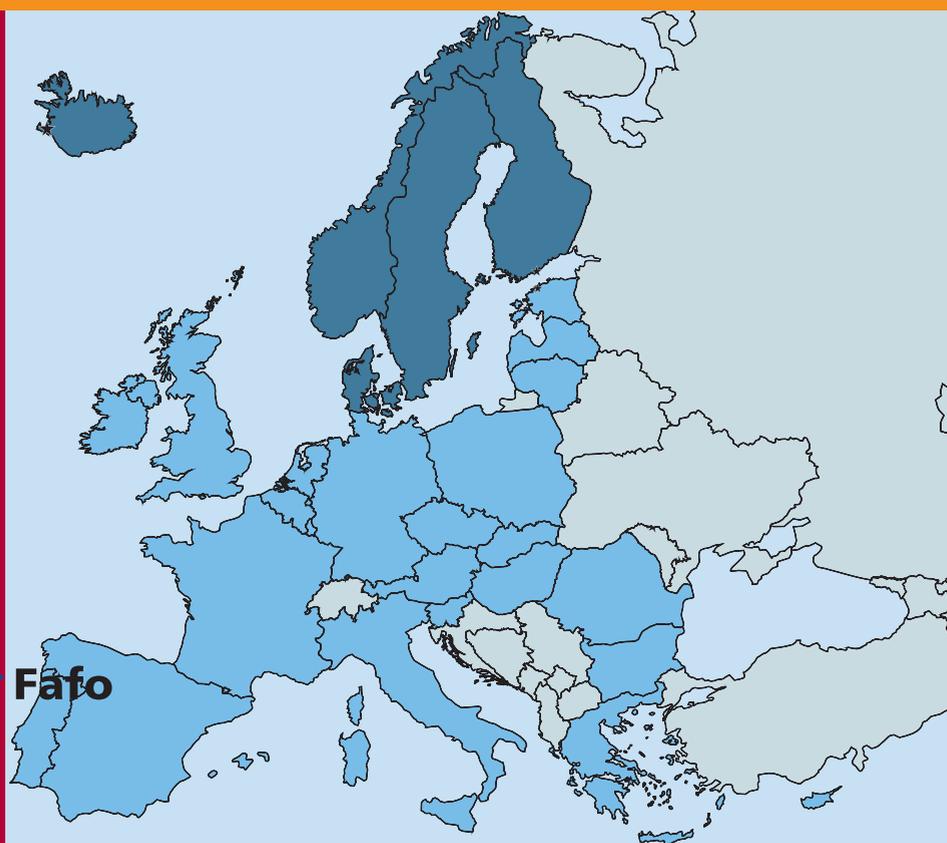


Line Eldring and Kristin Alsos

# European Minimum Wage: A Nordic Outlook





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# Preface

This report is written on assignment from the Trade Union Confederations (LOs) in Denmark, Norway and Sweden, Suomen Ammattiliittojen Keskusjärjestö (SAK) in Finland and Alþýðusamband Íslands (ASÍ) in Iceland. Its purpose is to provide an overview of how minimum wage schemes are designed and function in other European countries, and a summary of the aspects of the Nordic labour markets that could serve to lessen the need for a statutory minimum wage. The basis for this work is the discussion on whether European regulations are required in this area. We wish to thank the representatives of the Nordic trade union organisations who have provided contributions in the form of documentation and input, as well as other informants who have helped us by sharing their knowledge about this topic. We also want to thank the Council of Nordic Trade Unions for their support to the project.

The work is an extension of a previous Fafo analysis of statutory minimum wages undertaken in 2005 by Håvard Lismoen and Torgeir Aarvaag Stokke.<sup>1</sup> Torgeir had a key position in the planning and initiation of the new study, before he unexpectedly passed away in December 2011. Part of our study is based on the text prepared by Håvard and Torgeir in 2005, and we are deeply indebted to them for their seminal effort. Torgeir's plans and structures for the data material have also given the direction for the further implementation of this work.

At Fafo, we also wish to thank Kristian Rose Tronstad for his help in compiling data on poverty, Anne Mette Ødegård for her comments, and Fafo's Information Office for their excellent assistance in preparing the manuscript for publication.

Oslo, March 2012

Line Eldring and Kristin Alsos

<sup>1</sup> Lismoen, H. & Stokke, T. Aa. (2005), *Lovfestet minstelønn i Norge?* Fafo-notat 2005:13. Oslo: Fafo.



# 1 Introduction

“A consideration of using a statutory minimum wage as a measure must be based on the type of problem one wishes to solve.”<sup>2</sup>

The quote above is taken from the final chapter of the previous Fafo report on statutory minimum wages, and is an appropriate starting-point for this updated analysis. Since 2000, the topic of statutory regulation of minimum wages has gained new relevance in Europe. Massive labour mobility from East to West in the wake of the EU enlargements in 2004 and 2007 have put pressure on existing national regulation regimes, and the consequences of the financial crisis have had a brutal impact on large parts of the European labour markets. This development has given rise to broad and fundamental questions about how employees can be ensured a decent wage level, and whether new solutions may be called for. A possible European-wide minimum-wage scheme has been debated on several occasions in the European Parliament as well as in the European Trade Union Confederation, and there are indications that this debate will continue. The purpose of this report is to provide a knowledge-based foundation for the continued debate pertaining to statutory regulation of minimum wages. Most European countries already have schemes for statutory minimum wages, while this has been an alien concept in the Nordic context. Thus, there is a need for better insight into the designs and effects of such schemes. We will also investigate how minimum wages are determined in those few EU countries that still have no statutory regulations.<sup>3</sup>

## 1.1 Regulation of minimum wages in Europe

In the following, we will review some main features of regulatory mechanisms for minimum wages, before turning to the specific schemes in the next chapters. Regulation of minimum wages in the Nordic countries and Europe is based on collective

<sup>2</sup>Lismoen & Stokke 2005:46.

<sup>3</sup>Iceland and Norway are not members of the EU, but are part of the EU's internal market and subject to most of the EU's regulatory framework through the EEA agreement.

agreements and/or legislation at the national level. We can distinguish between three main forms of minimum wage:

- **Statutory minimum wages.** Determined by legislation or pursuant to legislation. Commonly one rate for all adult employees, valid throughout the labour market. Motivated by a desire to ensure a decent living standard. This kind of statutory minimum wage is not found in the Nordic countries.
- **Extended minimum wages.** Expansion of the coverage area of the minimum wages determined by collective agreements to have validity in an entire region, industry and/or profession, irrespective of whether the employer and/or the employee is organised. Extension of collective agreements is common in Finland and Iceland, and has been introduced in Norway in recent years.
- **Collectively agreed minimum wages.** Negotiated between the parties to a collective agreement to reflect the employers' minimum ability to pay, but can be supplemented with local rates. Collectively bargained minimum wages are of great importance in the Nordic countries.

*Statutory minimum wages:* This refers to a minimum wage which is either determined by legislation or pursuant to legislation. The specifics of how the statutory minimum wage is determined vary from one country to another. The main point is that the legislator has determined a minimum wage level or a procedure for determination of a minimum wage. Statutory minimum wages can be guaranteed for all employees of a country, although exceptions can be made for certain groups. The minimum wage can also be graded, first and foremost on the basis of age. As a rule, there will be one rate for adult employees which will apply to all or most parts of the labour market. As such, the minimum wage level will be well known. Statutory regulation determines a floor for wages. This floor will be invariable downwards, but variable upwards.

*Extended minimum wages:* Many European countries have mechanisms for expanding the coverage area for collectively agreed minimum wages. These mechanisms mainly involve various forms of extension of collective agreements, whereby minimum wages and other provisions are made generally binding (extension can also apply to normal wage rates). The most common procedure is to apply major parts of the collective agreement not only to the parties to the agreement and their members, but to the entire industry or profession that falls under the scope of the agreement. An unorganised enterprise with non-unionised employees must thereby conform to the extended minimum wage level, even though the employees' opportunities to bargain collectively for local supplements may be far weaker than in organised enterprises.

*Collectively agreed minimum wages:* These are a completely different form of minimum wages. As a rule, the collectively agreed minimum wage will be higher than its statutory counterpart. However, the collectively agreed minimum wages apply only

to the parties to the collective agreement, and are mandatory only for the parties' members. Employers who are committed by the agreement may still be obligated by it also with regard to unorganised employees in the enterprise. Wage formation in the industry will also determine how many will receive the collectively agreed minimum wages, and how many who will be paid at levels above this floor with the aid of locally agreed supplements. With regard to collectively bargained normal wages, the opportunities for obtaining locally agreed supplements are far more limited. Otherwise, it will make no difference whether the collectively agreed wages are minimum or normal wage rates; the distance to the statutory minimum wage will be long in both cases. To simplify, we will therefore restrict our further discussion of collectively agreed wages to cover only minimum wage rates.

As a rule, statutory and collectively agreed minimum wages will be determined on the basis of fairly different criteria and mechanisms. A number of conventions and recommendations by the International Labour Organization (ILO) seek to provide social protection to employees in the form a minimally acceptable wage level. According to the European Social Pact, the right of employees to a remuneration that ensures them and their families a reasonable living standard must be acknowledged. Such viewpoints provide the main basis for statutory minimum wages, and the cost of living will thereby also have an effect on the determination of the actual level.

Collectively agreed minimum wages, on the other hand, are determined through bargaining between the parties, and result from the wage policies of the parties and their bargaining strength. If we assume that the minimum wage is determined by a central or nationwide collective agreement, the collectively agreed minimum wage rate is an expression of the floor for the local employer's ability to pay. If the employer does not have this ability to pay, then the staffing must be reduced or the enterprise must shut down. If the employer has a better ability to pay, the employees will attempt to negotiate local wage supplements.

Of the 27 EU member states, 21 have a *statutory minimum wage*, with rates that are approximately 30 to 50 per cent of the average wage level. *Collective agreement coverage* in European countries varies from very low to very high. As can be seen from Table 1.1, the collective agreement coverage does not necessarily co-vary with the trade union density. One important reason for this is that most countries have additional schemes for *extension of collective agreements*. In the table we have grouped the countries according to their application of various schemes for regulation of minimum wages.

The most common form is to have a statutory minimum wage *and* schemes for legal extension of collective agreements – this applies to 18 of the 29 countries included in this overview (27 EU countries, plus Iceland and Norway). Three of the countries have statutory minimum wages, but no extension of collective agreements. Only three countries – Italy, Denmark and Sweden – have neither a statutory minimum wage, nor extension of collective agreements. Italy, however, has a provision in her constitu-

Table 1.1 Statutory minimum wage, extension and coverage of collective agreements and trade union density in the EU (and Iceland and Norway).

	Statutory minimum wage	Extension of collective agreements possible	Scope of extension	Collective agreement coverage 2008/2009	Trade union density 2008/2009
Belgium	x	x	High	96 %	52 %
Bulgaria	x	x	Not used	30 %	20 %
Czech Rep.	x	x	High	43 %	17 %
Estonia	x	x	Low	19 %	7 %
France	x	x	High	90 %	8 %
Greece	x	x	High *		23 %
Hungary	x	x	Low	34 %	17 %
Ireland	x	x	Low	44 %	37 %
Latvia	x	x	Not used	25 %	15 %
Lithuania	x	x	Not used	15 %	10 %
Luxembourg	x	x	Low	58 %	37 %
Netherlands	x	x	High	82 %	19 %
Poland	x	x	Not used	38 %	15 %
Portugal	x	x	High	45 %	21 %
Romania	x	x	High		33 %
Slovakia	x	x	Low	40 %	17 %
Slovenia	x	x	Low	92 %	30 %
Spain	x	x	High	85 %	16 %
Cyprus	x			54 %	52 %
Malta	x			55 %	51 %
UK	x			34 %	28 %
Austria		x	Low	99 %	29 %
Finland		x	High	90%	69 %
Germany		x	Low	62 %	19 %
Iceland		x	High	99 %	85 %
Norway		x	Low	74 %	54 %
Denmark				80 %	69 %
Italy				80 %	35 %
Sweden				91 %	69 %

Sources: Visser, J. (2011), ICTWSS Data Base, AIAS, Amsterdam University, <http://www.uva-aias.net/208> (column 5 and 6); Stokke, T.Aa. (2010), *Allmenngjøring i Norge og Europa*. Fafo-rapport 2010:14, p. 12; Eurofound (2011), *Extension of collective bargaining agreements in the EU*. Dublin: European Foundation for the Improvement of Living and Working Conditions; OECD Database on trade union density. Figures for Iceland are estimates provided by ASI and date from 2011.

\* Recent legal amendments have restricted the opportunities for extension of collective agreements in Greece (Eurofound 2011).

tion stating that all employees are entitled to fair pay, which in practice means wages according to the collective agreements. None of the Nordic countries have a statutory minimum wage. In Sweden and Denmark the minimum wages are determined exclusively by collective agreements, and the parties rely on the effects of the collective agreement to spread to those who are not directly committed by them. This is also the case in Norway, even though the collective agreement coverage is lower. There is thus an opportunity to extend the collectively agreed minimum wage rates, and as of January 2012, parts of four industry agreements have been extended in Norway. In Finland and Iceland they also rely on collectively agreed minimum wage rates, but legal extension of collective agreements is far more common than in Norway.

## 1.2 Structure of the report

In *Chapter 2* we will take a closer look at the proposals for a European minimum-wage scheme, with a particular view to the processes in the European Parliament and in the European trade unions. *Chapter 3* provides an overview of the main features of the existing schemes for statutory minimum wages, while *Chapter 4* describes some of the countries that have such statutory regulations in more detail (UK, Netherlands, France and Central and Eastern European countries). *Chapter 5* deals with minimum-wage regulation in those European countries (except the Nordic ones) that do not currently have statutory regulations: Germany, Austria and Italy. In the final chapter, *Chapter 6*, we investigate the regulation of minimum wages in the Nordic countries, followed by a discussion of possible consequences of and reactions to the introduction of statutory regulation of minimum wages in these countries.



## 2 Towards a European minimum wage policy?

“Against a background of a common European internal market and an increasingly integrated European economy, there is an urgent need for a European minimum wage policy. The aim of such a policy would be to halt the spread of poverty-level wages as well as preventing the menace of cross-border wage dumping.”<sup>4</sup>

In 2005 a group of German, Swiss and French researchers published the document “Theses for a European minimum wage policy”. In 14 points, the researchers argue in favour of the need for a coordinated policy in this area. They propose that all EU countries should have as a goal to establish minimum-wage schemes, which in the short term would ensure the employees 50 per cent of the average national wage level, in the long term increasing to 60 per cent. According to the researchers, the goals should be determined at the European level, while the implementation in the nation states could follow established traditions and practices, in the form of collective agreements, extension of provisions in the collective agreements or statutory regulation. This research-based proposal has transpired to be a key reference point for the discussions on a European minimum wage policy in recent years, and the issue has been put on the agenda of the European Parliament as well as of the European Trade Union Confederation (ETUC). In this chapter we will take a closer look at the processes that are underway and the positions of the various actors.

### 2.1 EU and wage regulation

The EU regulation of the labour market has two main elements: First, the regulations for the internal market and second, the “social dimension”, which, in addition to the rules for working environment, equal rights and employees’ rights, comprises coordination of entitlements to social benefits and cooperation on employment policy, social in-

<sup>4</sup> Schulten et al. (2005), *Theses for a European minimum wage policy*. [http://www.boeckler.de/pdf/wsi\\_2005\\_thesen\\_mindlohn\\_en.pdf](http://www.boeckler.de/pdf/wsi_2005_thesen_mindlohn_en.pdf)

clusion, poverty alleviation, social issues and health, etc.<sup>5</sup> In the Treaty of Rome (1957), the establishment of the common market was the key issue, and with the exception of equal rights, the regulation of the labour sphere and social rights were to remain the responsibility of each state. Since then, comprehensive regulation of employee rights has emerged through amendments to treaties, legislation, legal practices and action programmes. The charter of the basic rights of employees was adopted in the 1980s, and followed up by an action plan for statutory rights for employees in 1991. The Maastricht Treaty in 1993 strengthened the legal basis of the social dimension and the role of the social partners, and it was later expanded through the Treaty of Amsterdam (1999) and the Treaty of Lisbon (2009). Today, the EU has a comprehensive set of minimum rights for employees (which are also valid in the EEA area).<sup>6</sup>

Even though the competences of the EU in the social arena have been considerably strengthened through the years, matters pertaining to wages remain explicitly excluded. According to Article 153, no. 5 of the treaty, the EU does not have the authority to issue directives or enact other regulations with regard to wage setting. Despite this, the issue of a European minimum wage has been addressed in various EU governing organs. In 1993, the Commission requested the member states to “take appropriate measures to ensure that the right to an equitable wage is protected”.<sup>7</sup> This was followed up by the European Parliament, which encouraged all member states to establish a minimum wage level corresponding to a certain percentage of the average national wage level. Because of resistance from a number of the member states, the idea of a European minimum wage was more or less abandoned towards the end of the 1990s.<sup>8</sup>

Towards the end of the first decade of the new millennium, the issue of minimum wage regulations nevertheless resurfaced in the European Parliament as well as in the European Trade Union Confederation. The background for this was a strong concern about developments in the European labour markets, which in many countries have been characterised by an increase in the number of low-paid workers, more working poor and reduced coverage by collective agreements. In addition, the after-effects of the financial crisis have been palpable and have contributed to a deep economic slump in many member states. The EU enlargements of 2004 and 2007 have been another major factor, resulting in extensive movement of workers from East to West. It was soon recognised that this meant a considerable risk of social dumping and low-wage

<sup>5</sup>NOU 2012:2, *Utenfor og innenfor*, p. 429.

<sup>6</sup>NOU 2012:2, p. 431.

<sup>7</sup>European Commission (1993), *Commission Opinion on an Equitable Wage*, COM (93) 388 final, Brussels, 1. September 1993.

<sup>8</sup>Schulten, T. (2008), “Towards a European Minimum Wage Policy? Fair Wages and Social Europe.” I: *European Journal of Industrial Relations* 14(4): 421-439.

competition, thus increasing the importance of national minimum-wage schemes.<sup>9</sup> Until the middle of the first decade of the 2000s, it was mostly assumed that the EU had no authority in matters pertaining to collective employee rights. The decision of the EU Court of Justice with regard to the “Laval Quartet” put paid to this notion, rendering it clear that community rules for free movement may in certain cases restrict the collective right to labour activism.<sup>10</sup>

## 2.2 The European Parliament and minimum wage

The European Parliament is directly elected by the citizens of the union, and represents the legislative authority of the EU along with the Council and the Commission. The Parliament comprises 754 representatives working in party groups according to their political affiliation, and not according to nationality or geography. This means that the Nordic representatives (DK, FI and SE) are distributed into different political factions in the Parliament.

In recent years, there has been a continuous debate in the Parliament on the need for European-level regulations with regard to minimum standards for wages and incomes. According to one of the Nordic representatives, this issue has been raised in a number of contexts, but not so far in relation to legislation.<sup>11</sup> However, the topic keeps reappearing in various cases and discussions. There is an apparent consensus in the Parliament that a European minimum wage policy would be appropriate, and the majority appears to be in favour of regulations in this area. The discussion is driven forward by a general concern for the social situation in Europe, with the German political left-wingers and trade unionists as key proponents.

The Nordic parliamentarians oppose the idea of a European minimum wage regulation, and have two strategies in particular in the ongoing debates. First, they have attempted to sway the discussion towards one of *minimum incomes*, which is a far wider concept than *minimum wages*. The concept of minimum incomes include social transfers, and the main point will be ensure that citizens have a minimum income, irrespective of whether they are working, unemployed, retired or similar. Setting a minimum standard for income levels in this manner will represent a smaller alteration

<sup>9</sup>Dølvik, J.E. & Eldring, L. (2008), *Mobility of labour from the new EU states to the Nordic region. Development, trends and consequences*. TemaNord 2008:537. Copenhagen: Nordic Council of Ministers.

<sup>10</sup>NOU 2012:2, p. 443.

<sup>11</sup>Interview with Emilie Turunen, 23 January 2012, member of the European Parliament from Denmark (Socialist People's Party/The Greens in the European Parliament). This and the two subsequent paragraphs are largely based on information from Turunen.

to the “Nordic model” than the requirement to introduce a statutory minimum wage. Second, the parliamentarians (especially the social-democratic group) have established a standard formulation that they always seek to include in statements or decisions, saying that any minimum wage levels must be determined by national legislation *or* collective agreements. Opposition to statutory minimum wages is perceived by some party groupings as distinctively anti-progressive, and according to the Nordic representative whom we interviewed, it is exceedingly difficult to gain an understanding of the Nordic point of view.

To date, the European Parliament has taken no initiatives for specific proposals to introduce minimum-wage regulations, and neither does the Parliament have any competences to do so. The Parliament is barred from taking initiatives for new legislation, but can request the Commission to take such initiatives. The Commission is not required to follow such requests, but will in practice often do so. So far, the Parliament’s debates have focused little on legal matters, but concentrated on the attitudes to this issue. The debates are described as somewhat “unspecific”, and have not proceeded in any particular direction in recent years. According to the Nordic MP, the general impression is that the adherents claim that measures in this area could be implemented through, for example, “enhanced cooperation”. This procedure implies that the member states can ask for enhanced cooperation in areas covered by the treaty. A request for enhanced cooperation must be submitted to the Commission, which will decide whether to submit the proposal to the Council. Permission is formally issued by the Council, following approval by the European Parliament. This kind of cooperation will obligate only those member states that choose to participate.<sup>12</sup>

Others have argued that minimum wage regulation can be introduced by way of the Open Method of Coordination (OMC).<sup>13</sup> This is a method for coordinating the policy areas of the member states, which came into use in the EU in the late 1990s.<sup>14</sup> Instead of governing the member states through directives and instructions (hard law), a form of government by objectives (soft law) is used. In practical terms, the Council of Ministers determines policy objectives for a specific area, and the member states use these as guidelines for designing policies. Subsequently, a set of reference values/indicators are agreed upon to serve as yardsticks for evaluating the policies. Finally, the states are evaluated according to these indicators. The objectives are politically, but not

<sup>12</sup>We have been unable to assess the legal aspects of this procedure, but we refer to it here since it has been put forward as a possible method for introducing a European minimum wage scheme. More information on the “enhanced cooperation procedure”, can be found at: <http://www.europarl.europa.eu/parliament/export/staticDisplay.do?id=55&pageRank=10&language=EN>

<sup>13</sup>See Schulten (2008). Others express more doubt as to whether this method alone will be sufficient to induce the states that oppose such policies to adapt to these kinds of guidelines.

<sup>14</sup>The method was formulated in the chairmanship conclusions of the European Council in Lisbon in 2000.

legally binding, and the reporting obligations and the evaluation of implemented policies should help the member states work towards a common goal. Using this method, one could for example draw up guidelines stating that all member states should have a form of minimum wage regulation equal to at least 60 per cent of the median wage level. However, this presupposes that the Council of Ministers have first decided to set such a political goal in this area.

