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ITALY'S MINIMUM WAGE LANDSCAPE AND THE POSSIBLE INFLUENCE OF THE "DIRECTIVE EU 2022/2041"

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1. Introduction:

1.1 What is minimum wage?

Minimum wage is "*the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract*"[1].

It is, simply put, the minimum amount which has to be paid to a worker in a given period, calculated either on a time or output's basis. The aim of minimum wage is to protect workers against poverty, to guarantee them a fair income to meet, at least, their essential needs. Initially it was designed to set a minimum standard of living for workers, and to protect the overall well-being, and health, of the employees. It can be argued that the main objective was to assist the least compensated members of the country's workforce, especially in low-wages sectors, people who lacked the bargaining power to obtain a minimum wage.

In the last decades, the number of the so-called "working poor" has increased. Even if this term sounds like an oxymoron, it has become a hard reality around the world. To prevent and reduce unemployment politicians and economists created low-paying and low-skilled jobs, which resulted in a reduction in the claims on wages by employees[2]. Furthermore, globalisation and various associated factors, such as differing standards of living, cost of living variations, and disparities in bargaining power between employees and employers across the world, has led to a disparity in wages of people in rich and poor countries for the same jobs. As a consequence, companies, and corporations, in the pursuit of cost efficiency, have practiced offshoring. This phenomenon has, in turn, limited the ability of employees in richer countries to assert their claims for decent, higher wages.

When talking about this subject, it is fundamental to clearly outline the elements included in wage calculation. This involves specifying which elements of compensation contribute to the minimum threshold and establish the guidelines for permissible payment in-kind. Including the conditions and the extent under which such arrangements are acceptable. In

[1] ILO 2014a, Minimum Wage Policy Guide, Minimum wages: an introduction. https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_508566.pdf

[2] "The Working Poor in Europe: Employment, Poverty and Globalisation. Edited by Hans-Jürgen Andreß, Henning Lohmann.

addition, clarity is needed when determining how the minimum wage applies to workers compensated on a piece-rate basis, addressing whether it is calculated on an hourly, monthly or both bases [3].

Nowadays, a national minimum wage exists in 170 countries of the ILO's Member States, with Italy being a rare exception. The laws around the world vary greatly. National minimum wages can be established either through government legislation or through collective bargaining. "*Minimum wage fixing regimes range from conditions where a statutory minimum wage is unilaterally set by the Government to regimes where it is the outcome of negotiations between unions and employers' associations and the Government has only the passive role of providing a legal status to these agreements, extending their coverage also to workers in the non-unionized segment, Among these two extreme scenarios, there is a wide array of hybrid regimes depending on the role attributed to the state or to collective bargaining in the setting of the minimum wage.*"[4]. It is important to underline that diverse perspective of different groups, such as employers and workers, and the nature of jobs, whether the discussion is about low-wages or high-wages jobs, lead to distinct approaches in formulating these laws.

We live in globalised and globalising world, where in the last decades and notably after the outbreak of the COVID-19 pandemic, with the consequent global economic and labour market crisis, the work force has been posted to yet another stern test. Therefore, the debate around the introduction and/or reinforcement of minimum wage policies has increased over time. This is a type of policy which, together with other reforms and interventions, might provide workers with decent working conditions and a degree of economic security.

1.2 Historic context.

In 1894, New Zealand's Parliament enacted the "Industrial Conciliation and Arbitration Act", which marked the pioneering instance of establishing a minimum wage. Even if the Act aimed to resolving industrial conflicts, it eventually laid the groundwork for

[3] ILO: Minimum Wage Policy Guide, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_508566.pdf
[4] Setting the minimum wage, Tito Boeri, Labour Economics by Elsevier, June 2012.

minimum wage rates. Two years later, the Australian State of Victoria enacted the "Wages Boards Law" (1896): "*This law was designed expressly to create the machinery for the fixing of legal minimum wages in the sweated industries*"[5]. Such industries were those characterised by "*unusually low rates of wages, excessive hours of labour, and unsanitary work-place*"[6].

Following the example of the Victoria State, England, in 1909, established the "Trade Boards Act of 1909"[7]. Initially, it was applied to four industries with unduly low pay, but its range gradually broadened to encompass more industries. In 1918, and in the course of the following two years, six Canadian provinces introduced minimum wage statues. Statutes which were limited to women and specified industrial sectors, since local unions representing male workers were sufficiently proficient in securing adequate salaries through negotiation on behalf of men.

While in the United States, the Commonwealth of Massachusetts was the first State to enact a minimum wage statute in 1912. Nonetheless, the introduction of it on a federal level happened during Franklin Delano Roosevelt's presidency, who took office after the Great Depression. In this period, the unemployment rate reached 25% [8] therefore the President expressed his administration intent to introduce a comprehensive federal minimum wage: "*In my Inaugural [speech] I laid down the simple proposition that nobody is going to starve in this country. It seems to me to be equally plain that no business which depends for existence on paying less than living wages to its workers has any right to continue in this country. By 'business' I mean the whole of commerce as well as the whole of industry; by workers I mean all workers, the white-collar class as well as the men in overalls; and by living wages I mean more than a bare subsistence level - I mean the wages of decent living*"[9]. The minimum wage was introduced through the Fair Labor Standards Act of 1938, which covered 20% of the workforce but it gradually expanded arriving at covering the 80% in the early 1970s.

[5] Holcombe 1910, p. 575 The Quarterly Journal of Economics, Volume 24, Issue 3, May 1910
[6] in 1898 as Chapter VI in "Problems of Modern Industry" (London: Longmans), Chapter 4: "How to do away with the sweating system", 1898.
[7] Holcombe 1910, p. 575 The Quarterly Journal of Economics, Volume 24, Issue 3, May 1910
[8] FDR Library&Museum: Great Depression Facts. https://www.fdrlibrary.org/great-depression-facts
[9] President Franklin Roosevelt's Statement on the National Industrial Recovery Act (16 June 1933).

Historically, in the USA, minimum wage has been increased by the Congress only in periods of low unemployment and economic growth and overtime it has adjusted to changes in purchasing power and inflation. Nowadays, it stands at $7.25 per hour and it varies from state to state. In January 2019, Senator Bernie Sanders and Representative Bobby Scott proposed the "Raise the Wage Act" which had the objective of raising minimum wage on a federal level to $15 per hour by 2024. But the Bill was not approved in the Senate, of Republican Majority. President Joe Biden campaigned and supported the idea of "increasing federal minimum wage to $15, but at the beginning of 2024 this number can be seen only by civil servants.

Throughout and after the Second World War, national minimum wage was introduced in many countries, such as India (1948) and Pakistan (1961), Mexico (1937), Chile (1937), and Brazil (1938), Colombia (1955) and Argentina (1964)[10]. While in the last decade of the 20th century, developing countries and emerging economies started to introduce such reform: South Africa adopted it in 1997 after the apartheid, while China in 1994.

1.3 Overview of the European Landscape.

All the Member States of the European Union have introduced minimum wages, with the exception of Italy, Denmark, Austria, Sweden. The decision to assign the responsibility of setting the minimum level to either the law or collective bargaining is consistent with the traditions of industrial relations systems in each respective country. The European Pillar of Social Rights[11] emphasizes the right to fair and adequate remuneration, it outlines the principles for establishing minimum wage. Nevertheless, the Pillar does not specify a European Minimum wage, as this matter are firmly within the scope of national competence based on the European Treaties[12].

Following the Second World War, there was a notable increase in the number of countries implementing minimum wage policies. The further introduction received some setbacks during the Oil Crises of the 1970 and the widespread of neo-liberalism in the 1980s. In

[10] Grimshaw & Miozzo, 01 March 2002, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_wp_14_en.pdf
[11] https://ec.europa.eu/social/main.jsp?catId=1226&langId=en
[12] Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE X: SOCIAL POLICY - Article 153 (ex Article 137 TEC).

this decade, a review of the regulation was made and published on the Journal of Economic Perspectives '*the minimum wage is overrated: by its critics as well as its supporters*[13]'. But as the idea that all workers should receive protection against unfair work pay, the legal framework of minimum wages was expanded overtime.

In 1950, France introduced a national minimum wage known as SMIG (*Salaire Minimum National Interprofessionnel Garanti*). However, due to remarkable gains of the post-war period the SMIG felt behind the average income levels and therefore replaced by SMIC (*Salaire Minimum Interprofessionnel de Croissance*), directly tied to fluctuations in average gross earnings within the manufacturing sector. The minimum wage has been raised to €11.65 per hour on 1st of January 2024[14]. Francophone African countries adopted this model. Also, Belgium (1968) and the Netherlands (1969) instituted national minimum wage systems, which now are among the highest in the European Union[15].

On the other hand, the introduction of such law in Southern European Countries had been uneven. Portugal adopted it in 1974 and it stood at €760 in 2023, with a raise of the 7.9% in 2024 (above the inflation forecasts for the same years which is at 2.9%) resulting in a €820 per month minimum standard.

