, by underlining the fact that adequate wages shall be ensured, referring to national practices and the role of social partners.

The consultation document describes four main challenges, including:

- **Wage adequacy** in relation to the wage distribution in a country and standard of living
- **Wage coverage** of statutory national minimum wage covered in the law
- **Involvement of social partners** in setting statutory minimum wages
- **National mechanisms** guiding the adjustments of statutory minimum wages

The consultation document further describes existing EU laws and jurisprudence and presents the EU added value of an EU action on minimum wage. An EU action is considered appropriate with the aim to improve working conditions and creating a level playing field.

Social partners are invited to respond to three following questions:

I. Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for EU action?

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

III. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

### Introduction

Pearle\*-Live Performance Europe, which is the European employers federation representing over 10 000 organisations in the public and private sector of the music, theatre, dance, circus, and others in the live performance. The sector employs about 1,2 million workers.

Pearle\* represents the employers in the European sectoral social dialogue committee 'live performance'.

Pearle\* thanks the Commission for the invitation to respond to the social partner consultation on this subject.

### General approach of Pearle\* to the subject of the consultation

1. Setting wages is initially and primarily the autonomy of social partners. Also, in the context of a Europe-wide discussion on minimum wages, social partners have a key role in this area. Collective bargaining on wages is essentially based on the principle of fair wages, which includes minimum wages, and which takes into consideration the particularities of a sector.
2. There is great variation and difference between sectors when setting wages. Those have to do with the level of labour-intensity in a sector to make a product, the fact whether a sector relies on labour that is almost exclusively based in Europe itself, or whether a sector relies on public support in order to undertake its business. This is the case for instance for the live performance sector, where the labour supply is high, the activities are 'made in Europe' and where a large part of the sector relies directly or indirectly on government support. Wage setting is also determined by various elements which form part of collective agreements, including contributions to company/sectoral pension funds, support for training, lunch vouchers, etcetera. Artists and performers also receive income for authors' and neighbouring rights.
3. Several countries provide for supporting mechanisms and specific provisions on lower taxes or social contributions, so that in the event of low wage the less income is compensated through other mechanisms. A higher wage might take away the access to reduced taxes and other benefits and result on the contrary in a less beneficial situation. Therefore, a call for a minimum wage cannot be isolated and should be considered in the full context of support for low earners.
4. Sharing best practices and insights from academics with different backgrounds on how to improve the situation for people who are poor is needed in order to better capture the entire problem, and to evaluate if an action on wages is appropriate to tackle the problem.
5. The Live Performance sector is a sector where income levels can vary immensely: from famous and top artists (usually working as self-employed) to a large proportion of people who are engaged according to the payment levels agreed by social partners through collective bargaining. As it concerns both a private and a public sector, in the last case collective bargaining on wages is impacted by the level of budget foreseen for culture, which in many countries across Europe is under pressure.

## Response to the questions

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

The Commission seeks to guarantee the well-being of people and the social market economy for which Europe stands. This overarching goal requires a holistic approach encompassing all elements that can work towards achieving such goals, whilst at the same time the answers are different from country to country and from sector to sector. Wages are based on a good thriving economy and good thriving public finances. All conditions and elements must be at place to generate well-being through income.

In a sector as the live performance, the motivation to work is extremely high and even with no job offers available creative people will seek to process the artistic need for expression by taking own initiatives regardless of the prospect of employment. This is a quite different context compared to sectors where there is a high labour shortage and where there is pressure on the demand-side to be able to recruit people. Apart from certain occupations or shortages of one or the other occupation in a particular country, in general one may say that the sector has an oversupply on the labour market, not in the least because of the high amount and in some countries an increase of students graduating from music and arts schools or cultural management. The interplay between offer and demand is a factor not to be ignored in this regard.

Since the financial crisis of 2008 which impacted several sectors as well as public finances of Member States across Europe, including some countries which were put under financial supervision and that were imposed strict rules as regards wage increase, also the live performance sector underwent difficult years which has still not come to an end. Therefore, it is essential to consider the state of economy, and in particular the state of public finances, the measures and incentives related to taxes, public support and level of social contributions, when discussing the aspect of wages.

In the view of Pearle\*, it concerns a highly complex matter, which requires careful thought when evaluating an initiative at a European level.

The Commission document also considers the involvement of social partners to be insufficient where social partners are part of the process to adjust minimum wages. It also mentions that a few Member States do not have criteria on guiding changes to minimum wages. Earlier on in the paper, only once the negative effect of increased labour costs is mentioned. However there can be other negative effects as well, such as the pressure on public funds for unemployment schemes and other support schemes which exist for people with low income.

In chapter 4 reference is made to current EU acquis and instruments. It is argued that wages are embedded in several EU directives, when addressing discrimination. The recent European Pillar of Social Rights considers minimum wages as part of several instruments to provide decent standard of living, whereas the Pillar of social rights also clearly identifies the autonomy of social partners and national practices.

As mentioned above, well-being and combatting poverty must be part of an overall strategy which requires a set of instruments ranging from tax incentives to social security, public funding and public support. The essence of social partner negotiations relates to wages and as a principle must respect each sector to manage those industrial relations as they are always connected to the economic situation of a sector and its potential.

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

The level of income is only one aspect of an individual's well-being. Within the framework of income, wage is again one specific aspect, next to others such as social benefits, reduced tax levels or social contributions, additional support, etcetera. In sectors where fixed-term work is common, where people may have interrupted periods of employment, changes to minimum wage are not the sole answer to combatting poverty. Given the fact that minimum wages are already existing across Europe, we would consider for the EU's role to be of a technical dimension, providing economic analysis and technical recommendations to Member States, such as in the context of the European Semester.

The EU can develop policy to encourage well-being by sharing best practices between Member States, by conducting studies and encourage Member States to develop smart policies to tackle poverty and hold a general debate. The EU can provide through the European social fund targeted support for specific groups in society.

To conclude, in Pearle's view it is unclear in which way an EU action on minimum wage could support Member States to combat poverty and ensure well-being when aiming for a social market economy, unless it concerns non-legislative action.

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

Pearle\* would not consider initiating a social partner dialogue under Article 155 TFEU.

Final comment

It is been understood that the second stage consultation will be launched shortly after the first stage consultation. Taken into consideration President von der Leyen's promise to come up with a legislative proposal on a fair minimum wage, given the complexity of the matter thorough analysis is needed and the responses of social partners need to be carefully taken into consideration before launching a second consultation.