The issue of minimum wages most often appears to have been addressed as part of more general poverty alleviation in Europe. The main actors behind these proposals will not necessarily have a particular strategy with regard to the labour market and its collective actors; they perceive minimum wages as one of several possible instruments that can be used to counteract social deprivation in Europe. On 15 November 2011, the European Parliament adopted a resolution in the context of the European platform to combat poverty and social exclusion. The summary says:

**Minimum income:** Parliament wishes the Commission to launch a consultation on the possibility of a legislative initiative concerning a sensible minimum income which will allow economic growth, prevent poverty and serve as a basis for people to live in dignity. It wants the Commission to help Member States share best practice in relation to minimum income levels, and encourages Member States to develop minimum income schemes based on **at least 60% of the median income** in each Member State.<sup>15</sup>

In the resolution (Section 46) we can read that:

(Parliament) believes that in-work poverty reflects inequitable working conditions, and calls for efforts to change this state of affairs, through pay levels in general and minimum wage levels in particular, which – whether regulated by legislation or by collective bargaining – must ensure a decent standard of living.<sup>16</sup>

These decisions do not necessarily imply anything new, but can be taken to indicate that the pressure to implement measures pointing towards a European minimum-wage or minimum-income scheme is increasing. It is clear that the Parliament wants the Commission to take an initiative, but as far as we can see this is not very likely to happen. The Commission claims to have no competences in this area, so that even if the Parliament calls for and wishes to initiate measures for European regulation of minimum wage levels, this is not likely to take place.<sup>17</sup>

<sup>15</sup> <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1176328&t=e&cl=en>

<sup>16</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0495+0+DOC+XML+V0//EN>

<sup>17</sup> Information from a representative in the Commission's DG Employment.

A review of answers provided by the Commission to questions from the Parliament with regard to the topic of minimum wages confirms this impression.<sup>18</sup> One example from the autumn of 2011 provides a clear illustration. In a question to the Commission, a German MP pointed out that a statutory minimum wage would be the only thing that could put a halt to unfair competition and labour market distortions in the wake of trans-border labour movement, and inquired:

Does the Commission intend to support Member States in their efforts to safeguard their own social welfare systems and labour rights and to protect them against unfair competition? If so, how?<sup>19</sup>

The Commission's response left little doubt about its lack of plans for interventions that would impose an obligation on the member states to introduce statutory minimum wages:

The European Union attaches great importance to the protection of workers' fundamental rights, and in particular their right to fair and just working conditions which respect their dignity. However, the Union has no competence as regards the setting or harmonising of (statutory) minimum wages. The introduction of a minimum wage and the amount thereof are a matter for the individual Member State. The fact that Germany, unlike other Member States, has no generally applicable minimum wage is not in itself contrary to EC law. Furthermore, any disparity in national minimum wage systems reflects differences in the regulatory situation in the Member States concerned in which the Commission cannot intervene.<sup>20</sup>

## 2.3 European trade unions and minimum wage

The document "Theses for a European Minimum Wage Policy" award a key role to the European trade union movement with regard to the design as well as the implementation of a European minimum-wage scheme:

The European trade unions have a key role in implementing a European minimum wage policy. They first need to develop their own concept for a European mini-

<sup>18</sup><http://www.europarl.europa.eu/QP-WEB/home.jsp?language=en>

<sup>19</sup>Question to the Commission from Jutta Steinruck, MP, on 24 September 2010: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2010-7811+0+DOC+XML+V0//EN&language=EN>

<sup>20</sup>Response from the Commission, by Mr. Andor, 19 October 2010: <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2010-7811&language=EN>

imum wage policy. Such a concept would be linked, on the one hand, to the existing initiatives aiming at a European coordination of collective bargaining policy. On the other hand, the concept would serve as a basis for formulating ambitious objectives at European level and driving forward their implementation at national level. Finally, the age-old task of the European trade unions continues to uphold a fundamental principle of the European social model, whereby the wage must enable every dependent worker to live a life of dignity and financial independence.<sup>21</sup>

Coordination of the negotiation processes and minimum wages were topics at the ETUC conference in Seville in 2007, but no calls for a European minimum-wage scheme were put forward. The Seville Manifest, which determined the priorities for the coming period, says for example that the ETUC will “seek to ensure higher minimum wages and real wage growth for European workers”, and furthermore to “assess more intensively how to develop and coordinate collective bargaining at the European level”. At the same time, the ETUC Executive Committee issued a statement on minimum wages, equality and collective bargaining. It says:

The Executive Committee proposes the following practical steps in pursuit of fair wages for all European workers:

(c) Explore continually the scope for united campaigns at European level, led by the ETUC, for common standards on minimum pay and income, and for collective bargaining strategies.<sup>22</sup>

This statement also expresses that the differences between the countries may be too great to undertake a campaign for common European minimum-wage mechanisms, although the Committee charges its subordinate organs with the responsibility for continuing its work on these issues. At the congress in Athens in 2011, many Nordic trade union organisations feared that the issue of a European minimum wage would be brought up.<sup>23</sup> Several speakers called for the establishment of a European minimum wage level, but this was never submitted as a proposal, and the manifesto from the congress makes no reference to minimum wages. On the other hand, the intention of the ETUC to work for better coordination of collective bargaining remained firm.

Given the fact that most European countries already have schemes for statutory minimum wages, one may wonder why this has become such a contentious issue in parts of the European trade union movement. In particular because the majority of

<sup>21</sup> Schulten et al. (2005).

<sup>22</sup> ETUC (2007), *On the offensive in Pay: Towards Equality. Statement on minimum wages, equality and collective bargaining*. Executive Committee Statement.

<sup>23</sup> Fri fagbevegelse, LO satser på EFS, 19. mai 2011. <http://www.frifagbevegelse.no/fagbevegelsen/article5611062.ece>

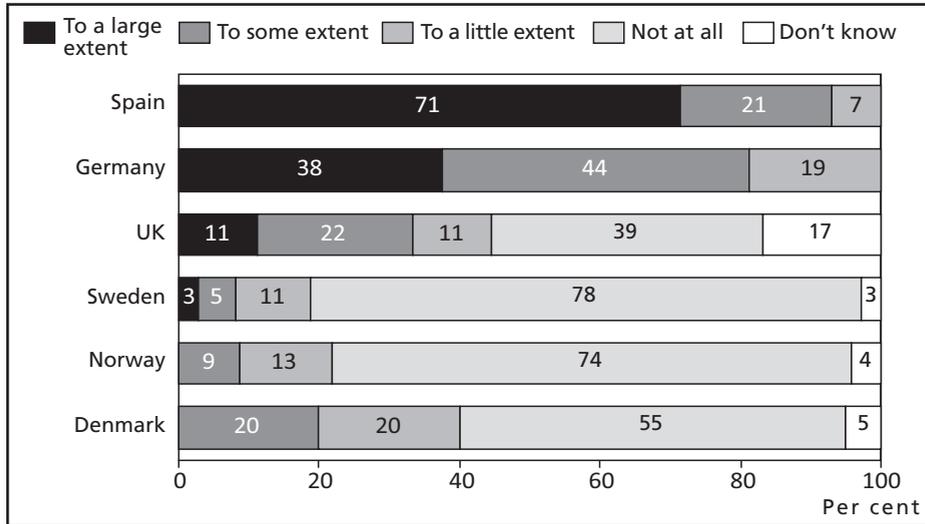
the seven countries that do not have such schemes do *not* want a European scheme for statutory minimum wages (see Chapter 5). Germany is one important exception. In contrast to most of its neighbouring countries, Germany has no statutory national minimum wage, nor a well-functioning scheme for extension of collective agreements. In combination with decreasing coverage of collective agreements and an increase in the proportion of low-wage workers, this has helped turn the demand for a statutory minimum wage into a key issue for the German trade unions. We may assume that the domestic debate in Germany has helped spur the interest in raising the debate on statutory minimum wages to the European level. The issue has moved increasingly higher up the German political agenda, and apparently there was a breakthrough in the autumn of 2011 when the governing CDU party adopted a positive decision regarding minimum wages. As far as we can ascertain, some time will still be needed before this becomes concrete policy, since the governing coalition parties disagree, and because the expectations regarding scope, level and process with regard to minimum wages remain unclear.

A study of attitudes to European minimum-wage regulations among trade unions in Denmark, Norway, Sweden, UK, Spain and Germany confirms that the viewpoints differ considerably. While the trade unions in Spain and Germany are strongly positive, their Nordic counterparts are very sceptical.<sup>24</sup>

In those countries that already have statutory minimum wages, the trade unions may have various motives for their support of a European-wide scheme. The motives are likely to alternate between a desire to let others benefit from the schemes that are perceived as well-functioning in other countries (e.g. UK and France) and an intention to use the European level as a lever to reinforce existing national schemes. The relative minimum wage level varies greatly between the countries, and a common norm to let the minimum wage constitute, for example, 60 per cent of the median level would entail an upward hike for many countries (see Chapter 3). Moreover, in several countries the financial crisis has helped decelerate the growth of minimum wages, or even reduce it (such as in Ireland), which may increase the relevance of a European standard (although this may not necessarily make it any easier to rally support for it).

<sup>24</sup> Furåker, B. and Bengtsson, M. (2011), *On the road to transitional cooperation? Results of a survey among European trade unions*. Department of Sociology, University of Gothenburg (under publication). Survey among the ETUC's member organisations, mainly organisations with more than 10 000 members. The questionnaires were mainly completed by the general secretary, the president, the vice president or the international secretary.

Figure 2.1 Do the trade unions of Europe want European minimum-wage regulations? Percentages.



Source: Furåker and Bengtsson (2011)



### 3 Statutory minimum wage in Europe

Statutory national minimum wages have a relatively long history in European labour relations. The first schemes were established in the 1950s, but most of them are of a more recent origin – a number of countries introduced such schemes in the 1990s. Today, the majority of the EU member states have some kind of statutory national minimum wage.<sup>25</sup> In the following description we will mainly focus on the national minimum-wage schemes that existed in the EU area before the enlargements to the east in 2004 and 2007. The purpose of this choice is to restrict complexity, but also because the countries concerned are more relevant for comparison with the Nordic countries. However, we will cast a glance eastward in Chapter 4.

Differences in duration and time of introduction complicate comparisons of minimum-wage schemes and their effects, in some cases even rendering them inappropriate. Comparisons are also difficult because the schemes operate within different financial, social and political contexts, and they must be seen in light of various labour-market systems, taxation systems and not least social-welfare and benefits systems. Furthermore, the countries vary greatly with regard to the design of their minimum-wage schemes, their manner of functioning and the implications of the concept of minimum wages. Differences in national statistical practices further exacerbate the problems involved in making comparisons.

The minimum wage systems operate in interplay with various financial, social, political and institutional factors that produce different outcomes in different countries. At the same time, research shows that the countries to a large extent face fairly similar problems with regard to minimum wages, and that there are no significant variations between the countries in terms of the purpose of the minimum-wage schemes. The national minimum-wage schemes in Europe vary considerably in terms of their design and function. The variations are especially great with regard to the wage components that are included in the minimum wages. A detailed, quantitative description of their structure and the procedures involved will therefore not be very purposeful. Instead, this review will focus on a bundle of key characteristics of the existing schemes: how the minimum wages are determined and regulated, how the regulations are enforced,

<sup>25</sup> Vaughan-Whitehead, D. (2010a), “Minimum wages in the enlarged EU: Explanatory factors and developments.” In: Vaughan-Whitehead, D. (ed) (2010), *The Minimum Wage Revisited in the Enlarged EU*. Cheltenham/Geneva: Edward Elgar/ILO.

which groups are encompassed by these regulations, how many groups receive the minimum wages and at what level the minimum-wage rates are set. In the following, we will review some of the most characteristic features of the minimum-wage systems and provide an overview, while the next chapter will describe schemes for statutory minimum wages in some selected countries.

### 3.1 Purpose

The main purpose of most of the minimum-wage schemes that currently exist in Europe has been to provide social security for workers by ensuring a minimum acceptable level of income associated with employment. This reflects the requirements of the ILO Minimum Wage Fixing Convention No. 131 of 1970 as well as adjacent ILO regulations. However, this purpose has several dimensions. One key aspect has been to combat the most extreme forms of exploitation of workers, especially in typically low-wage industries. To achieve this, minimum standards have been introduced to curb the influence of employers with regard to wage formation in individual employment relationships, in particular with an eye to the more vulnerable groups in the labour market. In extension of this, another key point has consisted in protecting workers in industries where there is less protection in the form of collective agreements and where the trade unions have had a weaker position, especially in the service sector and the primary industries.

Minimum-wage systems have also been regarded as essential for reducing wage differentials between various groups. Since the early 1980s, the European labour markets have undergone major changes, and the wage differentials between various groups of workers have increased. In this context as well, the weakened role of the trade unions in many European countries is often cited as an important explanatory factor.<sup>26</sup> In the absence of a strong bargaining partner, statutory minimum wages helps reduce the differences between low-wage groups and those higher up in the wage hierarchy. This applies to low-wage groups in particular, but also to more general effects such as wage differentials between women and men or between ethnic groups. In most European countries women constitute a large majority of the low-wage workers, and the effect on gender equality has therefore often been emphasised. Moreover, labour mobility in the wake of the EU enlargements in 2004 and 2007 has served to highlight the im-

<sup>26</sup> Eiro (TN0208101s): *Low-wage workers and the working poor. Comparative Study*. <http://www.eurofound.europa.eu/eiro/2002/08/study/tn0208101s.htm>

portance of having mechanisms to ensure minimum wage standards that also provide protection for labour migrants and posted workers.<sup>27</sup>

Poverty alleviation is a final important justification for statutory minimum wages, through its introduction or improvement of mechanisms to prevent intolerably low wages.<sup>28</sup> As will be seen later in this report, countries such as the UK have introduced a minimum-wage scheme for this very purpose. The correlation between work and poverty is also reflected in the common EU policies of the European countries. In the adoption of the Lisbon Strategy in 2000, economic growth and social equality were the key objectives.<sup>29</sup> One of the explicit goals of the Commission and the member states in the follow-up of this action plan was to help the member states facilitate a transfer from social benefits to employment in the population, and that this should lead to a real increase in people's incomes. However, the EU failed to meet the goals stated in the Lisbon Strategy, which was discontinued in 2010 and replaced by Europe 2020. This strategy also focuses on lifting people out of poverty and increasing labour-market participation.<sup>30</sup>

## 3.2 Determination, regulation and enforcement

In most countries, the minimum wage rate is determined through legislation, in the form of a statute or a regulation. Most commonly, the minimum rate is determined after some form of consultation with the social partners. In some countries, the level is set on the basis of bargaining between the employers' organisations and the trade unions at the national level (Belgium, Estonia and Greece) or national tripartite agreements (Bulgaria, Poland and Slovakia), where the government decides if the parties fail to come to an agreement. In some countries the minimum wage level is adjusted on the basis of automatic indexation against the price or wage levels. In practice, the minimum wage level is adjusted in overlapping ways where other factors, such as employment

<sup>27</sup> Eldring, L. & Schulten, T. (2012): "Migrant workers and wage-setting institutions: Experiences from Germany, Norway, Switzerland and the UK." Forthcoming in: Galgoczi, B. Leschke, J., Watt, A. (ed.), *Intra-EU labour migration trends in times of the crisis – length of stay, skills, return migration and political responses*. Surrey: Ashgate

<sup>28</sup> Eiro (TN0208101s).

<sup>29</sup> The goal of the strategy was to turn the EU into the world's most competitive and knowledge-based economy by 2010, on the basis of sustainable economic growth, more and better jobs and social equality.

<sup>30</sup> [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/115346.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/115346.pdf)

trends, unemployment rates and not least the competition faced by national industries and the ability of the enterprises to pay the minimum wage, are taken into account.<sup>31</sup>

This point can be illustrated by looking at the difference between the systems in the UK and France. In the UK, minimum wages are regulated by the authorities determining their level by statute, on the basis of recommendations from the Low Pay Commission. This commission monitors and assesses the development of the minimum wage on an ongoing basis, and recommends a level accordingly. The French minimum wage (*Salaire minimum interprofessionnel de croissance, SMIC*) is generally adjusted automatically on the basis of inflation. However, its level can be increased by more than what is indicated by the price index. If so, this will be determined on the basis of consultations with the national bargaining committee (*Commission nationale de la négociation collective*). This committee is composed of representatives of the employers' organisation and the trade unions.<sup>32</sup> In the same way as the British commission, this committee assesses the development of minimum wages in a broader perspective, which also takes other economic indicators, such as wage growth and employment trends, into account.

Even though minimum wages are mostly determined and regulated without any direct participation by the social partners, their role has thus been institutionalised in some form through consultation and/or participation in commissions in most of the European countries that have minimum-wage schemes. How wide-ranging this participation will be and the impact it will have tend to vary. In Ireland, the partners have wielded a fairly large influence, since the recommendations for regulation of the minimum wage level are determined in bargaining between the labour-market organisations. Since a legal amendment in 2010, the government may nevertheless change the minimum wage rates without any prior recommendation from the partners.<sup>33</sup> In the Netherlands, the main rule is for the social partners not to be consulted. However, if the minimum wage rate is to be frozen, this will be discussed with the partners. In Belgium, the minimum wage rates are determined by negotiations in an organ which in principle is an advisory committee, the so-called National Labour Council (*Nationale arbeidsraad*). This council encompasses participants from the key organisations in the labour market, and should in principle only give advice and recommendations to the

<sup>31</sup> Schulten, T. (2006), "Statutory and collectively agreed minimum wages in Europe – an international overview". In: Schulten, T., Bispinck, R. Schäfer, C. (ed.), *Minimum wages in Europe*. Brussels: ETUI-REHS; Schulten, T. (2011), How are minimum wages set in Europe? Beyond the statutory/collective bargaining dichotomy. Presentation at ETUI expert conference, Brussels 12.12.2011: <http://www.etui.org/Events/What-do-we-and-what-don-t-we-know-about-minimum-wages-in-Europe>

<sup>32</sup> ILO Minimum Wage Database [http://www.ilo.org/dyn/travail/travmain.sectionChoice?p\\_structure=](http://www.ilo.org/dyn/travail/travmain.sectionChoice?p_structure=)

<sup>33</sup> Eiro (IE1012029i): *Impact of government's four-year plan on minimum wage and sectoral wage agreements*, <http://www.eurofound.europa.eu/eiro/2010/12/articles/ie1012029i.htm>

authorities with regard to general development trends in the field of social affairs and welfare. Through legislation, this council has been granted the authority to bargain with regard to agreements on minimum wage rates that will apply to the economy as a whole.<sup>34</sup> However, normal practice in countries that have statutory minimum wage rates is that the partners are consulted in some form or other prior to a regulation of these rates, and in some countries they are also included in commissions or evaluation committees. Beyond this, the partners play a moderate role.

In most European countries the responsibility for enforcement of the rules for minimum wages lies with the national labour inspection authorities, with some exceptions (such as the UK, where this responsibility lies with the tax directorate). Most schemes are based on the assumption that the individual worker is responsible for reporting violations, although this is supported by a relatively comprehensive enforcement apparatus with wide-ranging authority. In most European countries, the enforcement authorities assume a pro-active as well as a reactive role. They have separate inspectors that undertake inspections on the basis of complaints from individual workers or trade unions, or they undertake unannounced inspections as they see fit. The punitive reactions to violations vary between the countries concerned. In most countries, the workers can submit cases to the courts, and demand back-pay from the employers. In a small number of countries this can also be done by the labour inspection or another governmental authority (e.g. the UK). Penalties are also used as a punitive measure. This is widespread in Central and Eastern Europe, but is also found in several countries in Western Europe, including Belgium, France, Greece, Portugal, Spain and Luxembourg.<sup>35</sup>

### 3.3 Scope

In principle, all workers should be encompassed by the national minimum wage schemes in Europe, since they are of a universal nature. Despite this, there are wide variations in the coverage of the different groups of workers and the rates to which they are entitled. The reason for these divergences from the main principle is first and foremost a desire to protect the employment of certain groups of workers. Table 3.1. provides an overview of degrees of coverage, differentiation and exemptions in some of

<sup>34</sup> Eurofound (2009) National labour Council Belgium, <http://www.eurofound.europa.eu/emire/BELGIUM/NATIONALLABOURCOUNCIL-BE.htm>; Chaidrone, A. (2005) Questionnaire for EIRP comparative study on statutory minimum wages – case of Belgium, <http://www.eurofound.europa.eu/eiro/2005/07/word/be0504305s.doc>

<sup>35</sup> Information in this section is taken from the ILO Minimum Wage Database.

the European countries that have statutory minimum wage rates, to give an impression of the similarities and the variations.

Table 3.1 Coverage, differentiation and exemptions from minimum wage regulations.

	Sector	Age for normal rate	Age differentiation **	Apprentices	Other
Belgium	Private sector	21	Progressively from 16 to 20 ***		
France	All	18	17 (90%), 16 (80%)	Age differentiation up to age 25	Differentiated by disability
Greece	All*	25	15-24 (84%)	Reduced rates	Differentiated by worker/manager and marital status
Ireland	All	20	17 and under (80%)	Exempted	
Luxembourg	Private sector	19	17-18 (80%), 15-17 (75%)		Differentiated by skilled/unskilled
Netherlands	All	23	Progressively from 15 to 22****	Exempted	
Portugal	All	None	No	Reduced (20%)	Differentiated by disability
Spain	All	16	No	Reduced rates	
UK	All	21	18-20 (83%), 16-17 (61%)	Reduced rates	

Sources: ILO Minimum Wage Database, Low Pay Commission Report 2011, OECD

\* Minimum wages in the public and private sectors are determined separately.

\*\* As a percentage of the normal rate.

\*\*\* 20 (94%), 19 (88%), 18 (82%), 17 (76%), 16 (70%)

\*\*\*\* 22 (85%), 21 (72.5%), 20 (61.5%), 19 (52.5%), 18 (45.5%), 17 (39.5%), 16 (34.5%), 15 (30%)

The table provides a simplified image of the real situation. A more detailed study would reveal even greater variations. As we can see, the norm is for all workers to be covered irrespective of sector, although in some countries public-sector employees are exempted or subject to other/separate legislation pertaining to minimum wages. Most countries have differentiated rates for young workers. This could involve gradually reduced rates per year from a certain age (Belgium, Netherlands and France), a single rate for all young workers below a certain age (Ireland, Portugal and Spain), or rates based on categories of young workers (UK and Luxembourg). The reason why young workers tend to be subject to differentiated rates is found in their shorter work experience and less developed skills, making them less productive than older workers. The enterprises must therefore be able to compensate for this lower productivity by paying lower wages. For the enterprises, the alternative would be to refrain from hiring young workers, thus curtailing their employment opportunities. Reduced rates make it easier for young workers to enter the labour market.

Apprentices and trainees are also subject to reduced rates or exempted from the regulations, such as in the Netherlands and Ireland. The main reason provided is similar to the one quoted above for young workers, i.e. they cost the enterprises more and are less productive. The costs associated with this group are more real, since they are directly related to measurable training. Costs spent on training would therefore necessarily have to be compensated by the pay level. In some countries, the rates are also reduced in accordance with the workers' functional ability or disability. These rules tend to be very complicated, but in general, different rates are set based on the ability to function.