Spain introduced it four years after the restoration of democracy in 1980. With a leftist government now in office, the minimum wage has been risen by 5%. This increase, which has been agreed together with the country's union, has brought the national minimum wage at €1134 per month[16], making Spain one of the countries with the most sustained wage's growth overtime in Europe.

The case of Greece is extremely unsteady, since it introduced a minimum wage in 1936, shifting to collective bargaining in 1955, returning to the first method after the dictatorship of the Greek Junta. Nowadays, the Article 103 of Law 4172/2013 (GG/I/167) has introduced the new system of determining the minimum wage and the legislated

[13] Brown, Charles. 1988. "Minimum Wage Laws: Are They Overrated?" *Journal of Economic Perspectives*, 2 (3): 133-145.
[14] Data from: https://wageindicator.org/salary/minimum-wage/france
[15] Eurostat: statistic explained, "Minimum Wage Statistics".
[16] https://wageindicator.org/salary/minimum-wage/spain

minimum daily wage[17], which is not done through collective bargaining anymore. From the 1st of April 2023, the minimum wage stands at €780 per month.

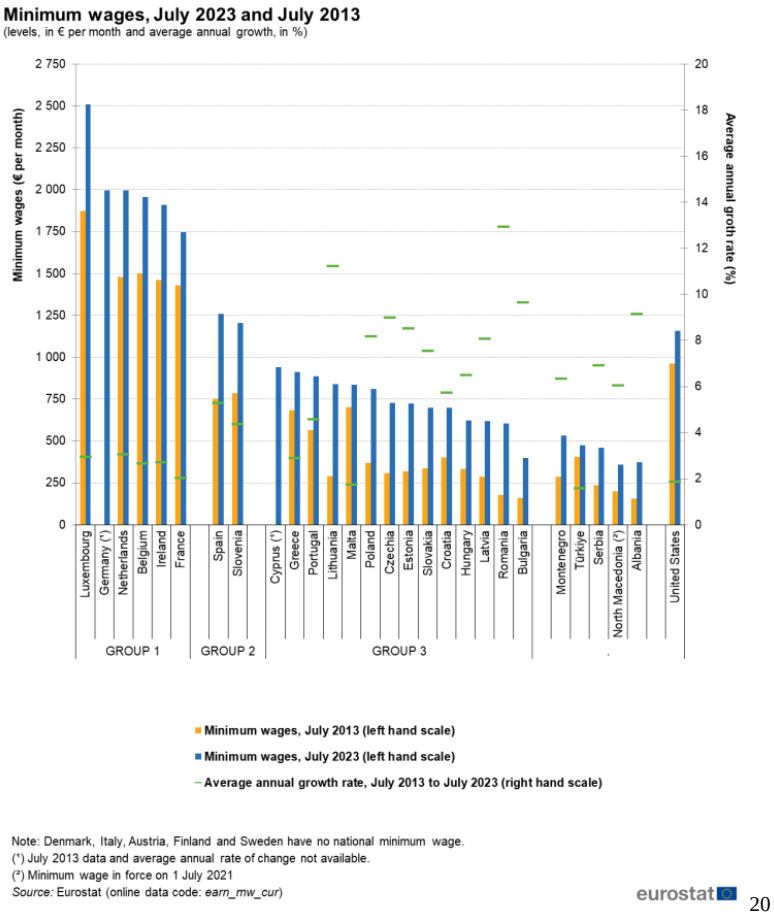
In Britain, the Conservative Government of Margaret Thatcher was formed in 1979 and it had the political and economic philosophy that the intervention of the State must be reduced to the bare minimum, leaving everything else to the individual: no planning or regulation on people's life. This was pursued through the privatisation of state-owned companies and by diminishing the authority and impact of trade unions. In this context, minimum wage could not exist, causing the dismantling of the "Wage councils", leaving only the application in the agricultural sector. At the end of the 20th century the introduction of this policy was largely debated between the Labour and the Conservative parties. In 1992 when the Labour Manifesto was published, it was claimed by the Conservatives to be a disastrous strategy. But the pursuing of the Labour party in the long run led to the introduction of the "National Minimum Wage Act" in 1999. From 1st of April 2024, the minimum wage will be raised to €12.67 per hour.

Germany first introduced minimum wage from January 2015, before it was exclusively for some specific sectors. Because of the *Tarifautonomie*, the right of free collective bargaining, which implies that the government ensure the legal structure for such agreements but left the union organisations and the employers to negotiate, without the state intervention, the introduction of minimum wage on a state level seemed impossible. This changed mainly because unions realised their inability to prevent low-wage work, leading to the implementation of a national minimum wage from January 2015 and it is set to be raised to €12.82 per hour over the course of 2024 and 2025.

In Italy, as in Germany, the presence of historical Labour Union has influenced, notably, the discussion around the minimum wage. The majority of the employees in Italy are covered by collective bargaining agreements, in which the retribution is set, and individual employment contracts. In the political agenda, in the last years, the possible introduction of this law has been at the centre of the discussion, by being on the political agenda of different parties, which now are the Opposition. The political parties of PD and Five Star Movement, together with SI, Europa Verde and +Europa, have presented a bill

[17] https://www.gov.gr/en/sdg/work-and-retirement/terms-and-conditions-of-employment/general/minimum-wage-and-minimum-daily-wage

with a minimum wage of €9 per hour, using as reference the minimum wage provided by collective contracts thus strengthening trade union action. But this legislative proposal has been stopped at the Parliament. In fact, the right-wing majority supporting the Giorgia Meloni Government does not accept a legislation of this type, considering more effective the reinforcement of national labour contracts and reduce labour taxes[18]. Therefore, it has replaced it with a government delegation. The amendment aims to ensure fair and sufficient remuneration for every worker, emphasizing the strengthening of collective bargaining and referencing the minimum economic treatments of widely applied national collective contracts. Unlike the opposition's proposal, the majority's version avoids using the term "salary" and doesn't specify a minimum remuneration amount but focuses on measures to guarantee fair and equitable compensation. Additionally, the Ministry of Labor has a specific role in cases of a lack of reference contract or delays in renewals[19].



Note: Denmark, Italy, Austria, Finland and Sweden have no national minimum wage.
(*) July 2013 data and average annual rate of change not available.
(²) Minimum wage in force on 1 July 2021
Source: Eurostat (online data code: *earn_mw_cur*)

eurostat [20]

[18] https://www.eurofound.europa.eu/en/resources/article/2023/minimum-wage-debate-italy
[19] https://www.ilsole24ore.com/art/stop-salario-minimo-9-euro-l-ora-passa-delega-governo-AFFyOypB
[20] Eurostat: https://ec.europa.eu/eurostat/databrowser/view/earn_mw_cur/default/table?lang=en

2. "Directive EU 2022/2041 of The European Parliament and of the Council of October 2022 on adequate minimum wages in the European Union"

2.1 From the Charter to the Directive: The Evolution of Minimum Wage Policy in the EU.

The European Union, during its history, has promulgated several initiatives regarding the implementation of a minimum wage policy, starting from the "Community Charter of the Fundamental Social Rights of Workers"[21]. It had, among the others, the objective the introduction of fair wages to allow adequate standard of living, as stated in the Article 5, which acknowledge the right of workers to fair renumeration[22]. However, each country has its own history, its own legal system, with its own views on the role of trade unions, collective bargaining, employer organisations and statutory minimum salary. This charter, and the following propositions by the EU, while never becoming legally binding documents, have been fundamental in the discussion on the matter in the Community.

Furthermore, starting from the second half of 1990s, the EU started implementing a new instrument in the realm of social and employment policy: the "open method of coordination" (OMC). The previous approach, which was based on compulsory hard law, was substituted by soft law, encompassing guidelines, indicators, benchmarking, and the exchange of best practise. The rationale behind it is that the social objectives and frameworks, designed at the European level, will be adopted by each Member State using individual strategies and considering national diversity.

During the last thirty years, the debate in the Community on minimum wage has been central while never being the centre of the policies of each European Commissions and European Parliament. Proposals started emerging after the 1990 recognition of a significant share of low-paid workers in Europe. In the late 1990s, minimum wage

[21] "The Community Charter of Fundamental Social Rights for Workers, adopted in 1989, establishes the major principles on which the European labour law model is based". https://eur-lex.europa.eu/EN/legal-content/summary/community-charter-of-fundamental-social-rights-of-workers.html

[22] "All employment shall be fairly remunerated. To this end, in accordance with arrangements applying in each country: (i) workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living; {ii) workers subject to terms of employment other than an open-ended full-time contract shall benefit from an equitable reference wage; (iii) wages may be withheld, seized or transferred only in accordance with national law; such provisions should entail measures enabling the worker concerned to continue to enjoy the necessary means of subsistence for him or herself and his or her family." The Community Charter of Fundamental Social Rights for Workers May 1990.

policies faced political resistance since many countries started promoting the flexibilization of labour markets rather than the limitations on the wage sector[23]. Recent studies challenge the notion that wage dispersion boosts employment, suggesting the minimum wage's potential importance in various EU policy areas.

