



EU legislation on minimum wages?

- What is happening?
- How does the proposal effect the Swedish model?
- Why the trade unions in Sweden, Denmark and Norway don't want EU legislation on minimum wage

NOFS 22 March 2021

Hanna Björknäs, LO



Nicolas Schmit – Commissioner for Jobs and Social Rights

“I will put forward a legal instrument to ensure that every worker in our union has a fair minimum wage. It is not about setting one single EU wage level and I will pay particular attention to social models of different member states.”





What can EU do?

- The frames for EU action is the treaty
- Treaty on European Union and the Treaty on the Functioning of the European Union

According to article 153 the Union can adopt rules concerning social and working conditions. But there are limits.

Article 153.5: 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.

Important: That wage setting was to stay national competence was a key question when Sweden became a member of the EU.



Why are trade unions in Sweden against regulating minimum wages on a European level?

- We are not against minimum wages as such. It is an important instrument in our collective agreements.
- Minimum wages fulfill an important function in the EU, regardless of their regulation form.
- But the Swedish system of collective bargaining is autonomous, without any state intervention. We want to continue to regulate wages in our collective agreements. An EU directive means state intervention.



Our concerns?

- EU directives must be transposed by the state as collective agreements don't cover all workers
- If the directive means ALL workers must be covered by a minimum wage, that needs to be secured by the state
- If the state regulates minimum wages the incentive to enter into collective agreements and to join a trade union or employer organisation will decrease.
- Minimum wages becomes EU competence and can be interpreted by the Court of Justice.
- Nothing says the ECJ in the light of free movement and to safeguard fair competition for companies might set a ceiling on minimum wages.



The opinion of the Council Legal Service

- The Council Legal Service has scrutinized if the proposed directive is in line with the Treaty.
- It may be, they say, if the proposal is amended especially when it comes to the details on how to set legally set wages
- A prerequisite is that the proposal does not mean ALL workers need to be covered by a minimum wage.
- What is allowed is flexible rules concerning the process, but not direct interference in wage setting.
- The collective rights are directly connected to the right to minimum wage, no added legal ground necessary. (art. 153 1 f on this demands unanimity)





Nicolas Schmit – Commissioner for Jobs and Social Rights

“I will put forward a legal instrument to ensure that EVERY WORKER in our union has a fair minimum wage. It is not about setting one single EU wage level and I will pay particular attention to social models of different member states.”





What is the status of the opinion of the Council Legal Service?

- It has no formal meaning, but important political message.
- The proposed changes need to be added by the Council itself.
- It will effect the possibility to add more collective rights and more details on wage setting.
- The ones who doesn't like it says it means everything is fine.



The nordic countries have an exception, says Schmit. Is that the truth?

- We already have a solid exception today in the treaty, article 143.5. The EU cannot adopt legislation that is not in line with this.
- An exception in a directive will be interpreted in the light of the Treaty and other directives.
- Do we trust the ECJ?



What is happening at the moment

- The process in the EP is in full speed.
- The council is negotiating the directive.
- Can it be adopted?