A final important common denominator for these systems that does not emerge from Table 3.1 is the small degree to which exemptions are made for part-time workers or those who have an atypical affiliation to the labour market. In most cases, the minimum wage will be cut in proportion to the employees' working hours, meaning that their statutory minimum monthly wages are lower than for full-time employees.

There is a great deal of uncertainty with regard to the quality of data on the number of workers who receive minimum wages in the various European countries. This is caused by different practices for measuring this phenomenon, but also by differences in the degree of coverage for various groups of workers, and not least by wage differences between these groups. Available statistics show major variations between European countries with regard to the number of workers who receive statutory minimum wages (Table 3.2). Luxembourg, Greece and France have a considerable proportion of workers at the minimum level, at least when compared to the other countries. In France, this can be explained by the fact that employers have a reduced tax burden for employees receiving minimum wages, which causes many to be placed at this rate and few to be found at the level immediately above this rate.

Minimum-wage recipients share the same characteristics as low-wage workers in general, not least in that far more women than men in Europe receive minimum wages. Moreover, youth, labour migrants and ethnic minorities also tend to be overrepresented among the minimum-wage groups. Other key factors that determine the likelihood of being a minimum-wage recipient include the degree of atypical work such as part-time, temporary employment, etc. Type of industry and enterprise size are other factors determining the likelihood that a worker will receive minimum wages. The most typical examples include low-wage industries in the service sector, such as retail trade and hotels and restaurants. Agriculture also has a large proportion of minimum-wage recipients.<sup>36</sup>

<sup>36</sup>Lismoen & Stokke (2005).

Table 3.2 Proportion of full-time employees receiving minimum wages in European countries. Percentages, 2007.

Country	Proportion of full-time employees receiving minimum wages
Greece	21.2
France	12.9
Bulgaria	12.5
Luxembourg	11.0
Hungary	10.0
Latvia	9.2
Romania	8.2
Lithuania	7.0
Portugal	5.5
Austria	5.1
Estonia	4.7
Malta	4.2
Slovenia	3.4
Ireland	3.3
Poland	2.3
Czech Republic	2.3
Netherlands	2.2
UK	2.0
Slovakia	1.6
Spain	0.7
Belgium	n.a.

Source: Vaughan-Whitehead (2010b), Towards an EU minimum wage policy? In: Vaughan-Whitehead (2010). Figures are for 2007, with the exception of Estonia, Ireland, Poland, Romania and Austria (2006) and the Netherlands (2005).

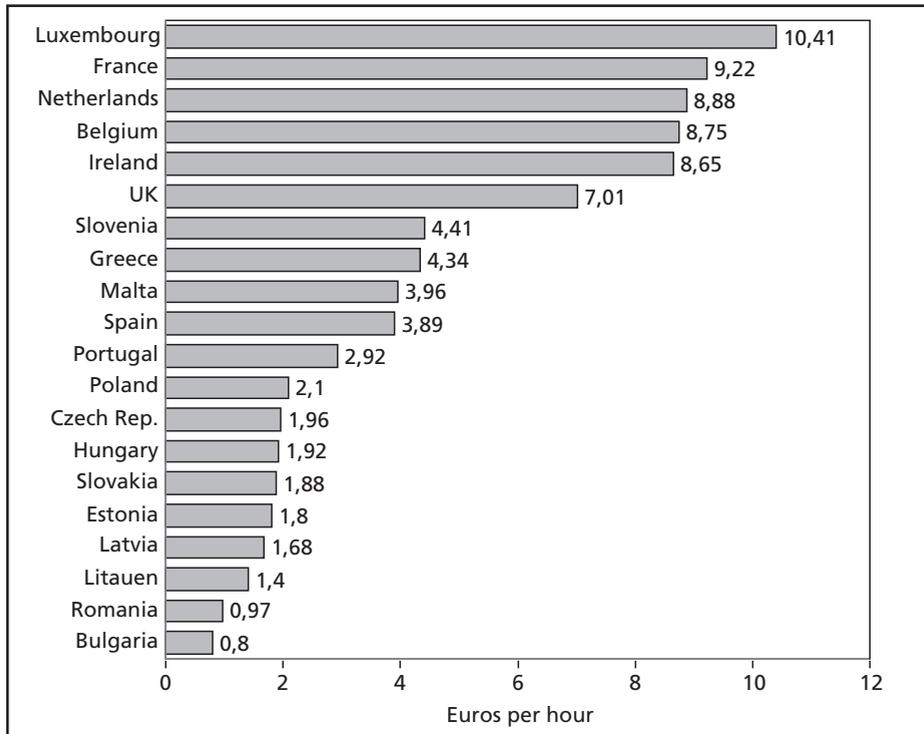
### 3.4 Minimum wage levels

There are wide variations in the national minimum wage rates, in absolute as well as relative terms.<sup>37</sup> As of January 2012, the rates range from EUR 10.41 (Luxembourg)

<sup>37</sup>The relationship between minimum wages and working hours varies considerably between the countries, in the sense that some countries have a statutory regulation of overtime pay, while in other countries such payment is agreed within each individual employment relationship. This also applies to payment for inconvenient working hours, shift-work supplements, etc.

to EUR 0.80 (Bulgaria). Figure 3.1 shows the minimum wage level in euros for all the European countries that have a national minimum-wage scheme.

Figure 3.1 Minimum wage rates in Europe. In euros, January 2012



Kilde: WSI-Mindestlohndatenbank 2012

In the figure we can see that the EU countries of Central and Eastern Europe are at the very bottom; most of them have rates of two euros per hour or less. Among the “old” EU countries, Portugal, Spain and Greece stand out in terms of their low rates, while countries such as France, the Netherlands, Belgium and the UK have far higher ones. As described above, most countries undertake annual adjustments, but the financial crisis induced many countries to freeze their minimum wage rates in 2011 (Ireland, Latvia, Lithuania, Portugal, Spain and the Czech Republic). Even though the majority increased their rates, the minimum wage levels decreased in 14 of the EU countries when compared to the change in purchasing power.<sup>38</sup>

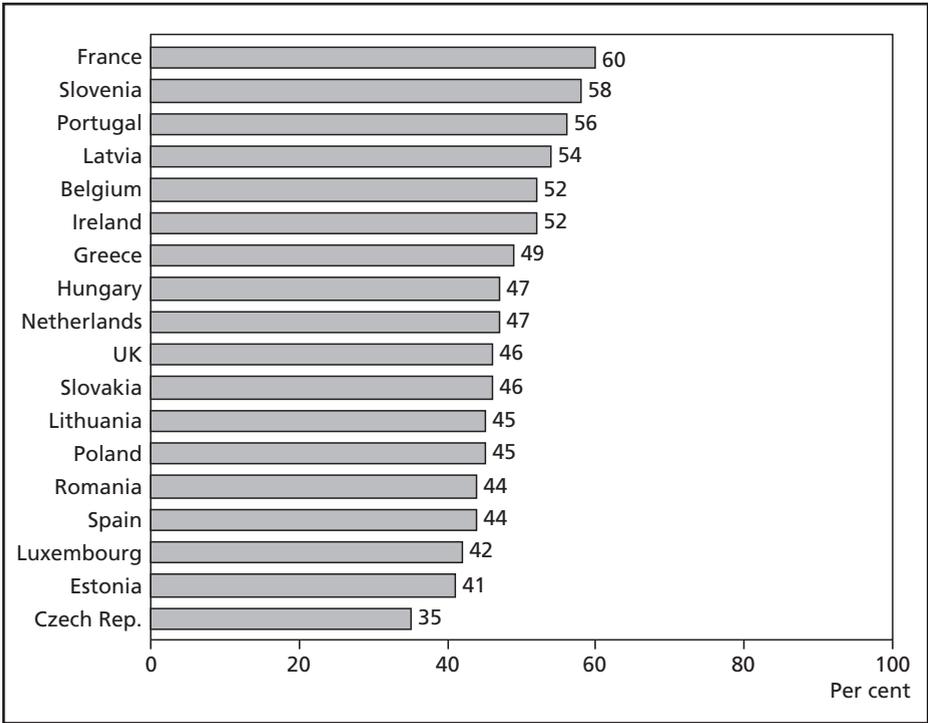
This overview of nominal minimum wage rates conceals national differences in the general level of wealth and not least differences in relative wage level; minimum wage

<sup>38</sup> Schulten, T. (2012), “WSI-Mindestlohnbericht 2012 – Schwache Mindestlohnentwicklung unter staatlicher Austeritätspolitik”. *WSI Mitteilungen* 2/2012.

rates measured in the same currency reveal little about the real value of the minimum wages in the national context. Various bases of comparison can be used to establish a more realistic impression of the value of minimum wages. A common method is to use the so-called Kaitz index, which measures minimum wages in light of the national average or median wage level.<sup>39</sup>

The location of the minimum wage in relation to the median wage level (often referred to as the “minimum-wage bite”) is often used as an indicator of the effect of a minimum-wage scheme on the national economy, employment and the ability of the enterprises to absorb costs.<sup>40</sup> The relationship between the minimum and median

Figure 3.2 Minimum wages as a percentage of median wages for full-time work, 2010



Source: OECD <http://stats.oecd.org/Index.aspx?DataSetCode=MIN2AVE>

<sup>39</sup>The median wage level is the pay received by those who are found in the middle if we split the wage distribution into two equally sized groups. The average is the sum of the wages received by all the units, divided by the number of units. The median gives a better indication than the average of what a “normal” wage level would be, since the average is sensitive to extreme wage levels (at the top as well as the bottom of the distribution).

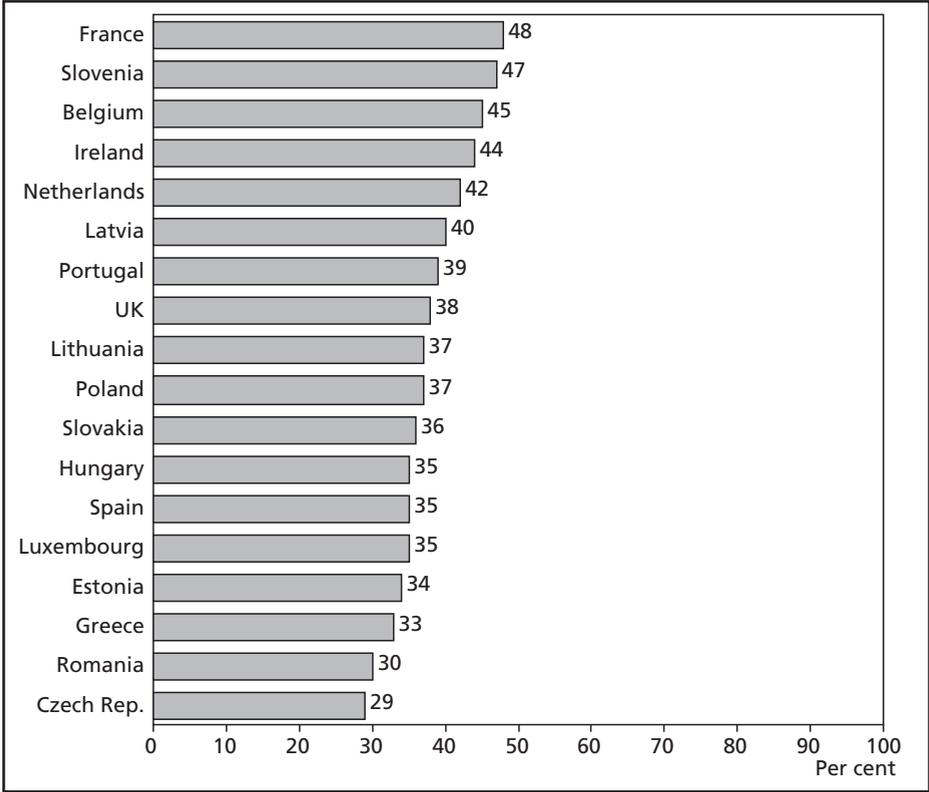
<sup>40</sup>Dolado, J., Kramarz, F, Machin, S., Margolis, D. and Teulings, C. (1996), “The economic impact of minimum wages in Europe.” *Economic Policy*, no. 23, October.

wage levels also reveals something about the wage distribution in society (or in a sector/industry). The greater the distance between the minimum and the median wages, the greater the wage differences between the low-paid and other groups of wage recipients in society. Thus, the development of the minimum wages will have a large impact on the development of wage differentiation in the labour market, especially among those who receive the lowest wages.

The level at which the minimum wage ought to be set to produce as few negative (or positive) consequences as possible will vary according to the financial, social and political context within which it is determined, and not least with regard to the objectives for its establishment and perpetuation. In Europe, the limit for what are to be regarded as low wages is often set at 60 per cent of the median wage level.<sup>41</sup>

Figures 3.2 and 3.3 show the national minimum wage level as a percentage of national median and average wage levels respectively.

Figure 3.3 Minimum wages as a percentage of average wages for full-time work, 2010



Source: OECD <http://stats.oecd.org/Index.aspx?DataSetCode=MINZAVE>

<sup>41</sup> Eurofond (2010), *Working Poor in Europe*. Dublin: European Foundation for the Improvement of Living and Working Conditions.

The figures show that in 2010, the statutory minimum wage rates varied from 35 per cent (Czech Republic) to 60 per cent (France) of the median wage level, and from 29 to 48 per cent of the average wage level. The distinctions between the various regions of Europe are no longer as prominent when we use these relative measures. It is also interesting to note how the situation of the minimum-wage recipients has changed over time. The general impression is that during the period 1995-2008, the rates increased somewhat in relation to the average wage levels in the countries concerned.<sup>42</sup>

A comparison of the minimum wage rates seen in relation to purchasing power (minimum wages measured in PPS – Purchasing Power Standard) shows that the differences are significantly smaller than when price differences are not taken into account. For example, in Figure 3.1 the lowest rate constitutes 8 per cent of the highest rate, but when purchasing power is taken into account this figure rises to 18 per cent. In other words, the price level in the countries at the bottom of the distribution is lower than the price level in the countries that have the highest minimum wage levels, and this produces an equalising effect.<sup>43</sup>

### 3.5 Minimum wage and poverty

Most people have wages as their most important source of income, and reducing the prevalence of poverty is obviously a desired effect of minimum-wage schemes. In principle, statutory minimum wage levels will increase the income basis and thereby also the living standard of low-paid workers, to raise them above the defined poverty line. However, poverty is related to a wider range of issues than low pay alone, and strikes especially those who for various reasons are outside the labour market. Whether a household will fall below the poverty line or not will, for example, depend on the number of household members, how many of them are wage-earners, other types of benefits received by the household, their tax obligations, etc. Wages are therefore only one of several factors that determine people's income and wealth.

The use of minimum wages as a mechanism to combat poverty in general has therefore often taken the form of political rhetoric rather than practical logic. In recent years, the debate in the European labour sphere has therefore focused increasingly on a more restricted part of the poverty issue: the working poor. These are groups that are working, but earn too little to survive. In this context, minimum wages are often regarded as a key contribution to improving the conditions of the working poor, and

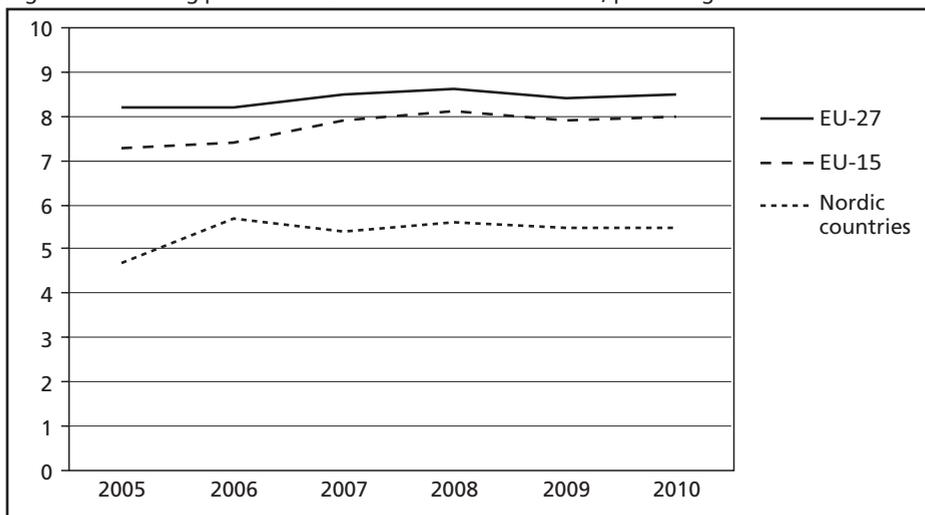
<sup>42</sup> Vaughan-Whitehead (2010a).

<sup>43</sup> Eurostat (2012), *Minimum wage statistics*: [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Minimum\\_wage\\_statistics](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Minimum_wage_statistics)

when combined with other social and welfare-policy initiatives they could also help produce a general reduction in poverty levels.<sup>44</sup>

As shown by Figure 3.4, the proportion of working poor has increased slightly in recent years. On average, for all EU countries, a total of 8.5 per cent of the employed could be characterised as poor in 2010 (compared to 8.2 per cent in 2005). In the old EU countries (EU-15), the proportion of working poor increased from 7.3 to 8 per cent during this period. However, the countries vary significantly in this respect: in Germany this proportion increased from 4.8 to 7.2 per cent, while in the UK it decreased from 8.3 to 6.8 per cent. The Nordic countries as a whole have significantly fewer working poor than Europe in general, but even the Nordic countries have seen a certain increase in their proportion from 2005 to 2010, from 4.7 to 5.5 per cent. Within the Nordic group different tendencies are notable. Sweden, Denmark and Iceland have approximately similar proportions of working poor (6.5-6.6 per cent, while Norway (5.3 per cent) and Finland (3.6 per cent) have somewhat lower ones.

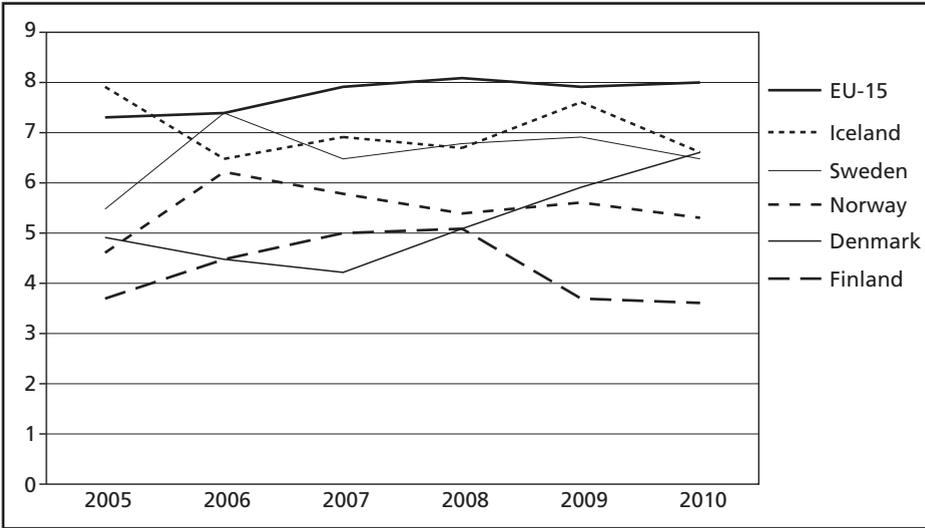
Figure 3.4 Working poor in the EU and the Nordic countries, percentages.<sup>45</sup>



<sup>44</sup> Eurofound (2010).

<sup>45</sup> Kilde: Eurostat/EU-SILC. The share of employees that is in full time employment and has a disposable income below 60 percent of the national median average income (after taxes, including social security benefits).

Figure 3.5 Working poor in the Nordic countries



Source: Eurostat/EU-SILC

European low-wage statistics (defined as two-thirds of the average wage level, taxes and transfers not included) also show a somewhat better situation in the Nordic than in most European countries, see Figure 3.6.<sup>46</sup> However, the estimates show that the prevalence of low pay is especially high among women in the Nordic countries as well: According to this definition, approximately one-fifth of the working women in the Nordic countries receive low wages (calculated in full-time equivalents). This kind of estimate results in very high figures for many countries, and one may ask whether this measure is sufficiently sophisticated.

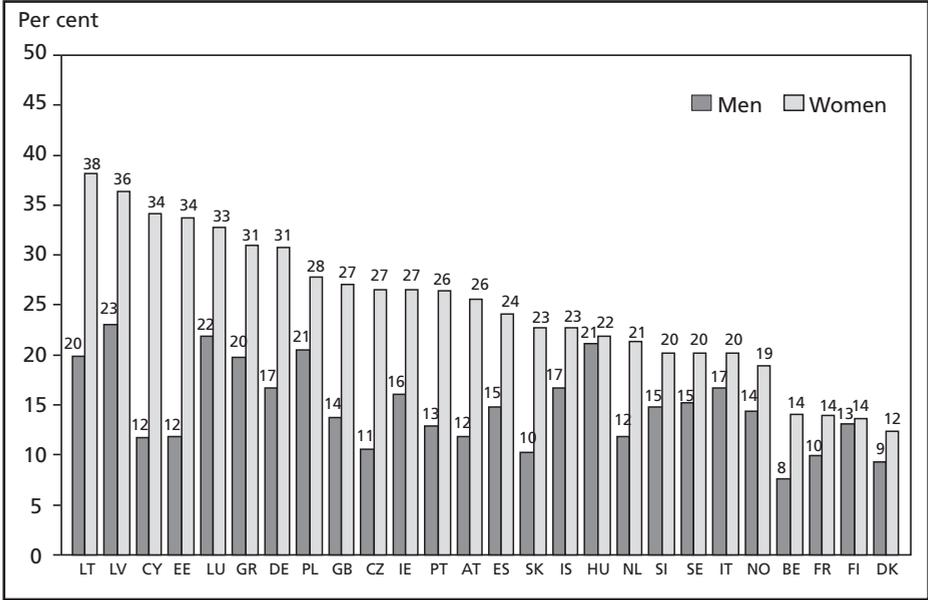
Minimum wages can help change wage differentials by reducing the proportion of wage-earners below the minimum rate and increasing the level of the minimum rate, but they can also help sustain wage differentials through contagion effects further up the wage hierarchy. A key objective for introducing minimum-wage systems in most European countries, irrespective of when they were introduced, has been to redistribute wages and reduce wage differentials in society. There has been a desire to raise the wages of the lowest-paid workers and reduce the wage gap between men and women. The European countries have succeeded in this objective to varying degrees.<sup>47</sup> As regards

<sup>46</sup> George, R. (2011), "Niedriglohn und Geschlecht im europäischen Vergleich." *WSI-Mitteilungen* 10/2011:548-555.

