



A Minimum Wage Law: Doubts and Risks for Collective Bargaining and Employee Representation

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Somewhat unsurprisingly, the European Parliament reached agreement on the minimum wage directive. Cooperation with the social partners improved the law, emphasizing the role of collective bargaining.

The contents of the European directive

It is necessary to reassert that the objective of the proposed directive on adequate wages in the European Union (COM(2020)682 final) is not the introduction of a legal minimum wage. Rather, the aim is to promote adequate levels of wages for EU workers in order to reduce in-work poverty (which has grown significantly in Europe in recent years, especially since COVID), tackle wage inequality, close the gender pay gap, improve fairness in the EU labour market, protect employers from unfair competition based on low wages, and increase productivity through investment in human capital. The directive itself clearly states that adequate minimum wages can be achieved either through collective bargaining or by law. The directive also promotes collective bargaining and requires Member States to support it in wage determination, particularly in cases where collective bargaining coverage is less than 80%. Having clarified that the directive cannot impose the legal minimum wage in Member States, it should be noted how the Italian public debate has revolved around false myths and oversimplifications, particularly regarding the crisis of collective bargaining, the number of workers not covered by collective agreements, the little effectiveness of the basic pay laid down in collective agreements, and the scope of the minimum wage law with respect to average wage dynamics.

On the crisis of collective bargaining in Italy

With respect to the crisis affecting collective bargaining in Italy, Spattini and Tiraboschi (see S. Spattini, M. Tiraboschi, *Questionesalariale: guardare la luna, non il dito. A proposito di dinamiche retributive, salariominimo e deipresunti 1.000 contratticollettivinali di lavoro*) note that of the nearly 1,000 collective agreements reported by the National Council on Economics and Employment (CNEL), less than 50% are actually enforced and that the collective agreements signed by the most relevant trade unions (CGIL, CISL and UIL) concerned 97% of workers. As for the “millions of workers” reportedly excluded from the scope of these agreements, statistics report that 800,000 workers were those potentially excluded from their coverage. They are potential because the reason for not being covered by a collective agreement is not certain (see S. Spattini, *La coperturadei CCNL tranarrazione e realtà, nellaprospettiva del salariominimolegale*).

On the basic pay currently established by collective agreements

Having clarified that collective bargaining coverage is not a problem in Italy, it remains to be understood whether the most widely implemented collective agreements make provisions for low remuneration levels. It is quite complex to define a “decent remuneration level”. In the public debate, reference is often made to the €9 gross established on Bill AS 2187 presented by former Labour Minister Nunzia Catalfo in 2018 and then tabled again recently. This figure is however higher than the 50%-limit calculated on the average wage and the 60%-threshold applied to the median wage mentioned in the directive (€7.66 is the threshold for “working poverty” indicated by EUROSTAT in 2018). As an illustration of the complexity of this topic, it should be said that it is not at all clear whether the reference is only to the minimum wage or whether additional remuneration items (thirteenth month and severance pay, among others) and those having a ‘quantifiable’ value (company welfare, meal vouchers, allowances, etc.) are also to be included. Examining the INPS and CNEL data, there are about 290 thousand workers covered by a collective agreement and currently receiving wages of less than €9 gross. These are the people in the lowest job grade in private security, cooperation and trade, or domestic workers (685,000 total for ISTAT, many more for employers’ associations) and agricultural workers (950,000). These last two categories of workers in the private sector are potentially the most affected by minimum wage legislation, though high costs and little monitoring might give rise to opposite effects. Workers operating in the undeclared economy would also be affected by this norm, but simply enforcing legislation would not constitute a panacea for all issues (see S. Spattini, *Salario minimo legale: quando semplificare significa negare la complessità del lavoro*). Summing up, implementing the directive in the form of a minimum hourly wage of €9 gross would impact on less than 2 percent of Italian employees, or on 10 percent of the workforce considering also domestic work and agriculture. There are also other workers at risk of poverty, but because they are not employees, they are excluded from the coverage of collective agreements: trainees, self-employed workers, casual workers, undeclared workers.

On the expansive scope of the minimum wage

Contrary to the views of some politicians, this new rule would affect Italian wage dynamics to a limited extent. Furthermore, this is not the purpose of the directive, which intends to tackle poor work, though keeping silent about raising average wages. In the short term, an effect in the opposite direction might be seen, since in sectors where basic pay is significantly higher than what legislation identifies as fair remuneration, it will be very difficult for the union, at the next renewal, to obtain substantial increases. In addition, we cannot exclude that some companies might decide to step out of the collective bargaining procedures, which might be legal, to apply internal regulations referring only to minimum thresholds laid down by law.

The risks of ad hoc legislation, even that concerning collective bargaining

Having clarified the issues related to identifying an exact figure, we should analyze a second legislative intervention, which concerns the most representative contracts at the national level, without establishing any threshold. This measure and the previous ones intersect, since even in the first case (minimum wage at €9 gross) the provision of an already higher amount would be ensured. The difference is that in the latter case there would be no binding minimum, other than that decided by the most representative collective agreements in comparative terms. The risk of this measure is indirect, but very relevant. Once it has been clarified by law that the minimum threshold established by the most representative contract must be respected, since there are many contracts that are implemented in the same sector, it could be the courts that would ask Parliament for a rule allowing for the identification of the contracts to which wage should conform. The “employee representation law” is perhaps the real goal of many of those supporting the minimum wage today, as it would bring about a revolution for our collective bargaining system (see E. Massagli, *Dopo il salario minimo, una legge sulla rappresentanza?*). In this sense, we are already aware of the plurality of union and employer representation, which over the years has shaped autonomous and representative contractual systems, even when they

were seen as an alternative to each other and even when operating within the same field. This plurality can be overcome when signatories are identified by law.


Beyond simplification

It is difficult to explain why we think it is appropriate not to enforce laws on the minimum wage. The media narrative, also framed by political and social actors, has long identified a correlation between minimum wage, labour dignity and economic growth. This is true in theory, as in Italy this intervention would not affect the majority of workers (even among those who would need it). In this note, we tried to justify a position that we know is difficult and may be not popular, though being in line with some general views of the labour market and industrial relations. This interpretation appears to be more suitable to fulfil the goals of ensuring workers and work more dignity.

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