The aftermath of the 2008 financial crisis resulted in the consideration of functional labour and social systems as fundamental for the economic and political stability. In fact, Jean-Claude Juncker, the former European Commission President, underlined the importance of reaching a social goal, not only an economic and financial rating[24]. Despite this consideration, the actions towards the social dimension have been merely symbolic. The shift in EU discourse is characterized by the concept of Social Europe, where the pivotal roles in ensuring economic development and political stability are played by the employment protection standards and the social security systems[25]. Addressing the minimum wage, the emphasis is on the section 6 of the Pillar: "*Wages: Workers have the right to fair wages that provide for a decent standard of living. Adequate minimum wages shall be ensured, in a way that provide for the satisfaction of the needs of the worker and his / her family in the light of national economic and social conditions, whilst safeguarding access to employment and incentives to seek work. In-work poverty shall be prevented. All wages shall be set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners*".

The European Union has seen an increase in in-work poverty and poverty in general over the past decade and has also noticed that with economic downturns, the role of adequate minimum wages is quite important. Low-wage workers and microenterprises and small enterprises are more vulnerable in such times, as it can be seen after the COVID-19

[23] Gray, A., Unsocial Europe. Social Protection or Flexploitation? London: Pluto Press., 2004

[24] in his October 2014 speech to Parliament, Commission President Jean-Claude Juncker declared his ambition for the EU to achieve a 'social triple-A' rating. The 'five presidents' report' entitled 'Completing Europe's Economic and Monetary Union' recommended a strong focus on employment and social performance, while recognising that there is no one-size-fits-all template. The Employment, Social Policy, Health and Consumer Affairs Council of 7 December 2015 adopted conclusions as 'part of the vision for a social triple-A rating for Europe', emphasising that 'social governance should be used to its full potential to identify and address key common social and employment challenges and trends to watch with a view to the achievement of the common employment and social objectives, including the Europe 2020 targets'. It should be noted that, following its initial announcement, the Commission has not yet provided concrete and structured information on progress towards a social triple-A rating. Parliamentary question - O-000034/2016, Question for oral answer O-000034/2016 to the Commission Rule 128. Thomas Händel, on behalf of the Committee on Employment and Social Affairs

[25] This new orientation was underscored with the "European Pillar of Social rights" of 2017.

pandemic. Moreover, "*Women, younger workers, migrant workers, single parents, low-skilled workers, persons with disabilities, and in particular persons who suffer from multiple forms of discrimination, still have a higher probability of being minimum wage or low wage earners than other groups*[26]". This happens because of non-compliance with existing European and national rules. Therefore, the assessment of fair minimum wages is essential in an economic as well as a social point of view. [27]

The related actions to this commitment have been announced by the President of the new European Commission, Ursula von der Leyen, who took office in 2019 and who announced a series of initiatives regarding the working environment. On October 28, 2020, the European Commission proposed to the Council and the European Parliament a Directive on adequate minimum wages in the EU, which is the most ambitious and impactful labour policy. This project has been a foremost policy for the commission since the beginning of its mandate. It's the first time that the EU Commission has drafted a practical legal framework for a communitarian cohesion in Europe of national minimum wage policies. On October 4, 2022, the Directive was adopted by the EU Council.

2.2 General Provisions and Horizontal Provisions

The "Directive EU 2022/2041 of The European Parliament and of the Council of October 2022 on adequate minimum wages in the European Union" is addressed to the Member States of the European Union[28] and it comes into force on the twentieth day after its publication in the Official Journal of the European Union[29].

The subject matter, defined in the Article 1 of the "Directive EU 2022/2041", is to present a framework which aims at improving the quality of life and employment standards in the

[26] Clause (10) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.
[27] Clauses (9), (10), (13), (14), (15). DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[28] Chapter IV Article 19 "Addresses": DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[29] Chapter IV, Article 18 "Entry into force": DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

Union, by ensuring that minimum wages are enough to limit wage disparities and promote an increase in the social and economic harmony[30]:

a) *"Adequacy of statutory minimum wages with the aim of achieving decent living and working conditions[31]"*: which means ensuring that the minimum wage set by law is sufficient to provide workers with a decent standard of living and decent working conditions. Every worker "*has the right to work in conditions which respect his or her health, safety and dignity*[32]". This principle is also an important part of the European Pillar of Social Rights, which, in addition, underlines the importance of preventing in-work poverty. The reduction of poverty, sustained domestic demand, increased purchasing power, incentives to work, the reduction of the gender pay gap and in-work poverty, might be achieved through the use of minimum wage policies, together with other social reforms.

b) *"Promoting collective bargaining on wage setting[33]"*, is the aim of empowering workers to have a say in their compensations and working conditions, which would benefit all the parts of the agreement[34]. This objective respect the European Social Charter (ESC) in which is underlined the significance of collective agreements freely reached by parties, of minimum-wage setting mechanisms and of the right workers and employers organisation at the local, national and international level. The wage setting has to be transparent and predictable[35].

[30] Article 1 Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.
It considers the Article 151 TFEU and the fundamental social rights which were presented in the European Social Charter (ESC).
[31] Chapter I, Article 1 (1. a) Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[32] Chapter I, Article 31 of the Charter of Fundamental Rights of the European Union - Fair and just working conditions. (1.) Every worker has the right to working conditions which respect his or her health, safety and dignity".
[33] Chapter I, Article 1 (1. b) Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[34] Guideline 5 in the annex to Council Decision (EU) 2020/1512.
[35] Principle No 8, chapter II, the European Pillar of Social Rights.

c) *"Enhancing effective access of workers to rights to minimum wage protection where provided for in national law and/or collective agreements*[36]*"*: which means ensuring to workers, through national law and/or collective agreements, the right to minimum wage protection. Addressing the national differences among the Member states plays a pivotal role in enhancing the equity of the Union's labour market.

In the Article 3 of the Treaty on European Union (TEU)[37] is stated the importance of the welfare and sustainable development, based in a robustly competitive social market economy, on which the European Union is based. The better living and working conditions, both through collective bargaining and minimum wage setting, are a prerequisite for achieving sustainable growth, which would benefit all members of society. Whereas the internal market competition should be based on high social standards[38].

"*This Directive shall be without prejudice to the full respect for the autonomy of the social partners, as well as their right to negotiate and conclude collective agreements*[39]". The European Union underlines the importance of respecting the different national traditions of the Member States, the national competences, and the social partners' right to reach an agreement, without interfering in the freedom in choosing whether to maintain, adopt statutory minimum wages, or keep using collective bargaining of Member States [40].

The Directive, in the Article 1, clause 4, further underlines the importance of full compliance with the right to collective bargaining of Member States and the fact that the Directive has not to be seen as an obligation to the States. This respects the principle of

[36] Chapter I, Article 1 (1. c) Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[37] Consolidated version of the Treaty on European Union - TITLE I: COMMON PROVISIONS - Article 3 (ex Article 2 TEU)
[38] Clause (7) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.
[39]Chapter I, Article 1 (2) Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[40]Clause (12), clause (19) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
Chapter I, Article 1 (3) Subject matter: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

subsidiary of European Union law, which guarantees that the action at the EU level comply with the various situations in the national, regional, and local level, but it limits the EU's capacity to address social and economic problems. While this approach respects the autonomy, it may also lead to divergences in the wage protection standards, which might affect the fair competition principle and the internal market.

Before the analysis of the other articles, it is important to underline the scope and the definition of the "Directive EU 2022/2041".

"*The acts by which a Member State implements the measures concerning minimum wages of seafarers periodically set by the Joint Maritime Commission or another body authorised by the Governing Body of the International Labour Office shall not be subject to Chapter II of this Directive. Such acts shall be without prejudice to the right to collective bargaining and to the possibility to adopt higher minimum wage levels*[41]". The Directive covers, in general, a wide range of employment types and relationships. It exempts from these measures the seafarers, for which the wages are set periodically by the Joint Maritime Commission and the International Labour Office. This specific recognize the unique nature of maritime labour. Dut despite this exemption, seafarers and their unions can negotiate terms and conditions of their work, including wages. It allows Member States to provide better conditions to this specific type of workers, which can reflect the higher cost of living in certain areas and the will to attract employees in a global labour market[42].

The Article 2 defines the scope: "*This Directive applies to workers in the Union who have an employment contract or employment relationship as defined by law, collective agreements or practice in force in each Member State, with consideration to the case-law of the Court of Justice*[43]", which seek to ensure that workers, whether the arrangements are formal or informal, are protected under its provisions. The phrase "or practice in

[41] Chapter I, Article 1(5). DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[42] Clause (20) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[43] Chapter I, Article 2, Scope: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
This respect also the Clause (21) of the Directive.

force" leaves room to a certain degree of interpretation, potentially causing differences and inconsistencies in the application of employment relationship in the EU. The recognition of the importance of Court of Justice of the European Union's case law implies a commitment in taking into consideration legal precedents and legal interpretation This Article, while being flexible in including the diverse working arrangements and legal systems, also addresses the difficulties in the implementation across the Member States.