<sup>47</sup> The Gini coefficient is a frequently used statistical measure of inequality, showing how income is distributed in a population. A 2010 overview from Eurostat shows the variations in the European countries: <http://epp.eurostat.ec.europa.eu/tgm/table.do?sessionid=9ea7d07d30e6cf506cda293a4212a7c3f8c89e6d6d44.e34OaN8PchaTby0Lc3aNchuMbhuLe0?tab=table&plugin=1&language=en&pcode=tessi190>

equal pay policies, one can ascertain a general, feeble tendency towards a reduction of the wage differentials between men and women over the last 10-15 years.<sup>48</sup> The extent to which this has been caused by the minimum-wage systems remains uncertain, since the wage gap between men and women is narrowest in countries without minimum-wage systems (such as Norway, Sweden and Denmark). In these countries, the reduction of the wage gap is likely to have been caused by a well-developed system of collective agreements and a strong trade union movement.<sup>49</sup> On the other hand, without a statutory minimum wage, the wage differentials between men and women are likely to have been higher in those European states where the collective bargaining systems and the trade unions are losing ground.

Figure 3.6 Prevalence of low wages, by gender. Percentages (Low wages defined as 2/3 of average hourly wages)



Source: George (2011)/EU-SILC (2007)

<sup>48</sup> EIRO (tn0208101s).

<sup>49</sup> Ibid.

### 3.6 Employment effects

Effects on employment are probably the key issue associated with statutory minimum wage levels in Europe, especially among decision-makers and economists. The main argument is that if the minimum wage is set “too high”, this will reduce the value of low-paid (and often unskilled) labour when seen in relation to its productivity, and for this reason enterprises will reduce their staffing levels or refrain from hiring new labour. This will make it harder for vulnerable groups in the labour market, such as young people, to find work. Even though this has become something of a truism in the European context, studies of the employment effects of minimum-wage systems provide few unambiguous answers. Empirical studies from France have shown that the minimum-wage scheme has increased unemployment, especially among young workers.<sup>50</sup> At the same time, alternative studies, for example from the UK, show that the statutory minimum wage has no negative effects on employment.<sup>51</sup> Since its introduction in 1999, the British Low Pay Commission has collected a large and unambiguous amount of research material on the effects of the minimum-wage scheme. When comparing the minimum wage levels of the two countries in relation to median wage levels, we see that the French level is considerably higher than the British one, while in France a significant proportion of the workers receive wages corresponding to the minimum wage rate. This could be the reason why the French system in some periods has had a negative, although moderate, impact on employment. To date, empirical studies have shown no negative effects of any significance, and the minimum wage rates must be increased considerably to have any effect on employment.<sup>52</sup>

In the absence of specific information regarding the negative effects of minimum-wage regulation on general employment, focus has increasingly been directed towards the situation of young people in the labour market. This is a vulnerable group, which because of its limited work experience and low productivity faces difficulties in entering the labour market. Age-differentiated minimum wage rates are an attempt to facilitate access to employment for this group, although the results are mixed.<sup>53</sup>

<sup>50</sup> Gautié, J. (2010), “France: Towards the end of an active minimum wage policy.” I: Vaughan-Whitehead (2010).

<sup>51</sup> An overview of research in this area can be found in the Low Pay Commission Report 2011. The report notes that there is no available research regarding the effect of minimum-wage regulations in the context of the recent financial crisis.

<sup>52</sup> Vaughan-Whitehead (2010a).

<sup>53</sup> Dolado et al. (1996). In the British context, one investigated the changes associated with the discontinuation of the previous system of selection (see Chapter 4).

## 4 Statutory minimum wage in selected countries

In this chapter we will take a closer look at some selected countries that have statutory minimum wages – the UK, France and the Netherlands. We will also provide a brief overview of minimum-wage schemes in the Central and Eastern European countries (CEE countries). The overview in the previous chapter showed that the national minimum-wage schemes are designed and function in different ways. Two of the countries, France and the Netherlands, also practice extension of collective agreements widely, in addition to minimum wages. The UK does not have this practice, and also has a low coverage of collective agreements. The CEE countries have schemes for the extension of collective agreements, but the absence of nationwide collective agreements (with the exception of Slovenia and partly Slovakia) means that few agreements are extended, and therefore the minimum-wage schemes are of great importance. The British and CEE countries' minimum-wage schemes are of relatively recent origin, but have nevertheless had a large impact, while France and the Netherlands have some of Europe's oldest schemes of this kind.

For the countries that already have such schemes, an introduction of a possible European minimum wage regulation will mainly pertain to the level of the minimum rates. In France, this level constitutes 48 per cent of the average and 60 per cent of the median, which is close to the limits that have been put forward so far. The Netherlands has a somewhat lower level, at 42 and 47 per cent respectively, while the UK is at 38 and 46 per cent. With the exception of Slovenia and Latvia, the CEE countries have a lower level, with the Czech Republic at the bottom with a minimum wage of 29 per cent of the average and 35 per cent of the median.<sup>54</sup>

### 4.1 The United Kingdom

The statutory National Minimum Wage (NMW) in the UK was introduced in 1999 as an innovation in the British labour market. Formerly, industry-specific schemes of

<sup>54</sup> Source: OECD (2010). See Figures 3.2 and 3.3 in Chapter 3.

minimum wage rates determined by so-called Wage Councils had existed, but after strong political pressure beginning in the 1960s, this practice was abolished in 1993. Since the 1970s, British trade unions have lost much of their support. From 1979 to 2007 the organisation rate declined from 50 to 28 per cent, and the coverage of collective agreements plunged from 70 to around 35 per cent during the same period. During the two decades before the Labour government came to power, wage inequality had increased continuously, and poverty was increasing inside and outside of the labour market. The absence of any protection for many workers by way of collective agreements spurred a strong pressure to establish statutory minimum wages. The National Minimum Wage Act of 1998, one of the first initiatives launched by New Labour under the leadership of Tony Blair, served to establish the first nationwide system across industries. The system was established in the face of opposition from parts of the employers' organisation and in Parliament.<sup>55</sup>

### **Determination of the minimum wage rates**

The minimum wage rate is determined by statute (regulation) on the basis of recommendations from the Low Pay Commission (LPC). The minimum rate is defined as hourly pay, and differentiates between younger and more experienced workers. There is one rate for adults from age 21 and above, and separate rates for young people down to the age of 16. Workers under 16 and apprentices under 18 are exempt from the minimum-wage rules. As of 1 October 2011, the rate for adult workers was GBP 6.08.

From the introduction of the minimum-wage scheme and until October 2004, the minimum wage rate increased at a faster pace than the average wage level for adult workers.<sup>56</sup> From 1999 to 2004, the minimum wage rate for adult workers had increased from 47.6 per cent to 48.5 per cent of median wages, but subsequently fell back to 46 per cent in 2010.

UK legislation contains no provisions that determine procedures for regulation of the minimum wage rate. The government is responsible for submitting a bill that must be approved by both chambers of Parliament. In practice, however, the minimum wage rates are adjusted on an annual basis. This involves the government "inviting" the Low Pay Commission to submit recommendations on the basis of its continuous studies

<sup>55</sup> Brown, W. (2009), "The Process of fixing the British National Minimum Wage, 1997-2007". *British Journal of Industrial Relations* 47(2):429-443; Grimshaw, D. (2011) "United Kingdom: Developing a progressive minimum wage in a liberal market economy." In: Vaughan-Whitehead, D. (2010); Colling, T. & Terry, M. (2010), "Work, the employment relationship and the field of industrial relations." In: Colling, T. and Terry, M. (eds), *Industrial Relations. Theory and Practice*. Chichester: John Wiley & Sons; Grimshaw, D. & Rubery, J. (2010), "Pay and working time: Shifting contours". In: Colling et al. (2010).

<sup>56</sup> Fifth Report Of The Low Pay Commission (2005), <http://www.lowpay.gov.uk/lowpay/lowpay2005/>.

and assessments. The commission's recommendations subsequently form the basis of a parliamentary bill, and as a rule, the government has followed these recommendations.

### **Enforcement**

In principle, each individual worker is responsible for reporting violations of the Minimum Wage Act and possibly submitting the case to the courts. In addition, they can appeal to a public support and enforcement apparatus. The responsibility for enforcement of the Act is delegated to the British tax authorities (*Inland Revenue*). The tax directorate has established a telephone hotline where employees and others can report complaints against employers whom they claim violate the regulations. In addition, the Minimum Wage Act requires the establishment of inspectorates that undertake on-site inspections following complaints, or perform independent, unannounced spot-checks. The inspectors have wide-ranging powers to review wage accounts, they advise employers on how to comply with the rules, and ensure that employers pay any outstanding wages. In extreme cases the inspectors may also bring matters to the courts on behalf of individual workers.

### **The Low Pay Commission**

The Low Pay Commission was established in 1997. Initially, the commission's mandate was restricted to undertaking studies and establishing a foundation for the introduction of a statutory minimum-wage scheme, and it was not until 2001 that the commission was given a mandate that established it as a permanent institution in the British labour sphere. In addition to submitting recommendations regarding adjustments of the rates, the commission should also assess and document the development of the minimum wage level. In this work, the commission should emphasise the wider social and macro-economic consequences, such as effects on employment, the enterprises' costs and competitiveness, and government expenditure on social benefits. In addition, the commission should pay attention to the effects on equal pay and wage development among low-paid and vulnerable groups, such as youth, ethnic minorities and people with a reduced ability to work. The commission undertakes and also funds research and studies, undertakes consultations with employers, employees and their representatives, collects written and verbal documentation from relevant organisations, and undertakes fact-finding visits to employers, employees and relevant labour organisations.<sup>57</sup>

The commission has nine members: three from the employers' organisations, three from the trade unions and three from academic institutions. The members are not representatives of their respective organisations; they are independent and appointed

<sup>57</sup> Brown (2009); [http://www.lowpay.gov.uk/lowpay/what\\_we\\_do.shtml](http://www.lowpay.gov.uk/lowpay/what_we_do.shtml)

on the basis of their qualifications. Although emphasis has been placed on protecting the independence of the members, it has also been essential to maintain legitimacy among the employers' organisations and the trade unions. In other words, a balanced representation of the partners has been required, and consultations with the main actors in the labour market (Confederation of Business and Industry – CBI, and the TUC) are undertaken with regard to appointment of the members. Since its inception, an emphasis on social partnership has been a key objective of the commission.<sup>58</sup>

### **The effect of the minimum wage**

In spite of the relatively moderate rates, a large number of low-paid workers have benefited from the statutory minimum-wage scheme since its introduction. The number of minimum-wage recipients varies from one year to the next, depending on the size of the rates. In April 2010, altogether 2.5 per cent received the minimum rate, in addition to 1 per cent who received less. Estimates of the increase in the rate for that year indicate that from 4 to 5 per cent would receive the new rate or less.<sup>59</sup> Most of the minimum-wage recipients have been women who work part-time.<sup>60</sup> Young people and ethnic minorities are also strongly represented among the minimum-wage groups. The minimum wage has had the strongest impact on industries such as retail trade, hairdressing, hotels/catering, cleaning and the health and social sector, in particular in small enterprises within these industries.<sup>61</sup>

To sum up, one of the key effects of the minimum-wage system has been a rise in the wage level among the lowest-paid workers, and a reduction in pay inequalities in the lower strata of the labour market. This applies to women in particular, as well as to regions where low pay is more widespread.<sup>62</sup>

Despite a real wage increase among low-wage workers, and even though it is difficult to distinguish the effects of the minimum-wage scheme from other factors – especially the movements of the business cycle – the introduction of a statutory minimum wage

<sup>58</sup> Brown (2009).

<sup>59</sup> Low Pay Commission Report 2011.

<sup>60</sup> Euro (UK0205105s): *Comparative study on low-wage workers and the working poor – The case of the UK*, <http://www.eurofound.europa.eu/eiro/2002/08/word/uk0205105s.doc>

<sup>61</sup> Low Pay Commission Report 2011.

<sup>62</sup> Manning, A. (2011), *A Change in Regime: The UK*. Presentation at ETUI expert conference, Brussels 12.12.2011: <http://www.etui.org/Events/What-do-we-and-what-don-t-we-know-about-minimum-wages-in-Europe>

did not obstruct the positive trend in the British economy in the late 1990s.<sup>63</sup> Looking at the most vulnerable groups, similar development trends are evident. The employment levels of women and ethnic minorities have increased, including young workers. At the same time, unemployment has decreased for the same groups.

### **The debates on minimum wage**

The social partners have played a moderate role in the British minimum-wage system, mostly restricted to participation in hearings. Their indirect influence may have been greater, through their appointment of members of commissions. Despite of considerable initial scepticism on the part of employers, the minimum-wage scheme has become an accepted part of British labour life. The conflicts are concentrated around finding an appropriate level for the minimum rates. The trade unions have consistently argued in favour of a level closer to the median wage than is considered defensible by the employers' organisations.

### **Posted workers**

The UK did not introduce any new legal provisions in the context of the adoption of the Posted Workers Directive. The minimum wage rate also applies to posted workers. The 2011 report of the Low Pay Commission concludes, however, that there is evidence to indicate that labour migrants tend to be paid less than the minimum rate, and that this risk is higher for young workers, for immigrants from the new member states and for those who work in hotel and catering, agriculture and the construction industry.<sup>64</sup> It is also pointed out that the minimum rate in practice is also the maximum rate for labour migrants in unskilled jobs.<sup>65</sup>

<sup>63</sup> Metcalf, D. (2004), "The Impact Of The National Minimum Wage On The Pay Distribution, Employment And Training," *Economic Journal*, Vol. 114, no. 494; Stewart, M. B. (2002), The impact of the introduction of the UK minimum wage on the employment probabilities of low wage workers. Economics Department – University of Warwick.

<sup>64</sup> Low Pay Commission 2011, Jayaweera, H. & Anderson, B. (2008), *Migrant workers and vulnerable employment: A review of existing data*. Oxford: Centre on Migration, Policy and Society (COMPAS), University of Oxford.

<sup>65</sup> McKay, S. (2009) "The Dimensions and Effects of EU Labour Migration in the UK". In: Galgóczi, B., Leschke, J. and Watt, A. (eds), *EU Labour Migration since Enlargement*. Surrey: Ashgate.

## 4.2 The Netherlands

The national minimum-wage scheme in the Netherlands was established by the Act relating to minimum wages and holiday supplements of 1968 (Wet minimumloon en minimumvakantiebijslag, WML). Its objective was to ensure workers a minimum level of “social compensation for the work they perform, in light of the general development of wealth in society.”<sup>66</sup> The desire to reduce the wage gap between men and women was another key issue for the introduction of the minimum-wage system.<sup>67</sup> The system has not been significantly amended since 1968.

### Extension of collective agreements

In parallel with the national minimum-wage scheme, the Netherlands also has a system for extension of collective agreements. This takes place through formal extension (*algemeen-verbonden*), but also through principles of invariability that are binding for organised employers, and thus also their employees, in national collective agreements. Thereby the provisions in the collective agreements are made applicable to all employers within an industry or a sector, irrespective of their organisational affiliation. The Netherlands has a high coverage of collective agreements, at 84 per cent.

The minimum wage rates in the collective agreements have consistently exceeded the statutory rates (which also are differentiated for young workers), and as a result, very few workers receive the statutory minimum.<sup>68</sup>

### Determination of the minimum wage rates

The minimum wage rate is determined by the Dutch authorities. This takes place through a more or less automatic indexation of the minimum wage rate in relation to the general development of the wage level.

The Act defines rates for monthly, weekly and daily wages, but not for hourly wages. The reason for leaving hourly wages undefined is that this would be a disadvantage for full-time employees with reduced working hours,<sup>69</sup> since these workers would then draw a lower monthly pay than they do today. The Netherlands has a high proportion of

<sup>66</sup> Interview with Robbert van Het Kaar, Hugo Sinzheimer Instituut, Fakulteit der Rechtsgeleerdheid, Universiteit van Amsterdam (2005).

<sup>67</sup> Plantenga, J. & Sjoerdsma, S.W. (2002), *The Gender Pay Gap in the Netherlands*. External report commissioned by and presented to the European commission.

<sup>68</sup> Euro (NL9702103f): *Proposal to exempt long-term unemployed people from legal minimum wage*. <http://www.eurofound.europa.eu/eiro/1997/02/feature/nl9702103f.htm>

<sup>69</sup> Schulten et al. (2006).

part-time workers: close to half of all employees work part-time, and three out of four women are employed on a part-time basis.<sup>70</sup> As of 1 January 2012, the rate for adults was EUR 1446.60 per month. The rate includes shift-work supplements, gratuities, supplements for inconvenient hours, etc., but not overtime supplements and annual bonus payments.

There are different rates for older and younger workers. The rates for adults apply from age 23, which is high compared to other European countries. The rates decrease from age 23 down to age 15, where they are from 85 to 30 percent of the adult rate. Workers younger than 15 are not entitled to the minimum rate, and apprentices are also exempt from the rules.

From its introduction in 1968 until the mid-1980s, the minimum wage rate grew at the same pace as the general wage level (measured against the median), but has declined in the subsequent period.<sup>71</sup> This is mostly due to a reduction of three per cent in the minimum rate in 1984, when it was frozen as part of the government's employment strategy.<sup>72</sup> The same thing happened in the period from 2003 to 2006. In 1974, the minimum wage rate was 64 per cent of the median wage level.<sup>73</sup> By 2010, however, the rate had declined to 47 per cent of the median level (see Figure 3.2).

The Act states that adjustments to the minimum wage rate shall be considered twice annually – on 1 January and 1 July. As described above, the general wage growth in the private and public sectors in the current year is used as a basis for this adjustment. This principle can be waived if the country has an above-average growth in unemployment (or in the number of recipients of benefits or other social transfers). The principle has also been referred to as a linkage mechanism (*koppelingsmechanismen*); the minimum wage level is linked to public expenditure on the inactive portion of the population. The assessment is based on a ratio determined by law.<sup>74</sup> When the number of unemployed (or retired) people exceeds this limit in relation to the employed population,

<sup>70</sup> Eurostat, figures for 2009.

<sup>71</sup> Plantenga & Sjoerdsma (2002).

<sup>72</sup> This came as a result of the international oil crisis in the late 1970s, which created large economic problems for the Netherlands. The crisis gave rise to widespread unemployment and large public deficits. The crisis was met with sweeping reforms, including in the labour market. One of the instruments used to stimulate employment and economic activity was to reduce or freeze the statutory minimum wage rate, see Lismoen & Stokke (2005).

<sup>73</sup> Neumark, D. & Wascher, W. (2003), *Minimum Wages, Labour Market Institutions and Youth Employment: A Cross-National Analysis*. <http://www.federalreserve.gov/pubs/feds/2003/200323/200323pap.pdf>

<sup>74</sup> Euro (NL0402102f): *Minimum wage trends examined*. <http://www.eurofound.europa.eu/eiro/2004/02/feature/nl0402102f.htm>

the authorities will consider freezing the minimum wage rate or reducing it relative to the median wage level.<sup>75</sup>

## Enforcement

The labour inspectorate (*Arbeidsinspectie*) regularly undertakes monitoring of minimum wage payments, and can report violations to employers and employees. Since 2007, the inspectorate is also empowered to impose fines on enterprises that violate the minimum-wage regulations. An employee, or his/her trade union, may also sue an employer to obtain back-pay. However, this only occurs infrequently – on average six times per year.

Documentation by the labour inspectorate shows that in 2004 approximately 36,000 workers, equivalent to 0.6 per cent of the workforce, earned less than the minimum rate.<sup>76</sup>

## The effect of minimum wages

As described above, minimum wages as a proportion of the median level have decreased since their introduction. Correspondingly, the minimum wage level has decreased in relation to average wages, from 64 per cent in 1979 to 48 per cent in 2005. The proportion of workers encompassed by the minimum-wage system has also decreased. In 2005, altogether 4.1 per cent of the workforce (284 000 employees) received the minimum rate.<sup>77</sup> Of these, there are approximately twice as many women as men. Young workers also account for a significant proportion, in addition to part-time employees. The main industries include retail trade and hotel/catering. Employees in small enterprises in particular within these areas tend to benefit from the minimum-wage regulations.

The minimum wage has most likely helped reduce the wage gap between men and women, since the minimum rate is most widespread in low-paid, private-sector employment groups with predominance of women. On the other hand, the effect is likely to have been greatest for men and women on the lowest pay levels, and less palpable on

<sup>75</sup> Another key issue pertaining to adjustments is the fact that most social benefits in the Netherlands are linked to the minimum-wage system. This applies to important social schemes such as unemployment benefit, pensions, sickness benefit and rehabilitation benefit. The rates are adjusted automatically in relation to changes in the minimum wage level. For example, a person who does not meet all the criteria for unemployment benefit will receive a reduced rate equivalent to 70 per cent of the minimum wage rate for an adult (government-guaranteed minimum income).

<sup>76</sup> Eiro (NL0707049i): *Crackdown on breaches of minimum law*. <http://www.eurofound.europa.eu/eiro/2007/07/articles/nl0707049i.htm>

<sup>77</sup> Salverda, W. (2010), "The Netherlands: Minimum wage fall shifts focus to part-time jobs." In: Vaughan-Whitehead (2010).

more elevated levels of the wage hierarchy. Looking at the development of the general wage gap between men and women, we can see that over time, the reduction has been rather marginal.<sup>78</sup>

On the other hand, the contagion effect from the minimum-wage system to the collective agreements is undisputable, and it has helped obstruct wage development among the low-paid groups. For many years, the imbalance between the statutory and the collectively agreed minimum wage rates has been a source of conflict between the social partners and the authorities. On several occasions, the authorities have demanded that the partners lower the collectively agreed rates to the level of the national statutory minimum. This has been based on concerns for employment, especially with regard to the most vulnerable groups in the labour market and in times of high unemployment. In line with this demand, the authorities have on several occasions used the mechanism for extension of collective agreements as a lever against the social partners, by refusing to extend a negotiated collective agreement unless the parties agreed to lower the minimum pay rates. Thus, the collectively agreed minimum wage rates have been reduced over time, for adults as well as for young workers.<sup>79</sup>

It is difficult to distinguish the effects of the minimum-wage system from other factors, especially the general movements of the business cycle. However, when considering the level of the minimum wage rate, this system appears to have had only a marginal effect on employment. One study shows that in the period from 1979 to 1985, when the minimum rates for young workers were lowered, employment among youth in general decreased by three per cent, while it increased among young people in the most vulnerable sectors.<sup>80</sup> Other studies have revealed similar tendencies.<sup>81</sup>

### **The debates on minimum wage**

In general, the social partners are satisfied with the minimum-wage system in its current mode of operation, and there is therefore little debate on the rationale for this scheme in the Dutch labour market. Moreover, the proportion of workers receiving the minimum rate is small, only 2.2 per cent (see Table 3.2). The trade unions have continuously regarded the minimum-wage scheme as a universal right for all employees, while the employers' organisations have accepted it as an instrument for general economic policy. Current debates focus mainly on the level of the minimum rates.

<sup>78</sup> Plantenga & Sjoerdsma (2002).

<sup>79</sup> Eiro (NL0402102f): *Minimum wage trends examined*, <http://www.eurofound.europa.eu/eiro/2004/02/feature/nl0402102f.htm>

<sup>80</sup> Dolado et al. (1996).

