

EL/TJ/PD/NB/LR/GC/ey
Brussels, 21 November 2024

Ursula von der Leyen
President of the European Commission

[Letter sent by e-mail]

Ursula.VON-DER-LEYEN@ec.europa.eu

CC:

Nicolas Schmit

European Commissioner for Jobs and Social Rights

Nicolas.SCHMIT@ec.europa.eu;

Subject: Transposition of the Directive EU 2022/2041 on adequate minimum wage in EU – alarming situation in Luxemburg

Dear President of the European Commission,
Dear Ms. von der Leyen,

Just two years ago we celebrated together an important achievement for European Citizens, the adoption of the **Directive (EU) 2022/2041 on adequate minimum wages in the European Union**. It marked a milestone on the way to a more social Europe. We believe ensuring that workers in the Union earn adequate minimum wages is essential to guarantee adequate working and living conditions, as well as to build fair and resilient economies and societies, as set out by Principle 6 of the European Pillar of Social Rights.

This directive, if properly transposed across the EU, is a timely boost to the millions of people struggling to heat their homes and feed their families. Not only by ensuring procedures to set and update the adequacy of statutory minimum wages but also by promoting collective bargaining on wage setting as the best solution to achieving genuinely fair wages and better working conditions for all. And exactly for this reason we consider Art. 4 of the Directive and its scope as one of the most important and powerful of the whole text.

However, the **Directive's real impact will depend on its effective and correct transposition into national law**.

Against this background and with the transposition deadline passed (15th of November 2024), we are surprised and we regret that in some countries the transposition of Directive (EU) 2022/2041 is being misused by governments, to reduce the general level of protection currently provided to workers, and to jeopardize well-functioning industrial relations and social models by belittling the role of trade unions.

We would like to raise the attention on the **alarming situation in Luxemburg** regarding the transposition of the Directive EU 2022/2041, where both trade union confederations (OGBL and LCGB) are particularly concerned about the Governmental proposal for transposition, that would disrespect the scope and objectives of the Directive, in particular with regard to Art. 4 on the promotion of collective bargaining.



On September 17, 2024, OGBL and LCGB received a draft of a 'National Action Plan to Promote Collective Bargaining,' required by the directive on Adequate Minimum Wages in the EU, with the aim of achieving a collective bargaining coverage rate of at least 80%. While the reform of the legal framework related to collective agreements is supposed to be an integral part of this action plan, no draft law has been submitted for discussion. After a first analysis of the national action plan, both unions have concluded that the proposed text does not provide in any way a discussion basis for reforming the legal framework related to collective agreements.

The current Labour Law in Luxembourg restricts the right to negotiate and conclude collective agreements exclusively to trade unions with national or sectoral representativeness.

In the draft text for transposition, the Labour Minister of Luxembourg is proposing to opening a way for non-union delegates and workers to negotiate collective agreements, in the absence of trade unions with national or sectoral representativeness.

In our opinion, this represents a **clear attempt at undermining the role and prerogative of national trade union confederations in Luxembourg**, a targeted **attack on trade unions** by the Luxembourg government, with the aim of reducing their influence. More importantly, this proposal implies that discussions between employers and workers will take place on an equal footing, which is totally unrealistic given the existing imbalance of power between employers and workers.

Promoting collective bargaining and increasing the collective bargaining coverage are clear objectives of the Directive. And for the latter, as clearly stated in the [Report Expert Group on the transposition of the Directive](#), the Commission services indicated that, in their view, **only collective agreements concluded by trade unions should be taken into consideration**. When the definitions of collective bargaining (Article 3(3)) and collective agreement (Article 3(4)) are read jointly, it is clear that, in the intention of the co-legislators, only collective agreements signed by trade unions should be taken into account.

Allowing non-trade union delegates and other organisations to bargain and conclude agreements would alter the actual industrial relation system, going exactly on the opposite direction of what stated at Art. 4(1), and in turn **undermining the whole objective** of the Directive itself.

Equally unacceptable is the concurrent attempt to reduce the minimum mandatory content of collective agreements, as defined in the Luxembourg Labour Code, to the bare minimum.

On 3 October 2024, OGBL and LCGB sent a note on the draft action plan to the Minister of Labour, in which they categorically reject the content of the draft action plan. On 8 October, another meeting took place with the Minister of Labour. Surprisingly, at the start of the meeting, the Minister rejected the content of the note submitted by both unions. In fact, he referred to it as 'superfluous', saying that it offered, in his words, 'nothing concrete'. The Minister also insisted that the unions' prerogative to negotiate and sign collective agreements "would not be enshrined anywhere". On top of that, in the absence of a common position, the Minister of Labour stated that he would make the decision himself.

We would like also to recall that Luxembourg currently has a Collective Bargaining coverage way below the threshold of 80%, hence, according to Art. 4(2), it "shall provide for a framework of enabling conditions for collective bargaining, either by law after consulting the social partners or by agreement with them. (...) shall also establish an action plan to promote collective bargaining". The proposal made by the Labour Minister of Luxembourg seems to be a twisty and inventive way to increase the collective



bargaining coverage, but rather improper and inconclusive considering the clear definitions provided by Art 3 of the Directive.

All the intentions of the co-legislators and scope of the Directive are to improve living and working conditions, not worsening them. Article 16 and Recital 38 of the text incorporate the non-regression and more favourable conditions principles, which are standard in EU labour law Directives.

The ETUC, together with OGBL and LCGB, consider the approach of the Government of Luxemburg unacceptable. Using the transposition of the Directive to **undermine the trade union movement**, weakening collective bargaining structures **is intolerable**. Data clearly shows that where trade unions are strong, the collective bargaining are well functioning, the coverage is high and, in turn, the level of wages tends to be adequate.

We believe this is a very important issue and it could have very negative developments in Luxemburg, but also creating a precedent that could increase the mistrust in the EU institutions, and that is exactly what the European trade union movement, unite, wants to avoid.

We call on you and the European Commission to support the quality transposition of the Directive and prevent its misuse.

Looking forward to a your prompt answer, we remain available for any further exchanges on this very important matter.

Sincerely Yours,

Esther LYNCH
ETUC General Secretary

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ETUC Confederal Secretary

Patrick DURY
National President of LCGB

Nora BACK
President of OGBL