The Article 3 delineate the definitions under which the Directive proceed:

1) '*Minimum wage' means the minimum remuneration set by law or collective agreements that an employer, including in the public sector, is required to pay to workers for the work performed during a given period* [44]". It specifies that minimum wage is set by law or collective agreements, not by market forces, neither by the direct negotiation between employers and employees. This applies both in private and public sector. Minimum wages protect the income of workers, in particular disadvantages workers[45]. The definition links the concept of labour productivity to the concept of salaries, which should be proportional to the contributions brought to the organisation. Since many factors influence the concept of both fair compensation to the worker and the contribution to the employer, the criteria for the renumeration might cause some misunderstanding in the application of such definition.

2) "'*statutory minimum wage' means a minimum wage set by law or other binding legal provisions, with the exclusion of minimum wages set by collective agreements that have been declared universally applicable without any discretion of the declaring authority as to the content of the applicable provisions*[46]". With "statutory minimum wage" the definition emphasises role played by law, other legal provisions and the regulatory authority. The exclusion of the concept of collective agreement underlines the distinction between statutory minimum wage, set through legislative

[44] Chapter I, Article 3 (1), Definitions: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[45] Following the International Labour Organization (ILO) Minimum Wage Fixing Convention No 131 (1970)
[46] Chapter I, Article 3 (2), Definitions: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

or regulatory bodies, and the wages set through trade union with collective bargaining. Moreover, collective agreements are considered outside the area of statutory minimum wage. This might imply that, for the European Commission, statutory minimum wages, in case of conflict, take over collective bargaining. The aim is to have legal certainty in the interpretation and application of minimum wage policies with transparency is the decision-making process is fundamental.

3) "*Collective bargaining' means all negotiations which take place according to national law and practice in each Member State between an employer, a group of employers or one or more employers' organisations on the one hand, and one or more trade unions on the other, for determining working conditions and terms of employment*[47]". This definition takes into consideration national law of the Member States in the negotiation for wages. Different legal framework result into different considerations and different application of the definition. The effectiveness of collective bargaining may vary depending on the government and trade union's support, the bargaining power, and the applicability of the legal provisions of each Member State. While the aim is to have a statutory minimum wage, the Directive promotes collective bargaining on wage setting. The parties involved are defined: employers, employers' organizations, and trade unions. These diverse agents have different interests results in the complex nature of the collective bargaining processes. The statement does not explicitly declare the role of workers and/or employers, raising questions about the effective workers' representation.

4) "*Collective agreement' means a written agreement regarding provisions on working conditions and terms of employment concluded by the social partners that have the capacity to bargain on behalf of workers and employers respectively according to national law and practice, including collective agreements that have been declared universally applicable*". The statement underlines the importance of having documentation in the collective bargaining processes, to have records of the negotiated terms, legal clarity and enforceability. The social partners conclude collective agreement on behalf of employees and employers according to Member

[47]Chapter I, Article 3 (3), Definitions: DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

States' law. Social partners, such as trade unions and employers' organisations, impersonate the principle of social dialogue but raise questions the actual participation of smaller and/or marginalized groups. The inclusion of universally applicable collective agreements reaches beyond the parties directly involved in the bargaining process.

5) "*Collective bargaining coverage' means the share of workers at national level to whom a collective agreement applies, calculated as the ratio of the number of workers covered by collective agreements to the number of workers whose working conditions may be regulated by collective agreements in accordance with national law and practice*." This definition outlines that collective bargaining coverage includes only the workers for whom collective agreements are used to regulate the working conditions, which excludes those sectors where collective bargaining is not present. It also provides a quantitative measure of labour rights application. These rights are set by the International Labour Organization but are restricted to national legal frameworks. This quantitative assessment allows for a comparative analysis across jurisdictions and overtime, the challenge is how this coverage is calculated.

The "Horizontal provisions", outlined in the Chapter III of the Directive, mandates Member States to align public practises with the directive objectives, in compliance with labour and wage rights during the drafting and the application of the contracts[48]. This Chapter underlines the importance of monitoring data collection[49] for keeping track of the implementation and the impact of the minimum wage instruments, with biennially reports[50]. It also highlights the necessity of making information regarding minimum wage

[48] Chapter III, Article 9 and clause 30, 31 of the DIRECTIVES (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[49] Clause 33 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[50] Chapter III, Article 10 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

protections easily accessible to workers[51] and the right to prevent retaliation for workers who advocate for their rights[52].

Chapter IV, "Final Provisions", states the obligations of the European States in the dissemination of information on the "Directive"[53] and the European Commission must conduct and evaluation of this Directive and propose legislative amendments by 15 November 2029 [54]. It underlines the principle of non-regression and the encouragement of better conditions for workers[55], setting 15 November 2024 as deadline for European States to implement the Directive's measures[56].

2.3 Promotion of collective bargaining on wage-setting.

The "Directive (EU) 2022/2041" outlines minimum requirements for statutory minimum wage while promoting collective bargaining on wage-setting[57]: "*This Directive does not impose and should not be construed as imposing an obligation on the Member States where wage formation is ensured exclusively via collective agreements to introduce a statutory minimum wage or to declare collective agreements universally applicable[58]".*The use of collective agreements is beneficial for all the parties in the

[51] Chapter III, Article 11 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[52] Chapter III, Article 12, article 13 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[53] Chapter IV, Article 14 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[54] Chapter IV, Article 15 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[55] Chapter IV, Article 16 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[56] Chapter IV, Article 17 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[57] Clause (18) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[58] Clause (19) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

market economy. In the Member States with no statutory minimum wage, wages are provided for exclusively through collective bargaining. Average wages are the highest of the Union in the countries with high collective bargaining coverage[59]. European States are urged to increase collective bargaining to improve wage setting while protecting workers' rights, in line with the convention adopted by the Member States through the International Labour Organization (ILO) conventions and European Human Rights. This is done so by facilitating the access to trade unions easier for workers, while respecting national laws and practices[60].

The aim is to facilitate and increase the coverage of collective bargaining:

a) "*Promote the building and strengthening of the capacity of the social partners to engage in collective bargaining on wage-setting, in particular at sector or cross-industry level*[61]". Social partners, employees, employers, and trades unions are encouraged to engage in the collective bargaining. So, beyond the legal ability to negotiate, social partners must be put in the position to have the knowledge, the resources and the skills to conduct those negotiations. More workers with a voice in their wages leads to more equitable conditions. It acknowledges the varying traditions and dynamics across different parts of the economy. As underlined before, the sector with small and medium businesses and low-wage workers, may not have the mechanisms for collective negotiations. [62]

b) "*Encourage constructive, meaningful and informed negotiations on wages between the social partners, on an equal footing, where both parties have access to appropriate information in order to carry out their functions in respect of collective*

[59] Clause (23) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.
[60] Clause (24) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.
[61] Article 4 (1.a) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[62] Clause (22) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

bargaining on wage-setting[63]". It is a call for a transparent approach which is not characterised by asymmetric information in any way, following the legal requirements for transparency and equality in the negotiations. How such "equal footing" is ensured is difficult to say. The "appropriate information" definition is vague, which might lead to conflicts and differences. [64]

c) "*Take measures, as appropriate, to protect the exercise of the right to collective bargaining on wage-setting and to protect workers and trade union representatives from acts that discriminate against them in respect of their employment on the grounds that they participate or wish to participate in collective bargaining on wage-setting*[65]". Here the legal protection is reinforced for the parties engaging in collective bargaining, safeguarding them against discrimination and ensuring that their rights are respected. The effectiveness of such measures relies on the ability of the legal framework to addressing and rectify violations. The absence of enforcement may leave workers vulnerable to discriminations. [66]

d) "*For the purpose of promoting collective bargaining on wage-setting, take measures, as appropriate, to protect trade unions and employers' organisations participating or wishing to participate in collective bargaining against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration*[67]". According to this point, legal measures are fundamental in preventing interference in the activities of the parties involved in the negotiations. The identification of the "acts of interference" is quite complex and

[63] Article 4 (1.b) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[64] Clause 34 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[65] Article 4 (1. c) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[66] Clause 35 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[67] Article 4 (1.d) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

might lead to disputes. Moreover, the judicial system must enforce such protection impartially.