<sup>81</sup> Van Soest, A. (1994), "Youth minimum wages: the Dutch experience." *International Journal of Manpower*, vol 15 no 2-3.

## Posted workers

Workers who are posted to the Netherlands are encompassed by the minimum rates. Since 2005, they have also been encompassed by extended industry-level collective agreements. This applies to all parts of the agreement, not only to conditions related to the core provisions in Section 3.1 of the Posted Workers Directive.<sup>82</sup>

## 4.3 France

Among the European countries, France has one of the longest records of statutory minimum wages. A national, statutory minimum wage rate has been applied since 1950. Initially, the rate was determined on the basis of the amount of money a working-class family needed to cover their most basic needs. This practice was changed in 1970, and the basis for calculation has remained the same since then. The goal is that the rate should cover not only basic needs, but also correspond to the general wage development and allow the recipients their fair share of the general development of national wealth.

The minimum wage rate (*SMIC - salaire minimum interprofessionnel de croissance*) applies to all industries, although not for the public sector. All employees are encompassed by the scheme, with the exception of apprentices, young employees on work placement, persons with certain types of disabilities and prison inmates. Furthermore, employees under 18 receive reduced rates. From 1 January 2012, the SMIC is EUR 9.22 per hour and EUR 1398.37 per month for a 35-hour work week.

### Determination of the minimum wage rates

Various mechanisms are used to adjust the SMIC. First, an increase in the consumer price index of two per cent will entail an automatic, equivalent increase in the rate. Second, an annual adjustment that should not be less than half of the average improvement in purchasing power in society as a whole must be undertaken, i.e. corresponding to inflation and average wage increases. In addition, a more discretionary supplement to the rate (*coup de pouce*) may be given.

Prior to the annual adjustment, the social partners must be consulted through the *Commission nationale de la négociation collective*.<sup>83</sup> The commission must submit a joint recommendation, and if no consensus can be reached, its statement must report the

<sup>82</sup> Eiro (NL090803Q): *Posted workers*. <http://eurofound.europa.eu/eiro/studies/tn0908038s/nl0908039q.htm>

<sup>83</sup> A tripartite commission comprising the most representative trade unions and employers' organisations, and representatives of the authorities.

majority and minority voting. The influence that the commission exercises through these statements is unclear, however, and some claim that this is a pure formality.<sup>84</sup> In 2008, a new and independent commission was established to provide advice to the government and the tripartite commission. This commission is composed of five economists, and their mandate is restricted to providing advice on whether to grant a *coup de pousse*. The trade unions were critical of this move, but neither did they want the social partners to assume responsibility for determining the minimum wage rate, since this would be equal to abolishing the scheme altogether.<sup>85</sup>

There has been some debate as to whether a *coup de pousse* should be given as a main rule or only in exceptional cases. The propensity to grant this also appears to be dependent on what party is in government. From 2000 to 2004, the SMIC increased more than the purchasing power, and in 2004 the rate was 64 per cent of the average wage level. However, this was caused by a reduction in working hours in the same period. Since 2006, a *coup de pousse* has not been granted, and in 2010 the minimum wage rate was equivalent to 60 per cent of the median wage in France. The new expert commission voted unanimously against a *coup de pousse* in 2009 and 2010.<sup>86</sup>

## Scope

In July 2007, nearly 13 per cent of all employees (2,010,000 workers) received the minimum rates,<sup>87</sup> compared to 15 per cent in 2004. The largest proportions of minimum-wage recipients are found among those who work in private homes, in agriculture and in manpower supply enterprises. In the private sector as a whole, most are found in hotel/catering, personal services and retail trade. As a rule, minimum-wage recipients tend to be found in small enterprises, they are often employed on a part-time basis (870,000 of the 2,010,000), most of them are women and work inconvenient hours. Young workers are overrepresented.

The number of minimum-wage recipients is relatively high in France compared to other countries. This is usually explained with reference to the relatively high level of the minimum rate and that subvention schemes (for enterprises that have employees receiving the SMIC) is an incentive to keep payments at the exact level of the rate,

<sup>84</sup> Gautié (2010).

<sup>85</sup> Eiro (FR0708039I): *Minimal increase in national minimum wage*, <http://eurofound.europa.eu/eiro/2007/08/articles/fr0708039i.htm>

<sup>86</sup> Grimshaw, D. & Rubery, J. (2010), *Minimum Wage Systems and Changing Industrial Relations in Europe: Comparative Report*. European Work and Employment Research Centre (EWERC), University of Manchester.

<sup>87</sup> Eiro (FR0808019Q): *Wage formation*, <http://eurofound.europa.eu/eiro/studies/tn0808019s/fr0808019q.htm>

rather than a little above. Since 1993, financial relief has been granted to enterprises that have employees receiving minimum rates, for example in the form of exemptions from parts of the social insurance payments. In contrast to other countries, there are few who receive wages at a level 5-10 per cent above the minimum rate. The minimum-wage regulations have helped to give France a relatively narrow wage distribution, although the distribution has nevertheless widened considerably since 2004.

### **The relationship between the SMIC and the collective agreements**

Even though France has a low union density, widespread extension of collective agreements means that approximately 98 per cent of all employees are covered by an agreement. Bargaining takes place at the industry or enterprise level, and in many cases the minimum- wage rates in the collective agreements will be lower than the SMIC. For these industries, the national, statutory minimum wage rates will have the greatest impact, since they determine the actual minimum level. There are various reasons why there is a gap between the collective agreements and the SMIC, but the partners have no obligation to adjust their rates during bargaining rounds, and discrepancies may occur, especially in periods when the SMIC increases more than the general wage level. The employers may also have an interest in keeping the rates in the collective agreements, since they form the basis for calculation of various supplements. The discrepancies may also be regarded as expressing a lack of bargaining strength on the part of the trade unions.

### **The debates on minimum wage**

In France, the existence of a statutory minimum wage as such is not questioned, although its level is a recurrent topic of discussion, as well as its effects on employment, poverty alleviation and the union density. Some critics claim that the level is too high, that the SMIC serves to compress the wage distribution without combating poverty, and that it prevents young people from finding work. There are indications that the SMIC has served to lower the union density and hampered the dialogue between the social partners. In low-wage industries in particular, the bargaining is of little value, since any increments in the rates are invariably devoured by the next rise in the minimum wage rates. Furthermore, in some industries employers have attempted to do away with supplements added to the minimum level, with a view to keeping wage costs down. This applies for example to supplements for seniority and night work. On the other hand, the SMIC has served as a substitute for collective agreements that would have defined far less favourable conditions, because of a lack of bargaining strength.

## 4.4 Central and Eastern Europe (CEE)

All the CEE countries that joined the EU in 2004 have national minimum-wage schemes. These are either of recent origin and replace former practices of governmentally determined wage rates, or are extensions of the former schemes in which wage rates are determined in consultation with the social partners.

A poorly developed bargaining system is a common denominator for these countries, and trade unions and employers' organisations are non-existent in parts of the labour market. With the exception of Slovenia and in part Slovakia, collective bargaining takes place at the enterprise level.<sup>88</sup> Union density is low (ranging from 14 to 22 per cent for all countries except Slovenia and Slovakia) and the coverage of collective agreements ranges from 15 to 40 per cent. Since 2000, most of the countries have introduced schemes for the extension of collective agreements, but such extensions are undertaken on an irregular basis (depending on whether agreements exist), which is reflected in the coverage.<sup>89</sup> In light of the poorly developed bargaining system, the trade unions in these countries have come to see minimum wages as essential. A low rate of organisation among the employers renders it difficult, and in some countries impossible, to establish nationwide agreements.<sup>90</sup>

### Minimum wage rates

Unsurprisingly, the CEE countries have the lowest minimum wage rates in Europe; in 2011 all of them had rates of less than two euros per hour. Historically, these countries have also had low rates in relation to average national wages. At the same time, many countries have nurtured ambitions to increase this level. In 2001, the Estonian social partners agreed to increase the rates from 29 to 41 per cent of the national average by 2008, but were able to achieve only 35 per cent. In Lithuania, a tripartite commission announced that the minimum wage should constitute 50 per cent of the national average by 2010, but had by 2011 achieved only 37 per cent. Only Slovenia is above the EU average of 40 per cent. When looking at minimum wages in relation to purchasing

<sup>88</sup> Kohl, H. & Platzer, H-W. (2006), "Minimum wages in Central and Eastern Europe". In: Schulten et al. (2006).

<sup>89</sup> Slovenia stands out from the other countries in having a union density of 44 per cent. Moreover, the employers are obligated to be members of the Chamber of Commerce, and in combination with a high prevalence of nationwide collective agreements, this has helped establish a collective agreement coverage of nearly 100 per cent.

<sup>90</sup> The union density of the enterprises has increased in recent years, although the employers' organisations tend to focus on industrial policy rather than on their role as employers, and therefore have little interest in participating in collective bargaining.

power, the CEE countries are at a low level. According to Eurostat figures from July 2011, only Slovenia is on a par with the lower stratum of Western European countries.

The Baltic countries tend to apply one single rate irrespective of age, whereas Poland has separate rates for people with no work experience. Others have more differentiated rates: Slovakia and the Czech Republic have separate rates for youth and disabled persons. Furthermore, the dearth of collective agreements in the Czech Republic has induced the authorities to introduce a wage scale based on the complexity, responsibility and workload of the position in question.

### **Determination of the minimum wage rates**

The countries have largely similar procedures for determining the minimum wage rates. In all countries, the minimum wage level is determined by the government, although the social partners may have a say in the matter to varying degrees. In some countries the rates are the result of bargaining between the partners, and the government's role is restricted to formally approving them. In other countries the adjustments are discussed with the partners, while the final decision is taken by the government. The Polish system combines these approaches; if the partners fail to agree, the Minister of Labour will decide.

In some countries the adjustments are based on specific criteria linked to various indicators (inflation, wage growth, etc.), and this approach seems to be increasingly common. However, some countries still rely on making adjustments on the basis of assessments of a wider range of factors. Countries that have specified concrete targets for their minimum wage as a proportion of the average wage level will take these into account when making adjustments. Kohl and Platzer (2007) show that in countries where the adjustments are strongly linked to such indicators, the minimum wage rates are higher in relation to the average level than in countries where the rates are determined by bargaining or in consultation with the social partners.<sup>91</sup>

### **Enforcement**

In most of the countries, the labour inspectorate or a similar authority has a key role in monitoring compliance with the minimum-wage regulations, and as a rule they will also be empowered to impose fines on employers paying less than the rates. Exceptions include Estonia and Latvia, where no real sanctions are used against employers who

<sup>91</sup> Masso, J. & Krillo, K. (2010), "Estonia, Latvia and Lithuania: Minimum wages in a context of migration and labour shortages". In: Vaughan-Whitehead (2010); Kohl & Platzer (2006); Kohl, H. & Platzer, H-W. (2007), "The role of the state in Central and Eastern European industrial relations: the case of minimum wages." *Industrial Relations Journal*, 38(6): 614-635.

violate the statutory minimum-wage regulations. However, in several of the CEE countries a relatively large proportion of employers violate the rules on a regular basis.<sup>92</sup>

### Effects of minimum wages

The proportion of workers who are paid the minimum rates or less range from 3 to 15 per cent (figures for 2004).<sup>93</sup> Latvia, Lithuania and Estonia have the highest proportions, at 15, 10 and 7 per cent of minimum-wage recipients respectively. In Poland, the Czech Republic, Slovakia and Slovenia, this proportion ranges from three to four percent. Some countries, especially the Baltic ones, also have a certain proportion of cash-wage recipients who do not appear in the statistics. (In Latvia they account for 20 per cent in the private and 5 per cent in the public sector). Furthermore, it is not unusual for employees to receive parts of their wages in cash, among minimum-wage recipients as well as those who are higher paid.<sup>94</sup>

Adjustments to the minimum wage rates (or non-adjustment) may also have an impact on other groups of employees than those who receive these rates. Several countries have established linkages between the minimum wage rates and other wage categories. While in the old EU countries the minimum wage functions as a safety net for those who are not encompassed by traditional methods of wage determination, in the new member states (with the exception of Slovenia) the minimum rates are frequently used as a basis for wage determination in general.

This implies that even though only a small proportion of the workers receive the minimum rates, adjustments to this rate will have an effect on several other groups. In Lithuania, public (and partly also private) salaries are determined as a multiple ranging from 1 to 11 of the minimum rate. Sector level collective agreements in the Czech Republic, to the extent that such agreements exist, determine a minimum pay rate identical to the national statutory minimum. Sector level collective agreements are common in Slovakia, and these tend to have wage classes that are based on the national statutory minimum rates. In Estonia, the minimum wage serves in a similar way as a reference point for the other wage categories.<sup>95</sup>

In several of these countries, the minimum wage has had no equalising effect on the large wage differentials between various groups.<sup>96</sup> In these countries, a far higher

<sup>92</sup>Masso & Krillo (2010); Kohl & Platzer (2006); Eiro (TN0507101S): *Minimum wages in Europe*, <http://www.eurofound.europa.eu/eiro/2005/07/study/tn0507101s.htm>

<sup>93</sup>See Kohl & Platzer (2006).

<sup>94</sup>Masso & Krillo (2010).

<sup>95</sup>Kohl & Platzer (2006).

<sup>96</sup>Masso & Krillo (2010).

proportion of the workers receive less than two-thirds of the national median wage level, which is the international standard for classifying workers as low-paid, than in the Western European countries. Figures for 2007 show that the proportion is highest in Latvia, with 30 per cent of low-wage workers. Lithuania has 29 per cent, while Slovakia has the smallest proportion of the CEE countries at 16 per cent. Incidentally, this is also lower than in Norway and Sweden (at 17 and 18 per cent respectively).<sup>97</sup>

### **The debates on minimum wage**

As described above, the lack of well-functioning bargaining systems has caused the minimum wage to be regarded as a necessity among the trade unions, and in some countries it is perceived as the key element of tripartite cooperation. The trade unions have been concerned with the minimum wage level in relation to the average. In several countries, the trade unions have sought to establish sector level minimum wage rates, for example in Estonia, where the unions see this as an opportunity to introduce sector level bargaining. Corresponding ideas are found in Lithuania and Poland. Minimum wage levels are also seen as an instrument that can help prevent the large flow of emigration that has been felt in some of the countries since 2004.<sup>98</sup>

<sup>97</sup> Schulzen, T. (2012), *Minimum wages in Europe : An Overview on Institutions, Levels and Current Developments*. Background Report for the ETUC Winter School 2012. Düsseldorf: WSI - Hans Böckler Stiftung.

<sup>98</sup> Eiro (TN0507101S); Kohl & Platzer (2006).

## 5 Countries without statutory minimum wage

In this chapter we will look at EU countries that have no national, statutory minimum-wage regulations. Apart from the Nordic countries (which will be described in Chapter 6), these include Germany, Austria and Italy. All these countries, however, have other systems that may ensure workers a certain minimum level of pay. The overview includes Germany, where the minimum wage has been a hot topic in public debate in recent years, which has probably helped push this topic onto the EU agenda. The German scheme and debate are therefore described in somewhat more detail than the other two countries. Austria has a form of collectively agreed national minimum wage, since the partners have agreed on a minimum level in all sector level agreements, while Italian workers have a constitutional right to fair wages.

### 5.1 Germany<sup>99</sup>

During the last fifteen years, the union density and collective agreement coverage have been declining in Germany, accompanied by a strong increase in the number of low-wage workers.<sup>100</sup> Measured in terms of having an income of less than two-thirds of the median wage, the number of low-wage workers increased from 4.4 million to 6.5 million in the period from 1995 to 2007. The group of low-wage workers comprises a large proportion of women, unskilled workers and immigrants. In the period 2000-2009, Germany had the slowest wage growth in the OECD group of countries. Real wages declined by 4.5 per cent, whereas in France, for example, real wages increased by 8.6 per cent.<sup>101</sup> From 1998 to 2010, collective agreement coverage declined from

<sup>99</sup>The section on Germany is partly based on Eldring, L. (2010), "Allmenngjøring og minstelønsregulering i Tyskland". In: Stokke, T. Aa. (red.), *Allmenngjøring i EU og Norge*. Fafo-rapport 2010:14. Oslo: Fafo.

<sup>100</sup>Bispinck, R. & Schäfer, C. (2006), "Low Pay and Minimum Wages in Germany." In: Schulten et al. (2006), Bosch, G. & Kalina, T. (2010), "What role for minimum wages on low-wage work?" In: Vaughan-Whitehead (2010).

<sup>101</sup>ILO, *Global Wage Report 2010/2011*.

76 to 63 per cent in the western part of the country and from 63 to 50 per cent in the eastern part. Currently, the union density is approximately 20 per cent, and 56 per cent of all employees are covered by a collective agreement.<sup>102</sup> The original German scheme for extension of collective agreements is being used far less frequently than before, while industry-level minimum-wage regulations have increased in importance through the Posted Workers Act. The German social partners disagree over what should be considered appropriate and desirable instruments with regard to regulation of minimum wages. The trade unions wish to enhance the role of extension of collective agreements as well as introduce a statutory minimum wage, and this proposal has encountered stiff resistance from central-level employers' organisations and until recently also from the incumbent government. Most likely, the internal German debate on statutory minimum wages has served to kindle the interest in establishing European regulations in this area.

### **Extension of collective agreements**

Extensions of collective agreements in Germany are made pursuant to Section 5 of the Act relating to collective agreements (*Tarifvertragsgesetz*, 1949). The Act does not have a separate preamble, although its purpose is reflected in the stipulation that a decision to extend a collective agreement should be “in the public interest”, as well as saying that a “social crisis situation” may justify an extension. Two main criteria must be fulfilled before a decision to extend a collective agreement can be made. First, the Act requires that employers who are already bound by the agreement must employ at least *50 per cent* of the workers in the area concerned. Second, an extension must be necessary *with a view to the public interest*. According to the Act, these two preconditions may be disregarded if an extension is required to alleviate a social crisis situation. The Ministry of Labour, which is responsible for documenting the degree of coverage, bases its estimates on statistics on the employees in the sectors concerned, comparing them to information collected from the employers' organisations on the number of employees in member enterprises.

A request for an extension is made by submitting a written demand by one or both of the parties to the collective agreement to the Ministry of Labour, while the Collective Agreement Committee (*Tarifausschuß*) will consider the request. In principle, the request may apply to all items in the agreement or only selected items. The committee is composed of three representatives of each of the central-level trade unions and employers' organisations; in practice this will be the *Bundesvereinigung der Deutschen*

<sup>102</sup> Bispinck, R. & Schulten, T. (2011), Extension of Collective Agreements: A precondition for stabile multi-employer bargaining? WSI Collective Bargaining Conference 2011. [http://www.boeckler.de/pdf/v\\_2011\\_09\\_27\\_bispinck\\_extension\\_eu.pdf](http://www.boeckler.de/pdf/v_2011_09_27_bispinck_extension_eu.pdf)

*Arbeitgeberverbände* (BDA) and the *Deutsche Gewerkschaftsbund* (DGB). In other words, the parties have a power of veto in the committee, and a decision requires agreement between the parties. Regional agreements are processed by regional committees according to the same procedure. The Ministry of Labour has the formal power to make a decision, but pursuant to the Act, it must do so in compliance with the commission's recommendation. The assessment of whether the extension is in the public interest is the prerogative of the members of the Collective Agreement Committee. They are not required to provide any reasons for their assessment, their task is to collect sufficient information from the proposer(s) to the effect that the extension will be in the public interest.<sup>103</sup> Since the 1990s, however, the central-level organisations have differed in their opinions as to what should be considered the public interest in this context, and have thus also provided differing assessments of whether this criterion is being fulfilled.

The German scheme for extension of collective agreements has been described as a crisis-stricken instrument, especially since the number of extended collective agreements has declined radically.<sup>104</sup> Concluding separate agreements pertaining to pay, working hours, vocational training etc. is a characteristic feature of the German collective bargaining system.<sup>105</sup> In principle, all these agreements may be extended by request. In 1991, a total of 408 agreements had been extended, compared to 235 in 2010.<sup>106</sup> This corresponds to 1.5 per cent of all active collective agreements in that year, and only a few of these pertained directly to wages. Even before the 1990s only a small proportion of the German collective agreements were made subject to extension. Nevertheless, this development implies a marked decline in the contributions of the extension mechanism to minimum-wage regulation in the German labour market. Retail trade is one example, for which wage agreements were previously extended on a regular basis, but where low-wage competition currently has been given free rein to employers who are not bound by collective agreements. The decline in the number of extended agreements is caused by the fact that the generally lower collective agreement coverage has made fulfilment of the 50-per cent criterion more difficult, and even more so by the interpretation of the concept of public interest on the part of the employers. The BDA's restrictive attitude to extension of wage agreements has blocked a number of decisions, and extended agreements are currently found only in a few industries and regions where the employers concur that halting low-wage competition is required,

<sup>103</sup> Dombre, R. (2007), *Entwicklung des Arbeitnehmer-Entsendegesetzes vom Widerstand im Jahre bis heute*. DGB, memo, 7 May. Dombre was the DGB's representative on the Collective Agreement Commission for more than 20 years.

<sup>104</sup> Kirsch, J. (2003), "Die Allgemeinverbindlicherklärung von Tarifverträgen – ein Instrument in der Krise." *WSI Mitteilungen* 7/2003, 405-412.

<sup>105</sup> Bispinck, R. (2009), *WSI-Tarifhandbuch 2009*. Frankfurt: Bund-Verlag.

<sup>106</sup> WSI - Statistisches Taschenbuch Tarifpolitik 2011.

such as hairdressing, security services, cleaning and hotels.<sup>107</sup> According to prevailing legal practices, posted workers are not encompassed by ordinary extensions, since their labour contracts are not regulated by German law. This is not explicitly stated in the Act, but it has remained the dominant doctrine in the federal labour court.

### **Extension through the Arbeitnehmer-Entsendegesetz (AEntg)**

In Germany, the EU's Posting of Workers Directive (96/71/EC) was implemented through the Posted Workers Act (AEntG),<sup>108</sup> which came into force in 1996. It has since been amended on several occasions. The purpose of the Act is to "produce and implement reasonable minimum labour conditions for workers who are posted across borders and employed on German territory, as well as to ensure fair and well-functioning conditions of competition".<sup>109</sup> The Act stipulates (after amendments in 2009), that the extension also applies to enterprises that have concluded collective agreements with lower rates than the extended agreement. If competing collective agreements are found in any industry, the authorities will decide which agreement to extend, on the basis of the purpose of the Act and the representativeness of the agreements. Another key amendment stipulated that with regard to the new industries included in the Act, a legal injunction should be issued by the Government (provided that the Collective Agreement Committee fails to reach an agreement), and not as previously by the Minister of Labour alone.<sup>110</sup>

The Act identifies the types of general labour conditions that can be made applicable to posted workers (working hours, holidays, working environment, leasing of labour, maternity leave, equal treatment, etc.) according to the Posting of Workers Directive or through regulations and legal injunctions. Prior to a request for an extension through the AEntG, the parties commonly conclude a special collective agreement that reflects the provisions of the directive, while additional conditions are included in other agreements (that are not covered by the request for extension). In practice, minimum

<sup>107</sup> WSI-Tarifhandbuch 2009, Bispinck & Schulten (2011).