A small share of low-wage workers and high minimum wages is characteristic of those Member States with the coverage of collective bargaining above the 80%. Therefore, the countries below the threshold of 80% are mandated to establish a framework to facilitate collective bargaining, while also develop an action plan for such promotion in accordance with social partners or by a request of social partners, respecting their autonomy. The timeline and the measures must be outlined. Both reviews and updates on the action plan are required[68]. The action plans must undergo, every five years, a minimum review, which must be publicly accessible, and communicated to the Commission. [69] [70]

2.4 Statutory minimum wage

According to the "Article 5" of the Directive, the Member State with statutory minimum wage, 21 out of the 27, are committed to "*establish the necessary procedures for the setting and updating*[71]" them. The aim is "*of achieving a decent standard of living, reducing in-work poverty, as well as promoting social cohesion and upward social convergence, and reducing the gender pay gap*[72]", through adequate criteria set and updated in accordance with national practices and laws. Those objectives reflect the European Union's ambitions of social justice and equality. Such criteria must be set in a clear way considering the decisions of their component bodies or in tripartite

[68] Clause 36, clause 37 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[69] Article 4 (2) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[70] Clause (25) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[71] Article 5 (1) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[72] Article 5 (1) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

agreements[73]. This requirement underscores the importance of having a systematic and structured approach to minimum wage setting.

The acknowledge of the diverse economic landscapes across the European Union results in tailored approaches in the definition of the criteria when setting up the minimum wage. Member states have almost unlimited freedom to incorporate such criteria, but this shall include the following elements:

a) "*The purchasing power of statutory minimum wages, taking into account the cost of living*[74]": the emphasis of this point is the correlation between wages and the cost of living ensuring that minimum wage is not merely symbolic, but it has real economic value.

b) "*The general level of wages and their distribution*[75]": such criterion addresses income inequality while acknowledging the risk of weight compression. The aim is to prevent that the difference between minimum and medium wages is too small, an aspect which could potentially disincentivize a labour market characterized by career progression, individual ambitions, and companies' competitiveness.

c) "*The growth rate of wages*[76]": minimum wages must retain their value over time, even in volatile economic conditions. Therefore, Countries adopting, and with adopted, wages must consider inflation and evolving living costs.

d) "*Long-term national productivity levels and developments*[77]": this element underlines the necessity for wages to be sustainable and to not affect in a negative

[73] Article 5 (1) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[74] Article 5 (2. a) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[75] Article 5 (2. b) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[76] Article 5 (2. c) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[77] Article 5 (2. d) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

way employment rates and the market competitiveness. It is important to underline that when setting statutory minimum wages, the safeguard of the market as a whole is fundamental: existing and creating new employment opportunities, the competitiveness of firms, microenterprises, small enterprises and medium-sized enterprises (SMEs)[78].

In addition, Member states may include "*an automatic mechanism for indexation adjustments of statutory minimum wages*[79]", which has the objective of maintain the real economic value of wages over time. It would not require periodic legislative or policy interventions, guaranteeing a more objective and rational wage adjustments when the economy is facing fluctuations and volatility. These mechanisms are quite important because both of to the employers and employee's stability and predictability are guaranteed. Variations and deductions are important when setting statutory minimum wage, but it is also important to not use them widely since they might cause a negative impact on the adequacy of minimum wages, so they must be non-discriminating and proportional[80]. [81]

The benchmarks, 60% of the gross median wage and 50% of the gross average wage[82], shall guide the Member States' assessment of adequacy[83]. Updates must be made at least every two years, while for countries with automatic indexation mechanism, the update is set at 4 years[84]. In doing so, Member States must designate consultative bodies to advise

[78] Clause 26 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[79] Article 5 (3) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[80] Clause 29 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[81] Clause 27, clause 28 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[82] Clause 28 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[83] Article 5 (4) and clause 27 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[84] Article 5 (5) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

the competent authorities[85]. Such benchmarks are only reached by a small of Member States, sound like a signal for national government and might result in political pressure.

2.5 Conclusions on The Directive.

The Directive (EU) 2022/2041 has the potential of reducing wage inequality, in-work poverty, and increase social convergence in the European Union. It establishes a process to ensure the adequacy within Countries taking into consideration the economic conditions, the cost of living, the competitive market, and the diversity of labour market practices, while respecting the principle of subsidiarity[86]. It is the first time that the European Union presents a concrete legal program to increase both the level and the scope of minimum wages, since minimum wages and collective bargaining are now seen as a precondition for the economic and social development. This has changed mainly after the Covid-19 crisis during which obvious to everyone that essential workers received poor salaries. The directive follows two approaches:

First, the Directive underlines the crucial role of collective bargaining in wage setting, even if traditional bargaining structures have become less influencing in recent years, because of changes in the labour market, now characterized by less unionized sectors, the decline in trade union membership and the increase of precarious and non-standard forms of work[87]. Nevertheless, the Directive promotes such practice with the objective of reaching a coverage rate of 80%, because it serves the purpose of empowering workers and unions, establishing wage setting-mechanisms that are functional for specific contexts. The articles on updated and assessment, with the involvement of social partners, guarantee the responsiveness to changes in economic conditions while protecting low-

[85] Article 5 (6) of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[86] Clause 17 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".
[87] Clause 16 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

wage workers[88]. The Directive has not to be seen as an imposition or obligation by the European Union for Members which use collective bargaining in wage setting.

Second,[89], it set minimum requirements and procedural obligations for statutory minimum wages while trying to improve the access of workers to wage setting procedures[90]. It does so without uniquely defining adequate minimum wage but more by instructing the Member States to maintain it through a set of criteria. The criteria should be applied to countries where the minimum wage is already established by legislation without interfering with the terms of collective bargaining agreements. Thus, considering the European Union's commitment in the social and economic fairness, the Directive represent a balanced approach to increase minimum wage protection. The success depends on implementation in national laws, the commitment in such implementation by Member States and social parties.

[88] A paradigm shift towards Social Europe? The proposed Directive on adequate minimum wages in the European Union Thorsten Schulten, Torsten Müller

[89] Clause 19 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

[90] Clause 18 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

3. The Italian Landscape on Collective Bargaining, Constitutional Minimum Wage and Proposals on Minimum Wage in Parliament.

3.1 A Constitutional and Historical Perspective on Italian Labour Law.

The Italian Constitution, established on 1st of January 1948, plays a fundamental role in labour law, on a legal and historic level, as it has facilitated the transition of the State from liberal to democratic-liberal and social. "*Italy is a democratic republic founded on labour*[91]". Labor is understood not merely as a productive factor, but as a means through which individuals can express their capabilities and achieve personal and social fulfilment. On one hand, labour is identified as a "right", protected by the Republic, recognised for every citizen[92]. On the other hand, it constituted as a "duty" of the citizens, who choose it "*according to personal potential and individual choice*[93]", such activities are aimed "*at the spiritual and material progress of the society in which they operate*[94]". This is a wide definition of labour as it does not underline the distinction between, for example, material and intellectual activities, nor between self-employed and subordinate work.

The history of labour law finds its origins in the first half of the 18th century with the advent of the Industrial Revolution. The birth of large industry and the expansion of urbanization had significant consequences: widespread unemployment, increased competition among workers, subsistence-level wages, an increase in accidents and injuries at work. These are just some of the reasons that have led to the need to introduce, within the legal systems of Western societies, rules aimed at regulating the relationships between capital and labour. Thus, in this landscape, unions become a means of realizing Article 3 of the Constitution, which guarantees equality of citizens before the law but also binds the Republic to remove obstacles that do not allow "*the full development of the*

[91] Constitution of the Italian Republic, Senato della Repubblica. Article 1: "*Italy is a democratic Republic founded on labour. Sovereignty belongs to the people and is exercised by the people in the forms and within the limits of the Constitution*."
[92] Constitution of the Italian Republic, Senato della Repubblica. Article 4: "The Republic recognises the right of all citizens to work and promotes those conditions which render this right effective. Every citizen has the duty, according to personal potential and individual choice, to perform an activity or a function that contributes to the material or spiritual progress of society".
[93] Constitution of the Italian Republic, Senato della Repubblica. Article 4.
[94] Constitution of the Italian Republic, Senato della Repubblica. Article 4.

human person[95]" and "*the effective participation of all workers in the political, economic, and social life of the country*[96]". In this perspective, it becomes fundamental the recognition of trade union freedom and the legal status of unions.

During the 19th century, following the industrial revolution and the economic and social profound transformations resulting from it, the need to establish adequate regulation in the relationship of subordinate employment. The initial specialised legislation in this field, called "*polizia del lavoro*[97]", was aimed at satisfying a public interest rather than safeguarding the workers, merely setting limits on the employment of women and children and on working hours. Nevertheless, workers realised that although individually their economic and social strength was weak, collectively they could reach a dominant position over the employer, whose interests were indeed satisfied solely through the efforts of the workers themselves. Thus, the fort collective actions were initiated, giving rise to the so-called labour unions.

The State opposed for long time to worker's associationism because it was believed to be linked to subversive political movements and because it was believed that the concerted action of workers could threaten a balanced evolution of markets dynamics. However, the trade union phenomenon grew significantly. Italian workers, emulating models of unionism already present in other European countries, began to obtain some recognition from employers thanks to intensified strikes, identified as the typical means of union struggle. In fact, only through strikes workers were listened by the employer, who to protect their interests, was forced to negotiate working conditions. During pre-corporate period, union action was aimed at negotiating the collective contract, which until then was used exclusively to determine the minimum wage that the employer had to recognise. Considering that, under the then prevailing law, the common law of contracts applied, it was difficult to extend the effectiveness of the collective contract to individual workers not affiliated with the signing union and to workers employed by employers who had not signed the contract or joined the employer trade unions that had been established.

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[95] Constitution of the Italian Republic, Senato della Repubblica. Article 3: "*The Republic recognises the right of all citizens to work and promotes those conditions which render this right effective. Every citizen has the duty, according to personal potential and individual choice, to perform an activity or a function that contributes to the material or spiritual progress of society*."

[96] Constitution of the Italian Republic, Senato della Repubblica. Article 3.

[97] Mattia Persiani, "Diritto Sindacale", page 7. Padova, Cedam, 1990.

Article 39 of the Italian Constitution states: "*Trade unions may be freely established. No obligations may be imposed on trade unions other than registration at local or central offices, according to the provisions of the law. A condition for registration is that the statutes of the trade unions establish their internal organisation on a democratic basis. Registered trade unions are legal persons. They may, through a unified representation that is proportional to their membership, enter into collective labour agreements that have a mandatory effect for all persons belonging to the categories referred to in the agreement.*[98]". The first part regards the freedom of trade union organization, constitutes a true achievement of the current constitutional order, as it was for a long time prohibited by criminal law and considered an obstacle to free competition among economic operators. Such freedom is protected by the Italian Law and at international level, by numerous sources: the ILO Conventions No. 87 of 1948, No. 98 of 1949 and, No. of 1981, the European Convention on Human Rights of 1950, and the UN International Covenant of 1966, in the EU Charter of Fundamental Rights, with the Article 28 "Right of collective bargaining and action"[99]. Furthermore, in the second part of Article 39, trade unions are recognised as legal person and their legal authority is recognised, both aspects are essential for representing workers and negotiating labour agreements. Also, different unions can come together to form a single negotiating body, ensuring to workers that negotiations come from a position of unity and strength, while proportional representation means that the influence of a union corresponds to its memberships size, protecting smaller unions from marginalization.

The entire Article 39 of the Constitution thus represents a breaking point with the past, particularly with the corporatist period, genuinely safeguarding the private interests of workers, considering any pursuit of public interest or membership in public structures as incompatible with the principle of freedom. Article 39 has remained unimplemented to date for various reasons: firstly, unions, remnants of the corporatist experience, viewed unfavourably the state controls that would result from registration and their subsequent recognition as legal entities, even though the only assessment would actually concern the

[98] Constitution of the Italian Republic, Senato della Repubblica. Article 39.
[99] Article 28 - Right of collective bargaining and action. EU Charter of Fundamental Rights. Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

presence of democratic requirements within the organization[100]. In this situation, minority unions would witness the progressive strengthening of the power of the majority union. Trade union pluralism is at the base of the Italian system. From the 1940s there have been three central union corporations: the General Italian Confederation of Labour (CGIL), the Italian Confederation of Workers' Unions (CISL) and the Italian Union of Labour (UIL).

The years following the establishment of the Republican Constitution, particularly the 1950s and 1960s, are characterized by strong economic development not only in our country but generally across Europe. Following this particularly prosperous period, conflicts intensified in Italy. By the mid-1960s, the Italian trade union movement had gained greater autonomy and unity, leading to the so-called "hot autumn" of 1969, during which the Italian trade union movement, through a season of intense and continuously escalating struggles, including strikes and demonstrations with significant turnout, gained a certain weight in the political landscape of Italian society. In this level of conflict, the Workers' Statute was enacted, Law No. 300 of May 20, 1970.

The Workers' Statute would not remain unchanged, first with the referendum to repeal Article 19 in 1995 and lately with the Jobs Act of 2015, amending Article 18 of Law No. 300/1970, which regulated the cases in which reinstatement in the workplace of the worker was allowed. It can be considered experimented devolution techniques[101], meaning that legal entitlements and obligations are first set at higher, in this case national, level, after which it must be implemented in lower levels to protect workers' interests. Before the Jobs Act, of major importance is the "*Tripartite Agreement for the Reform of Collective Bargaining*", which was signed on 22 January 2009 by the government and the social partners, but without the consensus from the CGIL, because it was against some clauses on decentralisation and industrial unrest, like the possibility to deviate from national agreements. At the centre of this agreement there is the safeguard of the two-level structure of collective bargaining. The minimum nationwide threshold was guaranteed with the provisions of sectoral collective agreements while empowering

[100] C. ENRICO, Diritto del Lavoro, Torino, 2002, pages 13-14.
[101] David Peetz: "Institutional Experimentation, Directed Devolution and the Search for Policy Innovation". Vol. 76, No. 1 (WINTER 2021).

collective bargaining of second level. It also included workers not covered by company-level bargaining agreements, who were covered by a guaranteed minimum increase. [102]

Following the 2008-2009 financial crises, the European Central Bank through a letter sent to the Italian government at the time, with the Prime Minister Berlusconi, asked to the Italian government a series of reforms, regarding the pension system, the labour market, and the collective bargaining. According to the ECB, collective agreements are too centralised and insufficiently responsive to labour market conditions, and firms' capacity to pay[103]. The response to this request is the decree-law no. 138 of 13th August 2011, converted into statute by Act no. 148 of 14 September 2011, presented a revolutionary innovation for Italian Labour Law. Its title was "Support for proximity collective bargaining", where it was introduced the possibility for "specific agreements" signed at "*company or territorial level to deviate from the law and national industry-wide collective agreements*[104]". Within this Act, the focal point, become the decentralised collective bargaining. Article 8 of this Act was not perfectly in line with national level rules, like equal treatment and employee favourability, and among scholars, the idea that such provision was not approved to boost the economy and fight the delocalization problem widespread. In fact, it was considered more as an assimilation of "*entrepreneurial claims for freedom from (the majority of) legal and collective bargaining obligations*[105]" guaranteeing that the balance is in favour of the employer.

So, in wage-setting, collective bargaining has always been fundamental and predominant. In this contest, the most predominant associations and trade unions, CGIL, CISL, UIL, Confindustria, have determined the general framework for wage setting through the intersectoral agreements. In the Intersectoral Agreement of the 9th March 2018 comprehends compensation packages to ensure consistent economic and regulatory standards across the sector and throughout the country. They determine various components of wages, based on qualifications and job roles, including basic salaries,

[102] Multi-employer bargaining under pressure – Decentralisation trends in five European countries: Italian collective bargaining at a turning point. Salvo Leonardi, Maria Concetta Ambra and Andrea Ciarini.
[103] Multi-employer bargaining under pressure – Decentralisation trends in five European countries: Italian collective bargaining at a turning point. Salvo Leonardi, Maria Concetta Ambra and Andrea Ciarini.
[104] Multi-employer bargaining under pressure – Decentralisation trends in five European countries: Italian collective bargaining at a turning point. Salvo Leonardi, Maria Concetta Ambra and Andrea Ciarini.
[105] "The future fo collective bargaining in Italy between legislative compression and role reappropation". Giuseppe Antonio Recchia, Università di Bari.

bonus payments, allowances, and productivity-related earnings. However, because of the aforementioned limited implementation of Article 39 of the Italian Constitution, these agreements apply technically only to members of the signing parties. To address this issue and improve wage conditions, judicial bodies have tried to extent such provisions from industry-level agreements to all workers, leading to the so called "Italian way to the minimum wage".[106]

In this context, labour courts have interpreted Article 36 of the Constitution to enforce the right to a fair wage. Employees can challenge unfair wages in court using as benchmark the sectoral collective agreements. But courts have been hesitant to extent fair wages beyond the employment contract. Moreover, the effectiveness of court rulings has been undermined by "pirate agreements," signed by less representative organizations to provide lower wages. Legislative attempts to address this issue have been insufficient. Additionally, mainstream collective bargaining has failed to support wage growth, contributing to a rise in in-work poverty, particularly after the recession.

For what concerns the Italian economic situation, many factors, challenges, and trends characterise it. Compared to other major European countries, Italy's economy is characterised by slow growth. Among other factors, the slow growth is given by the country's bureaucratic and tax system inefficiency. After the 2008 financial crisis and the Covid-19 pandemic and the consequents recession, the country has seen some modest, surely not enough, improvements and a hope of recovery, thanks to domestic policies and European Union support mechanisms. A strong fiscal policy raised competitiveness and improved the banking sector health. But public debt is high, spending pressures are rising because of the aging of population, higher interest rates, and the green and digital transition. The unemployment rates are higher than the average of union members, in particular youth unemployment in notably high. The labour market in the country is characterised by a division between the North and the South, with the latter having higher unemployment rates and higher informal economy, but lower economic activity levels. Young worker and new entrants in the labour market often have access to only temporary,

[106] "Wage-setting in Italy: The Central Role Played by Case Law", The 'Italian Way' to the Minimum Wage and its Shortcomings. Emanuele Menegatti.

short-term, underpaid contracts, which make impossible for young adults to have income stability, access to credit, and long-term planning.