<sup>108</sup> Gesetz über zwingende Arbeitsbedingungen für grenzüberschreitend entsandte und für regelmäßig im Inland beschäftigte Arbeitnehmer und Arbeitnehmerinnen.

<sup>109</sup> Our translation.

<sup>110</sup> This was a key issue during the proceedings of the legal amendment in 2009, and emerged as a compromise to assure the employers that their interests would be catered to by the conservative government partners. The previous coalition government had conflicting views on what should be the desired minimum-wage policy: the social-democratic Minister of Labour favoured the minimum wage, while the government majority opposed it. During the tenure of the present conservative-liberal government the provision has had little effect so far, although the government parties until recently have appeared to entertain a shared scepticism towards the minimum wage.

provisions related to wage levels and holidays constitute the main elements of extension through the AEntG. Since 2000, several new industries have been included in the Act, for example cleaning, electrical work, mining and postal services. In the autumn of 2009, the Ministry of Labour estimated that the industries covered by the AEntG employ approximately three million workers. At the end of 2011, extended collective agreements were in effect for construction, electrical work, mining, cleaning, guard and security services, laundries, waste disposal and care services. The minimum wage levels range from EUR 6.36 (laundries) to EUR 13.70 (skilled construction workers in West Germany) per hour<sup>111</sup>. The responsibility for monitoring and supervision of compliance with the AEntG is delegated to the German customs authorities.

In practice, the criterion of having a 50 per cent degree of coverage still applies, although the government may overrule the partners' assessments as to whether the extension is in the public interest. A critical factor in this respect is that an actual collective agreement must exist. If the partners fail to conclude an agreement or renew an existing one, an extension will be impossible. The critics of the AEntG have claimed that its real purpose is not to protect posted workers, but to compel German enterprises to pay collective agreed wages.<sup>112</sup> Seen in light of the industries where collective agreements have been extended pursuant to the AEntG, it seems obvious that the Act has to some extent been used to ensure minimum wages also in industries that are unlikely to be dominated by foreign labour on short postings.

### **Mindestarbeitsbedingungengesetz (MiArbG)**

The criterion that a collective agreement must have 50 per cent coverage in order to be extended has left some industries that are exposed to low-wage competition without any protection by this mechanism. In the context of the revision of the AEntG in 2009, parallel amendments were made to the Act relating to minimum working conditions from 1952. This Act made it possible to establish statutory minimum requirements in industries where the collective agreement system had little effect. However, the Act

<sup>111</sup> Source: Bundesministerium für Arbeit und Soziales, Mindestlöhne im Sinne des Arbeitnehmer-Entsendegesetzes (AEntG), Stand 29. Dezember 2011.

<sup>112</sup> Schlachter. M. (2009), "From collective agreements to statutory minimum wages – the German debate on the new posting of workers legislation." In: Mitrusa, L., *Studia z zakresu prawa pracy 2009*. Krakow: Uniwersytet Jagiellonski.

never had any effects in practice, and was all but forgotten shortly after being adopted.<sup>113</sup> After the revision in 2009, the main features of the Act (MiArbG)<sup>114</sup> are:

The Act can be applied in sectors that have less than 50 per cent collective agreement coverage.

- The Government and the central-level organisations can submit proposals for industries where a minimum wage ought to be introduced.
- A main committee consisting of a Chair, two experts appointed by the Government and two representatives of each of the social partners will assess whether minimum wage should be established within a particular sector.
- If so, an expert committee consisting of a neutral Chair and three representatives of each of the social partners will be established to determine the level of the minimum wage. A decision must be backed by a majority, so that if the partners fail to agree, the Chair will exercise his/her voting right.
- Subsequently, the Government may issue a legal injunction to introduce minimum wages in the industry concerned, on the basis of a proposal from the Ministry of Labour.

The renewal and revision of the MiArbG are obviously intended as a response to the increasing demand for a minimum wage in Germany. The employers' organisations have been very doubtful whether the Act will have any effect, and also with regard to the composition of the main committee. It is claimed that its composition is of a political nature, and that it will be unlikely to deviate from the reticence of the present government in the field of minimum-wage policy. The main committee was appointed and had its first meeting in the autumn of 2009. To date, no decisions have been made pursuant to the MiArbG.

### **Minimum wage for hired labour – Arbeitnehmerüberlassungsgesetz (AÜG)**

In 2004, the temp agency industry was deregulated in Germany. This included removal of some restrictions pertaining to the duration of postings and restrictions for the construction industry and others, and introduction of the principle of equal treatment. However, collective agreements could disregard the principle of equal treatment, and this was the effect for all but a few of the German temp agencies. As a countermeasure,

<sup>113</sup> Peter, G. (2004), Arbeitnehmer-Entsendegesetz. In: Peter, G., Kempen, O.E., Zachert, U. (2004), *Die Sicherung tariflicher Mindeststandards. Rechtliche und rechtpolitische Aspekte*. Baden-Baden: Nomos Verlagsgesellschaft.

<sup>114</sup> Gesetz über die Festsetzung von Mindestarbeitsbedingungen.

an opportunity to establish separate minimum wage levels for employees of temporary work agencies was introduced in April 2011. The rates are determined by the Ministry of Labour according to proposals from the organisations, and must be based on an existing collective agreement. From May 2011, the rates are EUR 7.79 (West) and EUR 6.89 (East). The rates will also apply in the periods between postings. Some have claimed that this move has served to introduce a general minimum wage in Germany, since this rate will be applied in all workplaces that use agency workers.<sup>115</sup>

### **The debates on minimum wage in Germany**

In 2006, the DGB submitted a demand for the introduction of a national, statutory minimum wage in Germany. This happened after a lot of debate and internal controversies in the German trade unions, started by the demand for a statutory minimum wage launched by the hotel and restaurant workers' trade union in 1999. When the service workers' union *ver.di* got involved in the issue in 2003, what turned out to be a long-term campaign for minimum wages got underway. During the period from 2003 to 2006, the unions were strongly divided on this issue, and the unions in the manufacturing sector were especially sceptical. In 2006 however, all the unions of the DGB, with one exception,<sup>116</sup> declared that they supported the demand for a national, statutory minimum wage. One of the factors that triggered this demand was the labour-market reform Hartz IV,<sup>117</sup> which came into force in 2005. The reform included the provision that an unemployed person forfeits the entitlement to benefits if he or she declines an offer of work, irrespective of whether the job is paid in accordance with a collective agreement.

For a prolonged period, the minimum-wage demand was for EUR 7.50 per hour, but was raised to EUR 8.50 per hour in 2010. Related to the increase, the DGB specified the necessity of expanding the applicability of the AEntG to all industries.<sup>118</sup> The call for a national minimum wage is thus not intended to replace the continued desire for reinforcement and further development of the practice of extending collective agreements. However, this reflects a clear recognition that the system of collective agreements has not succeeded in providing sufficiently broad minimum-wage guarantees, and that supplementary measures of a statutory nature are required. The debates on statutory minimum wage have followed the same lines as the discussions associated with

<sup>115</sup> Se Heise, D. (2011), "New rules for temporary agency work – risks for everybody." *Luther Newsletter Employment Law*, 1st issue 2011.

<sup>116</sup> Industriegewerkschaft Bergbau, Chemie, Energie (IG BCE).

<sup>117</sup> <http://www.sozialleistungen.info/hartz-iv-4-alg-ii-2/>

<sup>118</sup> Press release, 20 February 2010.

the industry-level minimum-wage regulations through the AEntG. The introduction of minimum-wage provisions in certain industries has been highly controversial, also with regard to their possible consequences for employment.

In light of the political situation in Germany in recent years, the introduction of a statutory, national minimum wage has appeared unlikely in the short term. The 2009 coalition agreement of the present government all but precludes such a measure.<sup>119</sup> This situation changed slightly in the autumn of 2011, when the CDU<sup>120</sup> party congress in November adopted a positive resolution regarding statutory minimum wages. The resolution states that the introduction of a minimum wage (Lohnuntergrenze) is necessary in areas that have no collectively agreed minimum-wage regulations. This minimum wage will be determined by a commission consisting of the social partners, which – according to the resolution – will produce a market-based wage floor and not a politically determined minimum wage.<sup>121</sup> Even though this resolution is apparently a concession to the advocates of the minimum wage, it has met with relatively little enthusiasm. It has been pointed out that the resolution is unclear in several respects: with regard to the scope of minimum-wage regulation (will it apply only in areas where no collective agreement exists?), with regard to the composition of the commission (if composed of the social partners, how will the employers react?), and with respect to the minimum wage level (would the demand for EUR 8.50 per hour be accepted?).<sup>122</sup> It appears that the further processing of this issue will take some time, and the government is also divided with regard to the desirability of various models.

## 5.2 Austria

In Austria, wages are determined mainly by collective agreements. The union density is 32 per cent, but all but a few of the employees (99 per cent) are covered by collective agreements. A statutory minimum wage exists formally in the public sector, but this is more of a technical provision than a traditional statutory minimum wage; the social partners will first have a bargaining round, but instead of turning the outcome into a collective agreement, the provisions are made statutory. In areas where no collective

<sup>119</sup> Stettes, O. (2009), *Coalition deal gets mixed reactions from social partners*, EIROOnline, 16.12.09.

<sup>120</sup> Die Christlich-Demokratische Union Deutschlands (CDU), is the largest party in the present government coalition.

<sup>121</sup> <http://www.cdu.de/doc/pdfc/111115-sonstige-beschluesse.pdf> (page 2)

<sup>122</sup> Schulten, T.: “Die Antwort ist 8,50 pro Stunde.” Commentary in *Financial Times Deutschland*, 14 November 2011.

agreement exists, the government (*Bundeseinigungsamt*) may determine a minimum rate or extend a collective agreement to the part of the industry concerned that has no coverage. This presupposes an application from the trade union that would have been party to a collective agreement for this group. However, this method of wage determination is rarely applied.

### **Collectively agreed minimum wage in the private sector**

The background for the high collective agreement coverage in Austria is the obligation of all employers to be organised in the *Wirtschaftskammer Österreichs* (WKÖ), which makes all the agreements concluded by this chamber of commerce applicable to them. Furthermore, the agreements apply to all employees of these enterprises, irrespective of whether they are unionised or not, according to a principle which has been mandatory since 1920.

Private enterprises are also free to join other employers' organisations than the WKÖ and bargain for agreements through these. The precondition, however, is that the trade unions agree to conclude a new agreement with these enterprises, and these types of alternative agreements are not very common. Certain enterprise-level agreements can also be found, especially in independent public enterprises.

The *Österreichischer Gewerkschaftsbund* (ÖGB) and its affiliated unions is the dominant trade union organisation. Bargaining takes place at the industry level without government participation. However, the government will define certain economic targets that can be taken into account in the bargaining rounds.

Wage settlements comprise adjustments to the minimum rates as well as general supplements. Upward adjustments to the minimum rates concern mainly women and labour immigrants. In the late 1980s, large gender differences gave rise to increased pressure from women to upgrade the minimum wage rates. In conclusion, the ÖGB congress in 1991 voted to introduce a national statutory minimum wage of 10,000 Schillings (EUR 735) per month. It was implemented by the trade unions seeking to gain acceptance of this minimum rate in the bargaining rounds for the various industries. Since then, it has been a tradition for the ÖGB congress to specify a minimum-wage target.<sup>123</sup>

<sup>123</sup> In 2003, the minimum target was € 1000, which was just below two-thirds of the median wage level of EUR 1,666 per month. See Hermann, C. (2006), "Minimum wages in Austria". In: Schulten et al. (2006).

In 2007, the ÖGB and the WKÖ signed a declaration of intent to introduce a minimum wage of EUR 1,167<sup>124</sup> in all industries before 1 January 2009.<sup>125</sup> In addition, the parties agreed to appoint a joint commission to monitor compliance with the agreement. If the industry-level parties did not succeed in implementing the agreement, the central organisations of the social partners would implement it by way of a national all-industry agreement. The purpose of this declaration of intent was to attempt to reduce the increasing wage differences and to make jobs in low-wage industries more attractive, with a view to reducing the incidence of unregistered work. They also wished to prove to the government that the social partners were able to cope with the problem of minimum wages, and thus that a statutory regulation was unnecessary.

As a result of this agreement, the number of industries with minimum wage rates at least at this level increased.<sup>126</sup> This applied to, for example, food processing, papermaking, textiles and collective transport. However, some industries have not introduced this minimum wage rate, including cinemas, real estate brokers, art and culture and teachers in private schools. This applies to relatively few workers, and the central-level social partners have not envisaged a need to conclude an all-industry agreement, nor have they appointed the commission described in the declaration of intent.

## Enforcement

In the context of the opening of the Austrian labour market to the East in 2011, provisions were adopted to impose fines for violations of the minimum wage rates in the collective agreements. According to the provisions, the fines should range from EUR 1,000 to EUR 10,000 per worker, increasing to EUR 4,000 and EUR 50,000 in case of repeated offences. The proposal states that imposing fines on foreign enterprises would be difficult, and that the new member states should be engaged in a dialogue with a view to establishing agreements in this area.<sup>127</sup>

A new monitoring system was established in parallel to the adoption of this act. Responsibility for monitoring is delegated to an agency subordinated to the Ministry of Finance, which should undertake on-site checks. If violations are detected, they inform the *Lohn- und Sozialdumping Bekämpfung* (LSDB), which will indict the

<sup>124</sup> In reality € 1000 per month, but close to all industry-level agreements have provisions requiring payment of 14 monthly wages per year.

<sup>125</sup> Eiro (AT0707019I): *Social partners agree to minimum wage increase*, <http://www.eurofound.europa.eu/eiro/2007/07/articles/at0707019i.htm>

<sup>126</sup> Eiro (AT0808019Q): *Wage formation*, <http://www.eurofound.europa.eu/eiro/studies/tn0808019s/at0808019q.htm>

<sup>127</sup> Eiro (AT0908039Q): *Posted workers*, <http://www.eurofound.europa.eu/eiro/studies/tn0908038s/at0908039q.htm>

enterprises. However, this will apply only to posted labour. Employees in Austrian enterprises bound by social-insurance legislation are monitored by the insurance institutions. The individual employee is responsible for enforcing his/her demand for payment according to the collective agreements by way of a lawsuit.

### **Employment effects**

Studies have provided no clear answers regarding the effects that minimum-wage regulations have had on employment in Austria.<sup>128</sup> Historically speaking, the debates on minimum wages have tended to focus more on safeguarding jobs than on ensuring minimum living standards. Even though this has changed in recent years, there are still examples of how this mindset still prevails. As will be seen in more detail below, for example the call-centre industry frequently hires staff as self-employed freelancers rather than as employees, to circumvent the provisions associated with the concept of employee. Attacks on such practices often meet with threats of moving the jobs abroad.<sup>129</sup>

### **Disadvantages of the current system**

According to Hermann (2006), a system in which all aspects of wages are regulated by collective agreements has some disadvantages, including:

- Some fall outside the framework of this system by not being employees or by working in an enterprise which is not a member of the WKÖ. In addition to the fact that some of the industries within the WKÖ have not implemented the agreement, employees in enterprises that are not members of this employers' organisation fall outside the framework of the minimum-wage agreement. This applies to employees of liberal professions such as doctors, lawyers, civil engineers and others, in addition to agriculture. However, several of these have joined equivalent agreements following pressure from the trade unions.
- An increasing group of the economically active no longer work on the basis of employment contracts, but are defined as independent contractors. This practice is widespread in certain industries, such as call centres, multimedia and private schools. An increasing number of employers in these industries provide only service contracts and no employment contracts. This implies that this group has no minimum-wage protection. However, the WKÖ has sought to include these enterprises in a volun-

<sup>128</sup> Hermann (2006).

<sup>129</sup> Eiro (AT0609039): *Social partners seek to regulate employment of call centre workers*, <http://www.eurofound.europa.eu/eiro/2006/09/articles/at0609039i.htm>

tary scheme ensuring compliance with the minimum-wage regulations. The ÖGB regards the increasing number of contractors as a huge problem, and claims that this could help move forward the debate on statutory minimum wages.

- The system is unable to reduce wage differences, especially gender-based differences. Large wage differences prevail between men and women, and the minimum wage is therefore mainly regarded as an instrument of gender policy. Moreover, it is an instrument that will have an effect for labour immigrants, since these are often found in low-wage industries. Still, the effect of the minimum-wage regulations will be insufficient to solve this problem. In 2007, from 20,000 to 100,000 people earned less than the new minimum rate. Furthermore, the phenomenon of the “working poor” is more associated with an increasing prevalence of part-time work, especially among women.

### **The debates on minimum wage in Austria**

The statutory minimum wage has primarily been discussed among politicians. The Green Party (Die Grünen) have argued in favour of a statutory minimum wage which should apply also to independent contractors, with a view to removing gender-based differences. They also claim that the existing collectively agreed minimum wage is too low. Other parties have been reluctant to join this debate. The employers’ organisations and the trade unions have both opposed the introduction of a statutory minimum wage. The employers’ arguments refer to the autonomy of the social partners, and to the claim that a minimum wage will prevent unskilled workers from finding jobs. The trade unions initially also referred to the autonomy of the social partners, but are currently focusing more on how the disadvantages outweigh the benefits. This could be seen as a change in position, implying that the ÖGB does not preclude any later support for a minimum wage at a later time. The disadvantages are associated with the risk that a conservative or liberal government will fail to increase the rates, and that there will be no system to ensure compliance with these. In 2003, the government parties (the conservative ÖVP and the populist FPÖ) took an initiative to encourage the social partners to agree on a minimum wage. The 2007 agreement can be regarded as a response to this initiative.

### **Wage regulations for posted workers**

Pursuant to the *Arbeitsvertragsrechts-Änderungsgesetz* (AVRAG), posted workers should receive wages according to the minimum rates determined by collective agreements or by statute. The rates applicable to comparable work in Austria should be used as

a basis. Similar provisions apply to working hours and other core items.<sup>130</sup> Since the average wage level is far higher than the minimum rates in most industries, the level of “Austrian” pay will be very different from what the posted workers will be entitled to.

## 5.3 Italy

Italy is the only Southern European country to have neither a statutory minimum wage, nor a system for extension of collective agreements. As a rule, wages are determined by collective bargaining by the social partners. However, a provision in the constitution has a large impact on the determination of wages for people who are not covered by a collective agreement.

### **Everybody is entitled to fair pay**

In practice, industry-level collective agreements encompass all employees, irrespective of whether the employer is bound by the agreement. This follows from a provision in the Italian constitution establishing that all employees are entitled to fair pay. Article 36 (1), states that:

Workers are entitled to remuneration commensurate with the quantity and quality of their work, and in any case sufficient to ensure to them and their families a free and honourable existence.

In practice, this provision is interpreted as guaranteeing more than the absolute minimum – workers are entitled to fair pay. Legal practices have been based on the view that employees are entitled to wages according to the collective agreements, even when the employee is not unionised and the employer is not a member of an organisation. The decisive issue will be the applicable provisions in the collective agreement for corresponding work in the industry concerned. Backed by this provision, an employee can go to court to obtain a ruling that confirms this entitlement. If a ruling has been made with regard to the specific collective agreement that should be applicable to a particular industry, the other enterprises will as a rule abide by it. Some employers also pay wages according to this level irrespective of whether a ruling has been made, which is an indication of the resilience of this system. Posted workers are also entitled to pay in accordance with regular Italian levels.

<sup>130</sup> Eiro (AT0908039Q): *Austria: Posted workers*, <http://www.eurofound.europa.eu/eiro/studies/tn0908038s/at0908039q.htm>

## The collective bargaining system

The union density in Italy is 33 per cent, and three organisations dominate among the trade unions: CGIL, CISL and UIL. Since 1980, the union density has declined by approximately 30 per cent, but the collective agreement coverage still remains at 80 per cent.

The Italian bargaining system comprises two levels. First, there are industry-level agreements negotiated by the central organisations. Second, agreements are concluded at the regional or enterprise level. However, the latter form is not very widespread, and there is a tendency that increasingly fewer enterprises sign these types of agreements, and they tend to be found primarily in large corporations. Moreover, these agreements cannot regulate the same areas as those applied at the industry level, unless competence to do so has been explicitly delegated.<sup>131</sup> This means that as a rule, wages are regulated at the industry level, while adjustments through local/regional agreements mainly concern performance-related supplements.

The bargaining system is based on a 1993 tripartite agreement. This agreement was supplemented by a new amendment in 2009, but without the inclusion of the largest trade union confederation, CGIL. The reason was that the new amendment allowed for a greater degree of decentralisation of wage formation than before, and the CGIL opposed this move.

The 1993 agreement stipulates that the social partners should undertake industry-level bargaining, on the basis of inflation targets determined in consultation with the government. Agreements are valid for four years, but if inflation rates exceed the predictions, mid-term amendments can be made to compensate for this. If the partners fail to agree, the 1993 agreement states that wages should be automatically regulated on the basis of the inflation target. Regulations start at 30 per cent of expected inflation, increasing to 50 per cent six months after the deadline for renewal of the agreement.<sup>132</sup>

The agreement concluded in 2009 by the other organisations applies a schedule of bargaining every three years, and does away with the mid-term review. Furthermore, another inflation indicator is used, the European Harmonised Consumer Prices Index. In addition, a commission composed of the central-level partners has been appointed to examine gaps between the new indicator and actual inflation. The agreement foresees more decentralisation, by allowing for divergence from the national agreements, increased use of variable pay, and introducing an element of wage guarantees for smaller enterprises without local agreements.

<sup>131</sup> The opportunity to delegate applies only to the parties that have signed the 2009 accord, see below.

<sup>132</sup> Megale, A., Birindelli, L. & D'Aloia, G. (2007), *Salari e contratti in Italia e in Europa: 2005-2006*, III Rapporto IRES; Megale, A., Birindelli, L. & D'Aloia, G. (2009), *Salari in crisi*, IV Rapporto IRES 2007-2008; Megale, A., Birindelli, L. & D'Aloia, G. (2011), *Salari: il decennio perduto*.

The fact that a new bargaining system is established without the inclusion of the largest trade union confederation has been regarded as an indicator of a systemic crisis. Since 2009, altogether 86 of 89 agreements have been renewed, which have also been signed by the CGIL. However, the agreements have not contained any provisions stating that the partners are free to choose other solutions locally, and wage growth has exceeded the new indicator. Some agreements have also been signed without participation by the CGIL, for example for engineers, schools, retail trade and business services. Wage levels are determined on the basis of the collective agreements, and include supplements for seniority, a thirteenth and fourteenth monthly wage, overtime, and supplements for inconvenient working hours and individual extra pay. The national collective agreements account for approximately 80 per cent of the wage payments in Italian industries (with the exception of the construction industry). The remainder is related to local collective agreements or other collective/individual elements.<sup>133</sup>

The bargaining system has been incapable of ensuring increased purchasing power in the population, and in the period from 2000 to 2009, total labour costs increased by no more than 2.3 per cent. The absence of wage growth is one of the reasons why Italy has some of the lowest wages in the OECD, in gross as well as net terms. At the same time, Italy ranks as one of the countries with the highest wage differences between the low-paid and the high-paid.