Nowadays, to what extent the collective bargaining system applies in reality? The research project CODEBAR, started in 2020 with the financial support of the European Commission and run by international partnership including ADAPT, and coordinated by the University of Amsterdam[107], answer to this question. From this analysis it has emerged that Italy is characterised by a fragmented scenario. The two-tier collective bargaining system is applied at cross-industry level, but its actual application depends on which sector is applied and the company size. Because of this is possible to present two different scenarios. The first, takes into account large companies, unionized and engaged in decentralised bargaining. for those companies the tendency is to deviate National Collective Labor Agreements (NCLAs), to which fixed pay increases and variable wages connected to productivity are preferred. But here revisions to job classification have been not negotiated, indicating a misalignment between national guidelines and decentralised practices. Despite this non-compliance, decentralised bargaining often yields outcomes favourable to workers while considering corporate competitiveness. In this context, providing general guidelines and efficient procedures for information transfer from national to company-level parties can prevent norm violations and promote performance and innovation objectives. The second scenario, small and micro-sized companies located at the bottom of value chains, often excluded from firm-level collective bargaining, lack the normative flexibility to compete globally. Consequently, they seek competitiveness through alternative means, including the application of cost-effective national agreements, whether affiliated with major confederations or not. These companies operate under a centralized model of collective bargaining due to the absence of firm-level agreements. To conclude, the trend is toward flexibilization of traditional NCLAs, justified by the loopholes of the system, the presence of "pirate contracts", and the "corporatisation" of agreements, which reflect the growing fragmentation of economic sector and production processes in Italy.[108]

[107] CODEBAR - AIAS-HSI - University of Amsterdam (uva.nl)
[108] Collective bargaining in Italy between the institutional framework and concrete practices: the analysis and the preliminary results of the European project CODEBAR by Ilaria Armaroli, Andèorea Rosafalco.

As response to the trends of the last 10 years, characterised corporate flexibility and competitiveness, Italy has seen the introduction of second level collective bargaining, which can be company based or territorial. Collective bargaining has seen an increase, between 2018 and 2022, from the 75% to the 87%[109]. According to the INAPP, the raise of 12% is heterogeneous within the sector, the dimension, and the localization of the enterprises. For big enterprises the application of collective bargaining reaches 98%, in small enterprises 84%, in the north 88% and in the south 86%. [110]

3.2 Complexity of the Italian System: Functions and Structure of the Collective Bargaining System.

Given the analysis conducted so far, it is possible to perceive the complexity of the Italian collective bargaining system. Each individual employment relationship is governed not only by the individual employment contract and legal norms but also by a multitude of collective agreements of different levels, nature, and content[111]. With inter-confederal agreements and national category contracts, there is a third category given by decentralized bargaining, which, in turn, comes in the two forms of territorial and company-level bargaining. Territorial non-national contracts affect workers in a specific geographical area, generally to complement or specify the economic and regulatory treatments provided by the national collective agreement, or to address critical situations within the territorial scope (e.g., area contracts and territorial pacts). The company contract, on the other hand, is the product of an agreement reached between the individual company and its employees. A first aspect, by now consolidated in doctrinal elaboration, concerns "*the acquired awareness of the multifunctional nature of the company collective agreement, which can assume significantly articulated legal meanings and values*[112]". It thus constitutes an integrative function with respect to the national category contract and,

[109] Study by the INAPP, National Institution for Public Policies Analisys, with the "Università degli Studi del Sannio a Benevento".
[110] Article from "La Stampa": "INAPP: cresce contrattazione collettiva, ma solo 4% imprese usa II livello" by Teleborsa.
[111] G. GIUGNI, Diritto sindacale, page 173. 2014.
[112] G. FERRARO, "La contrattazione aziendale con particolare riguardo al settore del credito". In Categorie professionali e contratti collettivi (Campobasso, 21 aprile 1990), Collana di ricerche, studi e dibattiti di diritto del lavoro, Roma, 1990, p. 38.

furthermore, represents a very useful tool in managing and preserving employment levels and overcoming company crises.

Despite the converging process between private and public labour law[113], one cannot speak of full assimilation of public employment collective bargaining to that of common law: firstly, because the former is detailed regulated by legal provisions and is not, therefore, "common law", meaning it is not exclusively entrusted to general contract discipline; furthermore, public employment collective bargaining is still called upon to reconcile the collective interest of public workers and the general interest in the smooth functioning of public administrations (Art. 97 of the Constitution)[114], respecting the principle of impartiality.

Originally limited to regulating only one element of the employment relationship, namely remuneration, collective agreements have ended up dictating the discipline not only of every single element of the relationship but also every event of the latter, namely establishment, suspension, and termination. As collective agreements evolved, they also ended up regulating the relationships between the opposing signing unions. In the contract, two distinct parts can be identified, each obviously performing different functions: a normative part and a mandatory one.

The normative part consists of all those clauses that dictate the discipline of individual employment relationships, and precisely the normative function of the collective agreement is to predetermine the content of individual employment contracts and establish minimum economic treatment, in other words, it dictates "*the discipline of individual employment relationships by improving their conditions*[115]". In this respect, the collective agreement is placed within the category of normative contracts, that is,

[113] The article 40, c. 3, d. lgs. 165/2001, modified by the d. lgs. n. 150 del 2009, establishes the duration of national and integrative collective agreements, the contractual structure, and the relationships between different levels of bargaining in the public sector are determined by collective bargaining "in coherence with the private sector." Article 9 of Legislative Decree No. 165/2001 also provides that the public employment collective agreement regulates union relations, participation institutions, and internal organizational acts that have an impact on the employment relationship.
[114] M. PERSIANI, Diritto sindacale, page 200. This consideration is confirmed in the sentence no. 199 del 2003 of the Corte Constituzionale.
[115] "la disciplina dei rapporti individuali di lavoro migliorandone le condizioni". M. PERSIANI. Diritto sindacale, Vicenza, 2016, page 104.

contracts that, instead of directly initiating an exchange or other economic act, determine the contents of future contractual production.

It was established uniformly that the regulation of the non-economic aspects of the employment relationship should have a four-year duration, while the economic part should be renewed every two years. The other part of the collective agreement is the mandatory part, consisting of clauses, precisely called mandatory, whose characteristic is that they establish mandatory relationships that cannot be attributed to the parties of the individual relationship, but rather to collective subjects; such clauses "*regulate the relationships between the collective subjects who have signed the collective agreement and consequently do not have efficacy towards individuals*[116]". Conventionally, based on an analysis of their contents, different types of clauses have been identified within the mandatory part of the collective agreement, "although all united by the close connection and commonality of function". Thus, in summary and summary terms, those that regulate contractual relationships, such as clauses regarding the renewal procedures or the distribution of competences among different levels, those aimed at creating contract administration tools, such as clauses providing for conciliation or arbitration procedures, those that provide for the establishment and functioning of technical and parity commissions, those that regulate representative bodies and their financing, and others.

The contradiction in place is clear, caused precisely by union division: two co-existing national collective agreements signed by different unions. The most controversial aspects, in this regard, concern the subjective effectiveness of the collective agreement, which traditionally had been affirmed as general, enjoying the support of all unions and the work of jurisprudence; secondly, the issue of the temporal succession of collective agreements, where the two contracts are signed by different union subjects. The contradictions arising from the lack of structural dynamics of trade unions, governed by 'social norms' agreed upon between trade union organizations.

[116] G. SANTORO-PASSARELLI, Diritto dei lavori. Diritto sindacale e rapporti di lavoro, Torino, 2013, pag.94

3.3 Between Tradition and Innovation: The Legal System's Adaptation to Labour Market Changes.

After a full analysis of the Italian collective bargaining system, it is important to understand its limits and how the law is adapting to the perpetual changes in the labour market.

The issues regarding collective bargaining are two: first, the missed implementation of Article 39, the effective extent of collective agreements. This issue has been addressed by a well-established jurisprudence according to which the minimum wage rates established in CCNLs also apply to companies and workers who have not signed any collective agreement[117]. So, for each job are applied the collective agreements of the respective sector. The second issue regards the proliferation of such agreements, in facts on 31st December 2021, 992 CCNL (national collective labour agreements) were deposited. The high number of CCNLs doesn't define the qualitative nature of such agreements, the productivity, or the competitiveness of the labour market. Because it might be considered as an expression of the trade union freedom, self-determination of the parties in the contracts, and of associative pluralism according to the Article 39 of the Constitution. The number of national contracts in the last ten years has almost doubled, which can be explained through the birth of new types of jobs, but at the same time it might be explained through the phenomenon of "contractual dumping": with the objective of undermining the economic and normative standards that govern the subordinate employment contracts, inadequately representative trade union and employer groups negotiate CCNL, at the expenses of deteriorating working conditions and workforce quality. It poses a threat to the economic and regulatory well-being of worker. The Constitutional Court with the sentence no. 51 of 2015 affirmed the principle that minimum wages rates provided by collective agreements, even if not having *erga omnes* effectiveness, must be considered as a parameter for fair renumeration.