### **The debates on minimum wage**

For the time being, a statutory regulation of minimum wages is not on the agenda in Italy. The trade unions are not in favour of statutory regulation, and argue that wages are the responsibility of the bargaining partners. There is still the problem, however, that certain groups are being excluded, such as people with irregular forms of employment. Italy has a high proportion of self-employed persons and a high incidence of unregistered work when compared to the EU average. Figures from 2005 show that one in every four workers is self-employed.<sup>134</sup>

A trial of minimum incomes was undertaken in some cities in 1998-2003, but the scheme was discontinued without a final evaluation. Economists and sociologists have argued that Italy needs a minimum-income policy.<sup>135</sup> The trade unions in certain industries support this idea (but not by the national-level confederations), and the matter has also been debated among politicians. The background for the proposal is

<sup>133</sup> Ibid.

<sup>134</sup> Megale et al. (2007).

<sup>135</sup> Monti, P. & Pellizzari, M. (2010), *Implementing a guaranteed minimum income in Italy: Analysis of costs and political feasibility*; Mancini, A.L. (2007), *Labour supply responses of Italian women to minimum income policies*, ChilD working paper n. 14/2007.

that there are major regional differences and high concentrations of poverty in some parts of the country.<sup>136</sup>

### **Posted workers**

Posted workers are entitled to minimum wages and other minimum conditions corresponding to comparable work in the location where they are posted. This applies to the conditions stipulated by statutory provisions and collective agreements with the most representative partners at the national level. Legislation does not specify the collective agreements in question, but can be interpreted as referring to national and regional agreements applicable to the industry where the workers are posted.<sup>137</sup> The national labour inspectorate is responsible for enforcement as part of its routine tasks.

<sup>136</sup> Mancini (2007).

<sup>137</sup> Eiro (IT0908039Q): *Posted workers*, <http://www.eurofound.europa.eu/eiro/studies/tn0908038s/it0908039q.htm>

## 6 Statutory minimum wage in the Nordic countries?

Today, none of the Nordic countries has a statutory minimum wage, and it is unlikely that any of these countries will envisage an introduction of such schemes in the near future. The Nordic trade union organisations vehemently oppose a statutory minimum wage, and the employers have provided only occasional support for such solutions. Why is the idea of statutory minimum wages perceived as so alien in the Nordic context? In this final chapter we will first examine the existing minimum-wage regulations in the Nordic countries as a basis for our discussion of the Nordic perspective on statutory minimum wage regulation.

### 6.1 Nordic minimum-wage regulations

#### Main principles

The scepticism towards a statutory minimum wage must be interpreted in light of the existing minimum-wage regulations in the Nordic countries. The Nordic model is characterised by a high union density and high collective agreement coverage. While Denmark and Sweden use collective agreements as their only mechanism for regulation of minimum wages, Finland, Iceland and Norway have also started to use *erga omnes* instruments (extension of collective agreements).

The social partners have the main responsibility for wage regulation in all these countries, but only Sweden and Denmark apply this arrangement exclusively. In all the countries, bargaining takes place at the industry level. Minimum wage agreements are the most common form.<sup>138</sup> These agreements determine a floor that cannot be underbid by the partners locally. The floor is often differentiated by age, skill or seniority. Furthermore, the agreements presuppose that supplements will be subject to bargaining at the enterprise level and added to the minimum level. Individual wages will vary between enterprises and among employees. As a result, the average wage level will be somewhat above the minimum rates defined by the collective agreements (see the figures below).

<sup>138</sup> There are also other types of collective agreements, more detail can be found in Lismoen, H. (2006); "Low-wage regulation in Scandinavia." In: Schulten et al. (2006).

In principle, the collective agreements will be binding only for those parties that have signed them. However, all the countries have rules that obligate employers who are bound by the agreement to apply it also to non-unionised workers.

In Norway, minimum-wage regulations have traditionally been left to the autonomy of the social partners, although the EU enlargement in 2004 caused this practice to be supplemented by an extension of the collectively agreed wage rates in industries that received a large number of labour migrants from the new member states, i.e. construction, shipbuilding and agriculture, and from the autumn of 2011 also cleaning. The extended agreements still cover only a small proportion of the Norwegian labour market, but as of today, no further requests for extensions have been made. A decision for an extension is made following a request from one of the partners, in practice LO. A government-appointed commission (*Tariffnemnda*) subsequently makes the decision on the basis of conditions pursuant to the Act relating to general application of wage agreements etc. In order for the commission to extend a collective agreement, documentation must prove that foreign workers undertake, or are suspected of undertaking, work on conditions that are less beneficial than those stipulated by the applicable collective agreement. The commission will decide which of the conditions to extend, in practice minimum wage, food, lodging and travel expenses, in some cases also working hours. The commission consists of five members: one from each of the social partners and three independent members. Decisions are made by simple majority.

Collective agreement coverage has been somewhat lower in Norway than in the neighbouring Nordic countries. As shown in Table 6.1, collective agreement coverage in Norway is 55 per cent in the private sector, compared to 77 per cent in Denmark and 90 per cent in Sweden. The two remaining countries, where extensions are common, have a collective agreement coverage of 90 per cent. The union density is also lower in Norway than in the other countries (at 52 per cent).

The Norwegian Act on extension of collective agreements differs from corresponding European schemes in several respects, including those in Finland and Iceland. Finland extends all national collective agreements that have a coverage exceeding 50 per cent. An expert commission consisting of three members determines what agreements to make extend, although the decision can be appealed to the labour court (*Arbetsrättsdomstolen*). As of late 2009, altogether 158 of a total of 198 national agreements had been extended. The extension comprises all individual entitlements in the collective agreements.<sup>139</sup> In Iceland, the wages and labour conditions negotiated between the social partners apply as a minimum to all employees who perform work of the same type as that comprised by the collective agreement.<sup>140</sup> This extension also

<sup>139</sup> Seip, Å.A. (2010), "Allmenngjøring i Finland". I: Stokke (2010).

<sup>140</sup> Lov 55/1980.

applies to provisions pertaining to settlement of disputes as to whether the conditions are being fulfilled.

In Norway and Finland the provisions in the collective agreement are enforced by the trade unions, while the labour inspectorate is responsible for enforcement of extended agreements. In Norway, moreover, contracting enterprises and their trade union representatives have a particular role in the enforcement of extended agreements. A contracting enterprise is obligated to ensure that sub-contractors abide by the agreements, and the employees of sub-contractors can hold the contractors liable for missing wage payments in areas that fall under the extended collective agreement. In addition, Norway and Iceland have rules ensuring that trade unions have the right to inspect the wages and labour conditions of workers. In Norway, this applies to the employees of sub-contractors in areas comprised by the extended agreements, whereas in Iceland this applies in general.<sup>141</sup> Furthermore, in Norway, contractors are joint and severally liable for the wage obligations of sub-contractors.

Table 6.1 Mechanisms for wage determination in the Nordic countries

	<b>Coverage of collective agreements in the private sector</b>	<b>Extension of collective agreements</b>	<b>Regime</b>
Denmark	77 %	No	Autonomos collective model
Sweden	90 %	No	
Norway	55 %	Yes, some (after EU enlargement)	Mixed model
Finland	90 %	Yes, widespread	Statutory regulations (and strong unions)
Iceland	90 %	Yes, widespread	

Source: Alsos, K. and L. Eldring (2008), "Labour Mobility and Wage Dumping: The Case of Norway". *European Journal of Industrial Relations* 14(4):441-459.

In summary, there are major similarities but also certain variations between the Nordic countries when it comes to wage regulation mechanisms. A key point, however, is that even though extension of collective agreements is being used in some of the countries, this is always based on agreed rates that emerge as the result of bargaining.

<sup>141</sup> Alsos, K. (2007), "Tillitsvalgtes og fagforbundenes rett til innsyn i lønns- og arbeidsvilkår." *Arbeidsrett* 4(2) 140-153.

## **Nordic minimum wages<sup>142</sup>**

Below, we provide an overview of wage levels in selected industries in the Nordic countries. The purpose is first to examine the level of the minimum rates determined by the collective agreements, and then compare these with average wages in the industries concerned and with national averages. We can thus assess several aspects: First, whether the Nordic bargaining systems produce results in the form of minimum wage levels on a par with the proposed European rates, for example within 50 per cent of the national average. Second, we gain insight into the variations in Nordic wage levels, in absolute and relative terms. Third, we also gain a handle to assess the consequences of a possible statutory minimum wage equivalent to 50-60 per cent of the average.

We have selected some industries where we assume that the pressure on collective agreed wages will be considerable, especially because of an increasing element of labour and service immigration from the new EU member states, more specifically construction, metalworking, hotel/catering and cleaning. The figures show collectively agreed rates/normal wage rates for selected industries in the Nordic countries in 2011. The rates are based on information from the trade union confederations, and apply to monthly wages for skilled labour (to the extent that this rate is specified in the collective agreements). Hourly rates have been recalculated to monthly rates. Only basic wages are included, not variable supplements.

To show how the level of the prevailing minimum rates compares to the average, we have included information on both national and industry-level averages for 2010. National averages are based on information from the OECD for Denmark, Norway and Sweden. Data for Iceland are from Hagstofa Íslands (Statistics Iceland) and apply only to the private sector.

Data for industry-level averages are provided by the trade union confederations or public statistics. For Denmark, direct wages are used, exclusive of variable supplements and the employer's pension payments. The rate for cleaning could not be isolated and therefore forms part of a wider group including travel agencies and some others. Icelandic figures reflect regular pay, not including overtime and variable supplements. For Norway, collectively agreed monthly rates are used, including skills-based and other permanent supplements. Swedish figures reflect basic wages exclusive of variable supplements.

Rates are given in euros, recalculated from national currencies in January 2012, with the exception of Iceland, where the exchange rate is for June 2011.

The two final figures summarise the nominal figures by showing wage rates by country and industry as a percentage of national and industry averages.

<sup>142</sup> Sources: Information from trade union confederations and public statistics in Denmark, Finland, Iceland, Norway and Sweden. Minimum wages are for 2011, average wages are for 2010.

Figure 6.1 Overview of minimum wage rates (monthly) in the construction industry in the Nordic countries in 2011, industry averages in 2010 and national averages in 2010. All rates in euros.

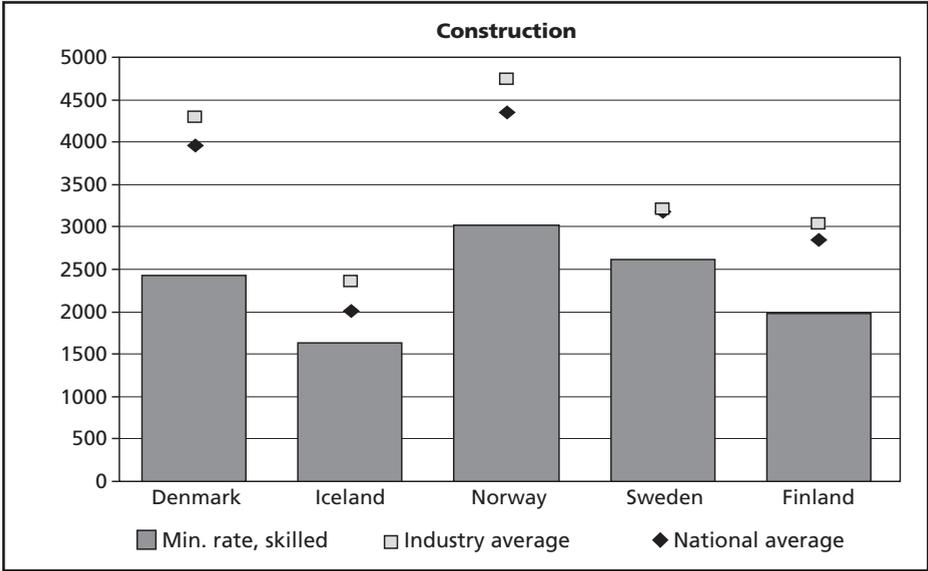


Figure 6.2 Overview of minimum wage rates (monthly) for the metalworking industry in the Nordic countries in 2011, industry averages in 2010 and national averages in 2010. All rates in euros.

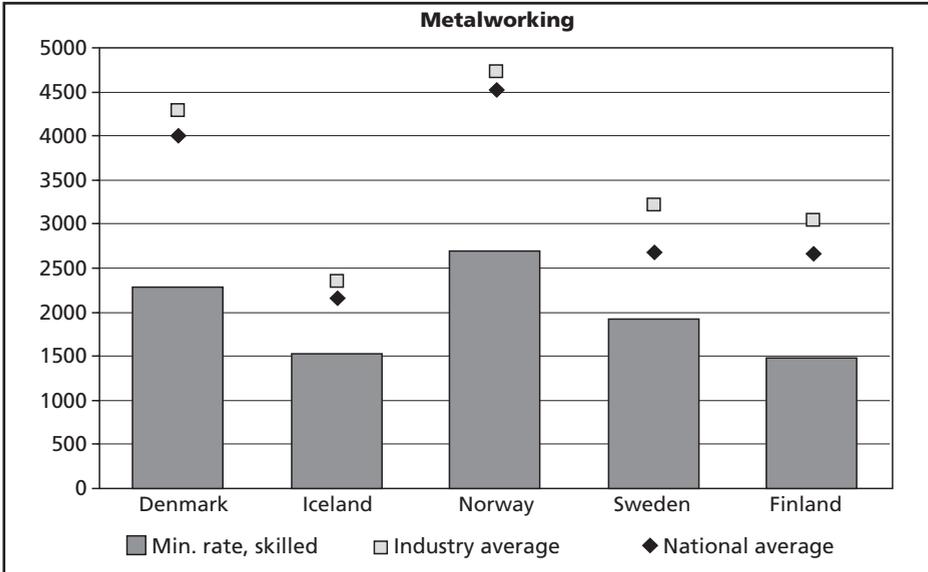


Figure 6.3 Overview of minimum wage rates (monthly) for the hotel and catering industry in the Nordic countries in 2011, industry averages in 2010 and national averages in 2010. No data available for Icelandic industry averages. All rates in euros.

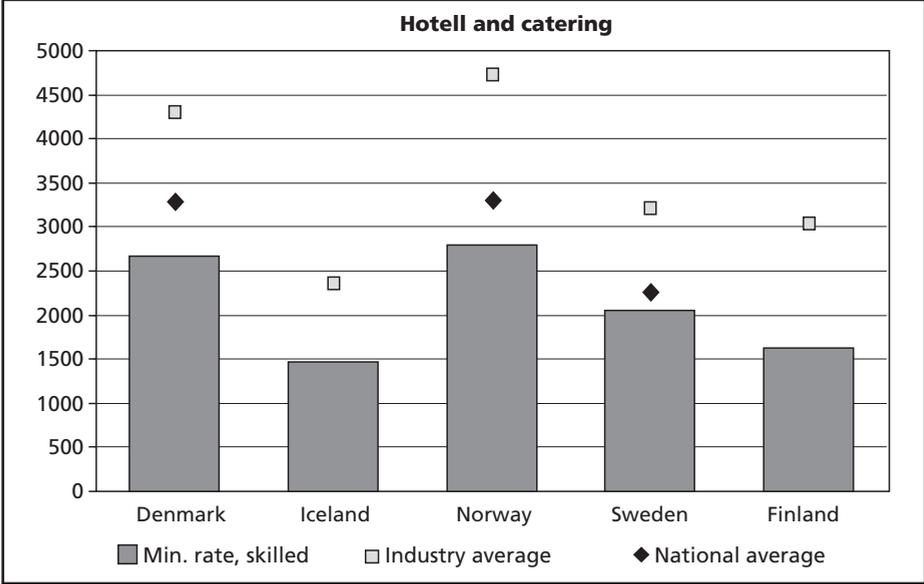


Figure 6.4 Overview of minimum wage rates (monthly) for cleaning in the Nordic countries in 2011, industry averages in 2010 and national averages in 2010. No data available for Icelandic industry averages. All rates in euros.

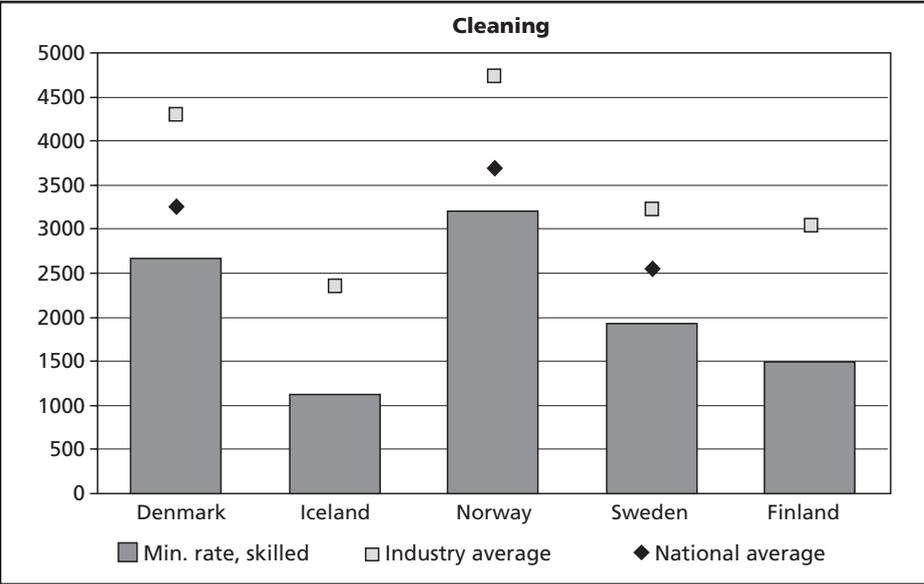


Figure 6.5 Minimum wage rates in national collective agreements as a proportion of national average wage levels. Percentages.

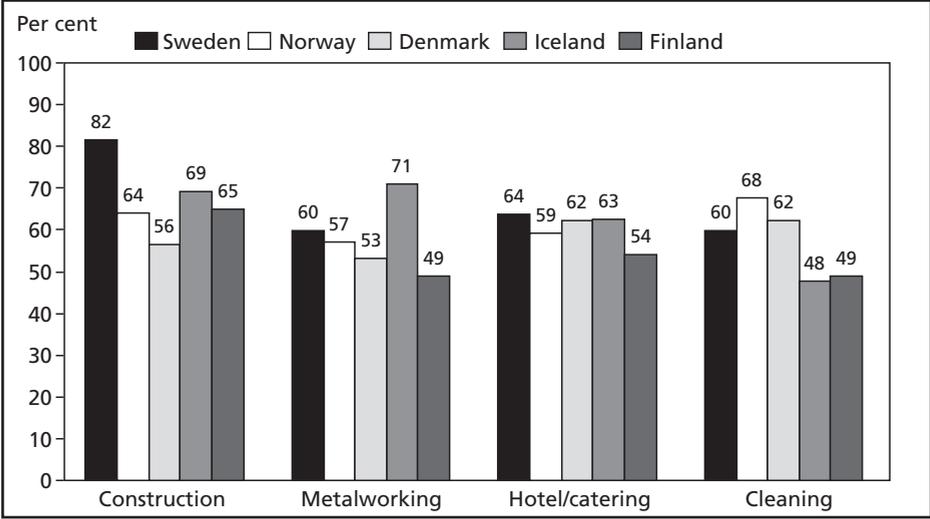
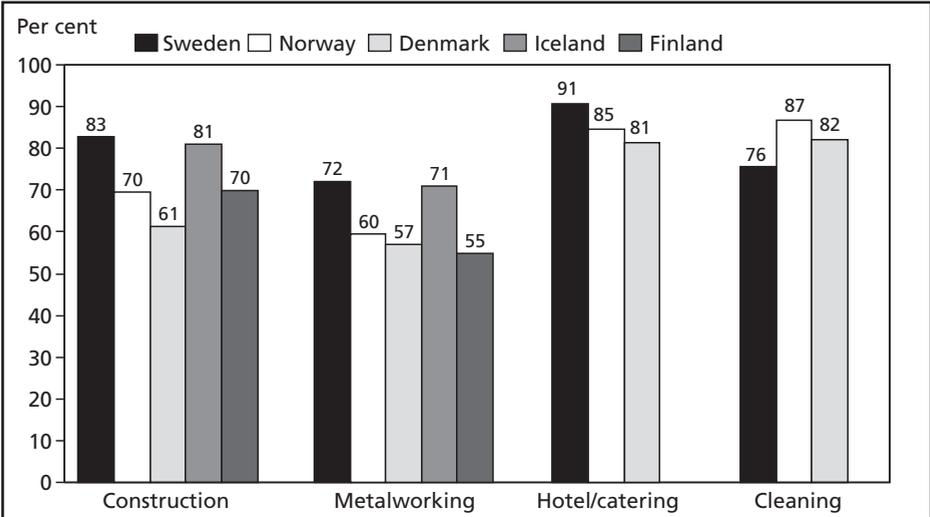


Figure 6.6 Minimum wage rates in national collective agreements as a proportion of industry averages for the construction, metalworking, hotel/catering and cleaning industries. Percentages.



The main features of the data material can be summarised as follows:

- Nominal wage rates (in euros) vary considerably between the countries in all the industries included here, as do industry and national averages. For example, the minimum rate in the Norwegian construction industry amounts to EUR 3,027 per month, with Sweden at 2,622, Denmark at 2,425, Finland at 2,027 and Iceland at 1,629. In terms of average wage levels (industry and national averages), Norway and Denmark are at the top.
- As regards the minimum rates, their distance from the average varies between industries and countries. All industries have average wage levels above the minimum rates in the collective agreements, which reflects local wage formation and high collective agreement coverage, as well as the contagion from the collective agreements. In Denmark and Norway, the industry average for the construction and metalworking industries in particular is far above the minimum rates for these industries. In the service industries such as hotel/catering and cleaning, the distance between the agreed rates and the industry average is relatively small in all countries, most likely because many of these agreements define normal wages, and no local supplements are foreseen.
- In all industries and all countries, the minimum rates amount to more than 50 per cent of the national average, with the exception of the minimum rate for the metalworking industry and cleaning in Finland, both at 49 per cent, and cleaning in Iceland, at 48 per cent.<sup>143</sup> Most rates amount to 50-70 per cent of the average. This means that the collectively agreed minimum-wage regulations in these industries would comply with a norm of 50 per cent of the average level, but not necessarily with a norm of 60 per cent. This also indicates that a statutory minimum wage at such a level would most likely be unrealistically high (even) in the Nordic context.

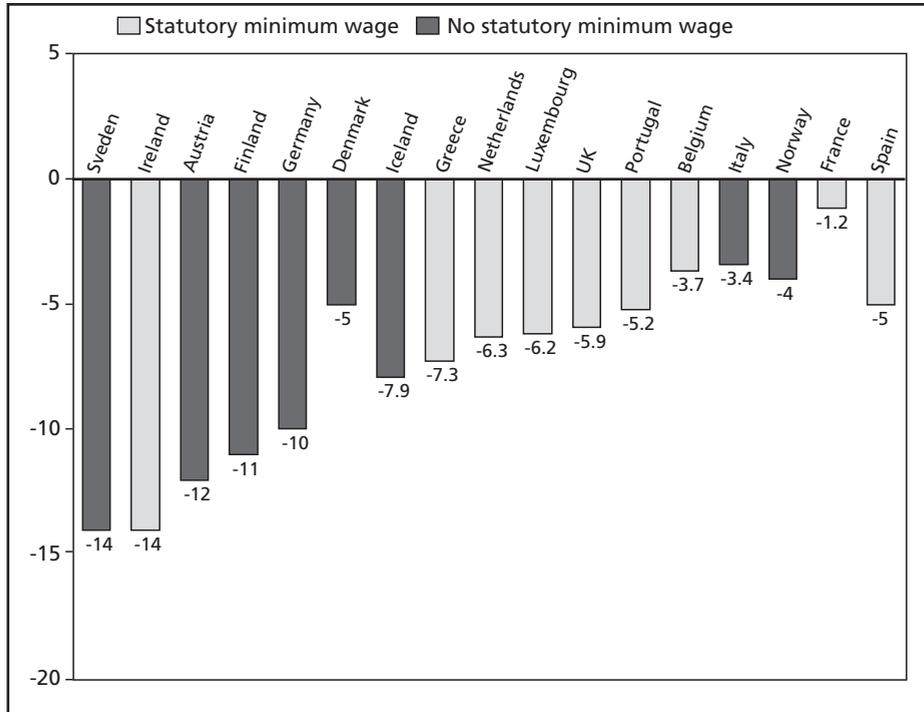
### **Challenges to Nordic minimum-wage regimes**

As elsewhere in Europe, the major challenge facing the Nordic trade unions is to maintain the union density and the collective agreement coverage. The Nordic countries have had – and still have – high union density, but over the last 15 years the trade unions have lost some of their strength. During the last decade, several Nordic countries have changed their traditional model for unemployment insurance. A decoupling of the linkage between membership of an unemployment insurance scheme and of a trade union has caused the union density to decline considerably in Denmark, Finland and

<sup>143</sup> The rate for the Finnish metalworking industry is based on the lowest rate in the collective agreement, meaning that skilled workers will most likely receive a higher amount.

Sweden.<sup>144</sup> In Figure 6.7 we can see the development of the union density in the “old” EU/EEA countries, including the Nordic region.

Figure 6.7 Changes in trade union density 1995-2009. Percentages.



Source: Nergaard (2010)/OECD's database for trade union density (2011).

The tendency towards declining union density is clearly reflected in the figure, with three of the Nordic countries losing the largest proportions. The effect of the changes to the unemployment insurance schemes appears to have stabilised, however, so that future causes for any loss in membership will most likely be associated with more general development trends in the labour markets.<sup>145</sup> Figures for Norway may give grounds for some optimism, since the decline observed there during this 15-year period has been relatively insignificant. Nevertheless, the challenge to the Nordic trade union organisations is found precisely in unionisation, recruitment and successful bargaining. These are the core elements of the Nordic model, and will be decisive, not least for Denmark and Sweden, which have no supplementary, statutory mechanisms, with regard to the

<sup>144</sup> Nergaard (2010): *Fagorganisering i Norden. Status og utviklingstrekk*. Fafo-notat 2010:25. Oslo: Fafo. Such schemes have not been used in Norway, and this is reflected in the lower union density.

<sup>145</sup> Nergaard (2010).

effectiveness of the collectively agreed minimum-wage regimes. Unsurprisingly, trade unions tend to favour statutory minimum wages in countries where the unions are weak or have lost influence over the last decades. Germany, the UK and Ireland provide clear examples, where the unions have all but abandoned using the collective agreements as the only instruments to promote objectives related to wages and equal pay.

The second major challenge to the Nordic minimum-wage regimes is found in the internationalisation of the labour markets. The influx of labour migrants and service providers from the East have challenged the Nordic labour-market model, and it is pertinent to ask whether existing schemes and collective agreements will succeed in halting low-wage competition and social dumping or whether supplementary measures are required. Most Nordic countries have received large amounts of labour from the new member states since 2004.<sup>146</sup> As described above, the EU enlargement to the east in 2004 was an immediate rationale for introducing the extension of collective agreements as an instrument to combat low-wage competition in Norway. However, the extensions focus on industries with a high number of labour immigrants, and presuppose that the partners wish to extend the agreement to all employees of the industry in question. To date, only very few agreements have been extended, and we can find industries that have low coverage by collective agreements where there are no mandatory minimum wage rates.<sup>147</sup>

The Swedish and Danish systems have also met with challenges since EU enlargement. Initially, the partners did not want the government to interfere in the regulation of wages for posted workers, and the implementation of the Posting of Workers Directive in these countries did not include references to clause 3.8 which enables minimum wages set by generally binding national agreements, or by accords signed by the most representative social partners. Decent wage standards were foreseen to be ensured through regular procedures, by compelling foreign service-providers to sign collective agreements, with the aid of boycotts and industrial action if necessary.<sup>148</sup> When the Laval case was brought before the EU Court of Justice, it transpired that Sweden's implementation of the directive was flawed, and as a result, the form of industrial action taken by the Swedish construction workers' union was deemed to be in violation of EU

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<sup>146</sup> Dølvik, J.E. & Eldring, L. (2008), *Mobility of labour from the new EU states to the Nordic region. Development, trends and consequences*. TemaNord 2008:537. Copenhagen: Nordic Council of Ministers, Skedinger, P. (2010), "Sweden: A minimum-wage model in need of modification." In: Vaughan-Whitehead (2010).

<sup>147</sup> Eldring, L., Ødegård, A.M., Andersen, R. K., Bråten, K., Nergård, K., Alsos, K. (2011), *Evaluering av tiltak mot sosial dumping*. Fafo-rapport 2011:09. Oslo: Fafo.

<sup>148</sup> Malmberg, J. & T. Siegeman (2008), "Industrial actions and EU economic freedoms: The autonomous collective bargaining model curtailed by the European Court of Justice." In: *Common Labour Market Review*, 45, 1115-1146.

regulations.<sup>149</sup> As a result of the verdict both Sweden and Denmark deemed it necessary to amend their national legislation. They faced the same challenge, but found different solutions. Both countries focused on Section 3.8 of the directive, which regulates the manner in which countries that have no schemes for extension of collective agreements may ensure that collectively agreed provisions will also apply to posted workers. Sweden chose the first alternative provided by Section 3.8, and decided that collective agreements that are generally applicable to corresponding enterprises in Sweden can be made mandatory for foreign service-providers. Denmark chose the second alternative, stating that the agreement had to be signed by the most representative partners at the national level and be applicable nationwide. Moreover, both countries presupposed that the requirements applied to conditions that were within the core area defined by Section 3.1 of the directive. However, Sweden presupposed that industrial action was allowed only if the conditions to be enforced were better than those defined by statutory provisions or those that the employees were already entitled to. Denmark took a more radical approach, and determined a separate definition of minimum wage that included a number of performance-related supplements.<sup>150</sup>

## 6.2 Statutory minimum wage and the system of collective agreements

Little research has been undertaken to show the effects of statutory minimum wages on union density and collective agreement coverage. One hypothesis states that the minimum wage may have a positive effect on the relationship between the social partners by bringing them together to bargain about its level, which can help promote collective bargaining in general.<sup>151</sup> Several trade union organisations in the CEE countries pursue this strategy in the face of an underdeveloped bargaining system, see Chapter 4. Such approaches have less relevance in countries where the relationship between the social partners is well developed, such as the Nordic countries. In these countries, the debate has focused on whether the minimum wage will constitute a competitor to the collective agreements or act as a supplement to these in areas with a low degree of coverage.

<sup>149</sup> Laval un Partneri. More details in e.g. Dølvik, J.E. & Visser, J. (2009), "Free movement, equal treatment and workers' rights: can the European Union solve its trilemma of fundamental principles?" *Industrial Relations Journal*, 40(6) 513-531; Evju, S. (2009), *The Posting of Workers Directive – Genesis and Current Contrasts*. Paper, Formula Conference on Mobility of Services, Posting of Workers and Labour Market Governance, 28 May 2009, University of Oslo.

<sup>150</sup> See Dølvik & Visser (2009).

<sup>151</sup> Vaughan-Whitehead (2010a).

Unless the minimum wage is introduced as a result of external pressure, as would be the situation in the case of a European minimum wage, such schemes are normally introduced because the national system is not functioning optimally. Declining union density may give rise to a demand for statutory regulation of wages, as can be seen in Germany. On the other hand, if such regulations are introduced in a system with high collective agreement coverage, the minimum wage may appear as a challenge to this system.<sup>152</sup> Whether the minimum wage will supplement the collective agreements or compete with them will most likely depend on the level at which a possible minimum wage is fixed. As shown in Chapter 4, the statutory minimum wage in France is higher than the minimum rates in several collective agreements. Here, there have been indications that the national statutory minimum wage has served to reduce the bargaining frequency.<sup>153</sup> At the same time, employees in industries where the trade unions are weak are better off with the minimum wage than they would otherwise have been. It is highly unlikely that absence of a minimum wage in France would have given rise to a higher union density in these industries, since widespread use of extensions in any case ensures certain minimum conditions.

Many countries use the minimum wage rate as a reference point in collective bargaining. This applies to several CEE countries, but is also used at the enterprise level, for example in Ireland and the UK. In the Netherlands, the distance between the statutory and collectively agreed rates is so large that the partners relate only to the latter during bargaining rounds. The government has attempted to put pressure on the partners to keep the rates low, with a view to promoting employment in low-wage industries. This is a further illustration of how the minimum wage may have an effect on collective bargaining. From one point of view, the minimum wage encourages bargaining; another approach is to see how statutory wage rates have an effect on the bargaining strength of the partners.

A comparison of countries with minimum-wage schemes shows that countries that have a high collective agreement coverage tend to have higher relative minimum-wage rates. France, Belgium, the Netherlands and Slovenia all have national minimum wage levels which are higher than CEE countries and the UK. One explanation could be that a high coverage tends to compress the wage structure, and this will increase the relative level of the minimum wage. Strong social partners may also help increase the level of the national rates, with a view to policies for equal pay or to avoid setting the minimum wage at a level where it gives rise to low-wage competition.<sup>154</sup>

<sup>152</sup> European Commission (2008), *Industrial relations in Europe*.

<sup>153</sup> Gautié (2010).

<sup>154</sup> Grimshaw og Rubery (2010).

Since introduction of a statutory minimum wage has not been on the agenda in the Nordic context, there are no well-developed scenarios for what would be plausible consequences for the collective bargaining system. The Nordic trade union organisations obviously fear that the consequences would be adverse. Another approach to this issue is to examine the positions of the employers' organisations. As shown in Chapter 5, the German trade unions have been in favour of a statutory minimum wage, while the employers have opposed it. This is clearly an effect of diverging interests and different assessments of the effect that a statutory minimum wage would have in the German context. The trade unions believe that the introduction of a statutory minimum wage may shore up – and compensate for – a failing collective bargaining system, while the employers benefit from a growing low-wage segment and are reluctant to establish minimum-wage regulations that may contribute to wage growth in areas where the collective bargaining system has failed.

To the extent that the issue of a statutory minimum wage has been debated in the Nordic countries, the positions have been reversed. Among the Nordic countries, the concept of a statutory minimum wage has arisen most frequently in Norway, especially as a possible alternative to extension of collective agreements. However, the issue has been raised even in Sweden. The largest national employers' organisation, *Teknikföretagen*, has argued actively in favour of introducing a national minimum wage to be determined independently of the minimum rates in the collective agreements.<sup>155</sup> While the extension mechanism is well established in Finland and Iceland – and completely alien to Denmark and Sweden – Norway has reactivated its long dormant Act relating to extension of collective agreements in recent years. This has not been uncontroversial, with conflicting interest within and between the employers' organisations and the trade unions.<sup>156</sup> The service workers' union *Virke* has repeatedly announced that they wish to replace the extension scheme with a statutory minimum wage, and even the Confederation of Norwegian Enterprise (*Næringslivets Hovedorganisasjon*, NHO) repeatedly states that it sees a national minimum wage as a more attractive solution than extensions of collective agreements. In the Norwegian context, a statutory minimum wage does not appear as a supplement to extensions (like in many other European countries), but as an (unwanted) alternative. The proposal for a statutory minimum wage is used by the employers almost as a threat and as a response to various initiatives by the trade unions to improve and activate the existing extension scheme. As in Germany, the positions can be interpreted in light of the partners' interests: the LO, which after some hesitation chose to use the extension scheme, has reaped positive results, and some of their initial

<sup>155</sup> See e.g. Teknikföretagen's hearing statement to the Ministry of Labour on proposals for measures following the Laval verdict, 7 April 2009: <http://www.teknikforetagen.se/Documents/Arbetsratt/Remissvar%20F%C3%B6rslag%20till%20%C3%A5tg%C3%A4rder%20med%20anledning%20av%20Lavaldomen.pdf>

<sup>156</sup> Eldring et al. (2011).

concerns have proven groundless. To date, the extended collective agreements have become a key instrument for the prevention of wage dumping in industries that have low collective agreement coverage and many labour immigrants. Trade union officials in the construction industry report that recruitment of labour immigrants now has become far easier, since they can be provided with support for claims for collectively agreed wages, even though they are not party to a collective agreement. On the other hand, experience indicates that the extension process itself can be cumbersome and conflict-ridden, and not all the decisions made by *Tariffnemnda* have favoured the LO.<sup>157</sup> Parts of the central-level employers' organisations are definitely opposed to reinforcing a scheme that will help extend the coverage of the collective agreements, and therefore argue in favour of a national minimum-wage scheme which most likely will define rates below the existing, extended collectively agreed rates, and probably also will help undermine the bargaining strength of the trade unions in the long term.

### 6.3 Statutory minimum wage in a Nordic perspective

At a conference under the auspices of the Council of Nordic Trade Unions (Nordens Fackliga Samorganisation, NSF) in January 2012, several leaders of Nordic trade union confederations stated that they were in favour of a minimum wage – as long as it remains based on the collective agreements in the Nordic context. Furthermore, they expressed an understanding of how other parts of the European trade union movement fail to share their views on the statutory minimum wage, and that other countries may need to supplement the bargaining system with statutory regulations. The Nordic opposition to European initiatives in this area is primarily based on a fear that this will entail further European regulations, as well as a fear of their consequences. Accordingly, any European measures and campaigns that aim at a statutory regulation of wages in the member states are met with profound scepticism. It is our impression that the Nordic perspective is being listened to in Europe, but is not necessarily being understood. The Nordic trade unions, and the employers' organisations as well, have not refrained over the years from advertising the positive aspects of “the Nordic model”. Strong organisations, high union density, high collective agreement coverage, well-developed bargaining relations and cooperation between the social partners are core elements of the Nordic labour-market model, even though the countries may vary in some respects.

<sup>157</sup> This has become all too clear in the ongoing legal proceedings on the extension of the collective agreement in the shipbuilding industry, see e.g.: <http://www.abcnheter.no/nyheter/2012/01/23/efta-domstolen-slar-ned-pa-norsk-arbeidsliv>

Seen from the outside, it may appear strange that these apparently robust and sustainable labour-market regimes could be threatened by a European minimum-wage policy that is primarily intended for countries with low minimum-wage levels or no functioning minimum-wage regimes. Not least, this will be so for interest groups that primarily have a social-policy approach to the issue of minimum wages, and less insight or interest in labour-market policy. Some would also claim that the Nordic trade unions have failed to grasp the scope of the low-wage problem in some European countries, and in the worst case, the Nordic organisations may be perceived as being too inward-looking and as showing little solidarity.

In our opinion, the Nordic position must be seen in light of several factors. Keywords include collective bargaining autonomy, contagion effects of collective agreements and the power of the organisations. First, the principle of the social partners' autonomy is well established in the Nordic countries. This has also characterised these countries' approach to the European community, and European regulations that impinge on the partners' freedom to conclude independent agreements will necessarily meet with resistance. A statutory minimum wage represents a strong interference in the freedom of the partners to bargain for wage levels and wage growth. With the aid of the wage settlements, the partners bargain over how social wealth should be shared by the workers and the employers, and as a rule, the partners can reach an agreement. A statutory minimum wage is not determined on the basis of the creation of social wealth, but rather on what will be required to ensure an acceptable living standard.

Second, we have seen that the Nordic countries have a diverging degree of collective agreement coverage, but also that average wage levels are above the collectively agreed minimum even in industries that have low coverage rates. This is because the collective agreements have a strong contagion effect beyond the unionised parts of the labour market. A statutory minimum wage would represent a strong competitor to the collective agreements, and it could become acceptable to relate to the statutory rather than to the collectively agreed minimum rates. Often, enterprises that are not committed by collective agreements will pay somewhat more than the statutory minimum, provided that there is a sufficient supply of labour. In a situation with high labour immigration – and thus a good supply of workers who accept low pay – two labour markets may develop: one covered by collective agreements and another relating exclusively to the statutory minimum. This situation may give rise to a considerable pressure on the collective agreements, since the employers will attempt to break free of their collectively agreed commitments. This type of behaviour has not so far been observed to any extent in the Nordic countries, but it has the potential to give rise to major disturbances in the labour markets.

A third factor is associated with the power and position of the Nordic labour-market organisations. The Nordic partners are strong and well organised, but there is a widespread fear that they will be weakened if they lose their control over wage formation.

When the partners no longer “own” this issue, motivation for being unionised could decline among employees as well as employers.<sup>158</sup> If collective agreement coverage declines, part of the rationale for joining a union will disappear. Centralised wage settlements, holistic solutions and competing-sector primacy (“frontfag”) would thus become less normative for wage formation. In the longer term, this could spiral into a vicious circle that could erode the basis of the Nordic models. The regulation of a minimum wage would (in the final account) be made by the politicians, and introduce a strong and distracting signal with regard to the wage settlements. Inflation would play a considerably more prominent role than today, and regulation could become the object of political struggle rather than of bargaining between the partners.

These material objections notwithstanding, it should be added that establishing a common, national wage floor would also have a number of positive aspects even in the Nordic context. A national, statutory minimum wage could provide protection for vulnerable groups in weakly unionised areas, where collectively agreed regulations in the form of extensions are not equally possible. Furthermore, the establishment of a national minimum-wage floor could prevent the emergence of new low-wage strata and ensure that all workers receive an income which is sufficient for subsistence. In addition, a minimum wage is a simple regulation which is easily communicated to employers and workers, and this is a particular advantage with regard to labour immigrants and foreign enterprises. The current Nordic systems are far from perfect, but the question remains whether the introduction of a statutory minimum wage in the long term will undermine the present solutions and provide less protection for workers than what they on the whole enjoy today.

There are signs indicating that the debate on (and the desire for) a European minimum-wage scheme will continue. Actors from other European countries appear to have a varying degree of understanding for the positions taken by the Nordic trade union organisations. One could perhaps say that the Nordic scepticism with regard to a European minimum wage policy is interpreted as a concern for internal, national affairs, even though a statutory regulation could have great importance for other countries and in terms of cross-border movement of labour. The fact that a European minimum-wage scheme may have most negative effects in the countries that need it the least, is to some extent being ignored. The Nordic challenge is thus to act in solidarity with the trade unions in other countries, while seeking to avoid general solutions that could lead to an erosion of the system of collective agreements.

A natural question to ask is whether the reservation concerning the maintenance of national traditions may be invoked, and that minimum rates would be subject to bargaining between the partners, could satisfy the demands of those countries that do not wish to establish a statutory minimum wage. Assessing this is difficult as long as no clear

<sup>158</sup> Nilsson, G. (2008), “Avtal eller lag?” In: *Vems ordning och reda?* Stockholm: Agora.

proposals for European minimum-wage regulations have been put forward. However, in our interpretation of the views of the Nordic trade unions, this is perceived as an insufficiently broad guarantee for ensuring that the freedom to bargain independently will be preserved. This solution would imply that the Nordic countries would need to introduce statutory mechanisms to enforce collective agreements in those parts of the labour market that currently have no coverage. Even though the review in this report has shown that the Nordic labour markets have a low proportion of working poor and low wages, none of the countries have a watertight regulatory system. This applies to Norway in particular, where only little more than half of the employees are covered by collective agreements, and only a minor proportion by extended agreements. To some extent, this will also be the case in the other Nordic countries. So far, the normative effect of the collective agreements has gone a long way, even though this situation is being challenged by the influx of labour migrants who are willing to accept low pay. This is being compensated for by extensions of collective agreements in Finland, Iceland and Norway, and even though the Swedish and Danish trade unions still perceive extensions as an alien concept, there is no doubt that there is an interest in using this instrument, which is obviously seen as clearly preferable to a statutory minimum wage.

In a previous review of the role of the Nordic trade union movement in the EU, Dølvik concludes that the Nordic actors have enhanced their influence in the European organisations, but that “this is rarely manifested in the role of driving force and agenda-setter, and more often in that of obstructionist”.<sup>159</sup> In light of the strong commitment that the Nordic trade unions have shown in handling the problems associated with low-wage competition and social dumping on the domestic front, there ought to be large potential for active and constructive participation in the development of policies that could unify the European trade-union organisations. The above comparison of the situations in Germany and Norway illustrates a key point: the introduction of a minimum wage may have completely different implications in different labour markets and collective-bargaining systems. Most likely, few other actors have better preconditions for assessing the possible effects of changes to the rules of the game in the labour market than the trade unions. This means that the strategies of the labour movement may be well founded and appropriate in the national context, in spite of the conflicting assessments of issues pertaining to a European minimum wage. This is a troublesome situation for the labour movement at the European level, since agreement on a common European strategy with regard to the issue of minimum wages will be difficult. Consequently, challenges are involved in addressing these kinds of issues and debates, where there is agreement on nearly everything – apart from the conclusion.

<sup>159</sup> Dølvik, J.E. (2005), “De nordiske arbeidslivspartene i EU: Europeisering, påvirkning og forsvar av de nasjonale avtaleregimene”. In: Ahlberg, K. (red), *Tio år med EU, Effekter på svensk arbeidsrett og arbeidsmarknad*. Stockholm: Arbetslivsinstitutet.

# European Minimum Wage: A Nordic Outlook

The topic of statutory minimum wage has gained new relevance in the recent years, also at European level. Most European countries already have schemes for statutory minimum wage, while this has been an alien concept in the Nordic context. The report provides an overview of the designs and effects of such schemes, and of how minimum wages are determined in the Nordic countries and in the few other EU countries that still have no statutory minimum wage. The report also looks into factors that can explain the diverse views on statutory minimum wage regulation and why Nordic trade unions have offered resistance towards European initiatives in this area.



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