It is interesting to notice that the courts in Italy, through separate judgments, in some cases, are moving quite naturally to statutory minimum wage, with the application of "Constitutional Minimum Wage". The six judgments of the Corte di Cassazione on

[117] Cass. January 31, 2012, no. 1415; Cass. December 4, 2013, no. 27138; Cass. August 2, 2018, no. 20452, Cass. October 30, 2019, no. 27917

minimum salaries (judgments Nos. 27711/2023, 27713/2023, 27769/2023, 28320/2023, 28321/2023 and no. 28323/2023).

These judgments concern employees assigned to the surveillance, with CCNL applied to them, in the "Institutes and private surveillance and fiduciary services" sector.

The “private surveillance” CCNLs had been subject to controversies and very strong litigation, with criticisms from the journalistic sector, since the contracts were “poor” and insufficient under the Article 36 of the Constitution, despite being underwritten by the most representative unions. So, they have been sentenced to provide better treatments under the “Multiservice” CCNL, or under the "Service Companies - Owners of Buildings (employees, doormen, custodians)" CCNL.

It is to be noted that in some of the cases listed above, the Corte di Cassazione recognised that the better contract must be applied, in these cases the "Service Companies - Owners of Buildings (employees, doormen, custodians)" CCNL. In other judgments, the Court hasn’t decided directly on the issue but has left the decision to lower courts on the possible application of the “constitutional minimum wage". These judges might apply different collective bargaining agreements or use economic and statistical indicators or even equity principles.

So, CCNLs have great credibility since they have the support of important trade unions, but this does not preclude judicial review of compliance with the constitutional minimum wage, with respect to the Article 36 of the Italian constitution. The importance of referencing to collective agreements of similar sectors or duties, instead or together with other benchmarks, underlines the necessity of identifying different constitutional minimum wages. Therefore, considering the interrelation of Article 35 and 39 of the Italian Constitution, this approach confirms the existence of different constitutional minimum wages, based on sectors and types of work.

3.4 Bill Proposals on Minimum Wage in Italy.

At the centre of the political debate in Italy there has been the introduction of adequate minimum wages, especially after the presentation by the European Commission of the Directive (EU) 2022/2041, which must be transposed by the Member States by 15th

November 2024. The minimum wage can be either implemented by law, as it is the case of 21 out of 27 Member States, or exclusively by collective agreements, as it is the case of Italy and other five Member States (Denmark, Cyprus, Austria, Finland, and Sweden). Because of the country's unique labour market characteristics and its "dependence" on collective bargaining, the debate around the introduction of statutory minimum wage in Italy has been extremely complex, even after the Directive which has been perceived as an opportunity. The dispute is around the minimum wage as a whole, how it can work along the collective bargaining system and trade unions, the level of salaries, the procedures, the criteria for the progressive adaptation to inflation.

Various proposals have been presented to the Italian Parliament (S. 658, S. 310, and S. 1132, with C. 141, C. 210, C. 216, C. 306, C. 432, and C. 1053), addressing the issue of low wages, contractual dumping, and exploitation of workers in sectors not covered by CCNLs. None of these proposals have been passed into law. As already mentioned above, the Italian Constitution, specifically Article 36, outlines workers' rights to proportionate and sufficient remuneration for their work, to ensure a free and dignified existence for workers and their families[118].

The proposed Bill C. 1275[119] to the lower house of parliament on the 4th of July 2023 aims at establishing a minimum gross wage of 9 euros per hour, to be revised annually by a designated commission, together with a temporary relief for employers to facilitate the transition[120]. The aim of the bill is to address wage disparities and provide a safety net for workers who are not covered by collective agreement.

The Bill C. 1275 is one of the most discussed legislative proposals in the Meloni's government. This government would rather reinforce and expand collective bargaining, affirming that statutory minimum wage is incompatible with the Italian's system. Critics and the government argue that it would be better to strengthen national labour contracts and reduce labour taxes, and, moreover, they argue that it could lead to higher labour costs for enterprises, resulting in an increase in prices for consumers, higher inflation and the

[118] Constitution of the Italian Republic, Senato della Repubblica. Article 36.
[119] Camera dei Deputati, Bill Proposal no. 1275, by the deputees: Conte, Fratoianni, Richetti, Schlein, Bonelli, Magi, Evi, Francesco Silvestri, Zanella, Sottanelli, Braga, Guerra, Barzotti, Mari, D'alessio, Scotto, Aiello, Carotenuto, Fossi, Gribaudo, Laus, Sarracino, Tucci, Grimaldi, Serracchiani, Orlando.
[120] https://fiscalnote.com/blog/italy-proposed-minimum-wage

exclusion of low skilled workers from the labour markets. But according to ISTAT (Italian National Institute of Statistics), Italian workers earned €3,700 less than the European average, based on data from 2021[121]. Which means that, at purchasing power parity, the average gross annual wage in the country is 12% lower than the European one. Moreover, the countries that have introduced statutory minimum wage have seen an initial inflation, but this phenomenon was just temporary. The economic stimulus, with a boost of economic spending, can be seen in such countries. People who earn more, spend more, driving up both the demand and the supply markets, businesses invest and expand. The result is the economic growth[122].

Beside economic stimulus, the Bill C. 1275, present other benefits, addressing the missing points of the labour market system. The advantages are different, and of different nature. First of all, it would enhance the worker's protection, especially of those not covered by CCNLs, respecting the article 36 of the Constitution. Secondly, it would reduce wage inequality across different sectors caused by the fragmented nature of collective barging agreements. Thirdly, the government's position against exploitation of vulnerable workers, those not covered by collective agreements, would prevent employers from paying low wages and at the same time address the issue of "working poor", helping them improving their living standards and escaping poverty. And finally, the introduction of statutory minimum wage would align Italy with the other Member States, improving the country's competitiveness and attractiveness in the European labour market, which would result in labour mobility and investments. The proposed Bill has, as one of the focal points, the annual revision by a designated commission, setting a clear baseline for salaries, but also ensuring that wages reflect the economic conditions and changes over time.

Nevertheless, the collective bargaining traditions, the concerns over the economic impact, the political dynamics, along with the institutional and legislative hurdles and the government opposition, have prevented the enactment of the Bill no. 1275.

[121] https://www.istat.it/it/lavoro-e-retribuzioni
[122] Minimum Wages Across Countries, Database, by Joop Adema, Yvonne Giesing, Anne Schönauer and Tanja Stitteneder.

4. Conclusions: The Future Potential Impact of the Directive (EU) 2022/2041 on Minimum Wage in Italy.

According to the Directive, Italy would not be obliged to set a statutory minimum wage. Italy is obliged to have an 80% coverage of collective barging, and of 100% if we include the possibility of obtaining the minimum wage set by CCNLs through the courts. The Directive role is important in underlying that the labour's market dynamics should not be based on wage dumping, elevating the labour standards, and ensuring competition among Member States.

There is the possibility, in Italy, that the Directive might be inadvertently counterproductive. Considering the high coverage of collective bargaining as the optimal method for wage setting improvements could unintentionally serve as a justification for not taking any action toward the implementation of a statutory minimum wage. Since Italy has some of the highest levels of in-work poverty[123], income disparity and stagnant wage growth within Europe, it is crucial to have such conversations, addressing the economic disparities.

However, the Directive offers a potential benefit to the Italian's wage landscape, since it might be considered as a catalyst for reforming the collective bargaining system to completely align with the Article 39 of the Constitution. The government, by taking an active role in formalising such system, might ensure a more structured approach in the identification of the relevant categories and the stakeholders involved. In fact, the Article 8 of the Directive, titled "*Effective access of workers to the legal minimum wage*[124]", lays the groundwork for such approach. It mandates that Member States must ensure workers have access to the protections provided by a legal minimum wage. It includes implementing measures to strengthen labour inspections and enforcing effective, balanced, and deterrent penalties for non-compliance. The horizontal provisions of the Directive with article 12, and moreover the primacy of EU law, ensure that every country, regardless of the system, must secure workers' rights to fair wages through effective,

[123] Eurostat – In-work at-risk-of-poverty rate by full-/part-time work, EU Statistics on Income and Living Conditions (EU-SILC) survey.
https://ec.europa.eu/eurostat/databrowser/view/ilc_iw07/default/bar?lang=en

[124] Article 8 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union".

proportionate, and deterrent penalties for any breaches, respecting the first Article of the directive which states "*workers' access to the protection guaranteed by the minimum wage, in the form of wages determined by collective agreements or a legal minimum wage*"[125].

Such objective would be almost impossible to achieve for Italy without a minimum regularisation of the contractual system. The principle of "*effective access*" to fair, adequate, minimum wage serves as a catalyst for Italy to establish a minimum legislative framework for its bargaining system and it could solve some of the problems related to wages in the country.

[125] Article 1 of the DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union. "Official Journal of the European Union.

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