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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on adequate minimum wages in the European Union **(first reading)** - Adoption of the legislative act = Statements

Statement by Bulgaria

The Republic of Bulgaria attaches great importance to the promotion and protection of human rights. The country is, and will remain, dedicated to its human rights commitments.

In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe's Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention') promotes legal concepts related to the notion of 'gender' that are incompatible with the basic principles of the Bulgarian Constitution. Moreover, in 2021 the Constitutional Court further clarified that the concept of 'sex' used in the Constitution, could, in the context of the national legal order, be understood in its biological sense only (men and women).

Recognising the importance of the issue, the Republic of Bulgaria is not opposed to adopting the draft minimum wage Directive; however, in line with the abovementioned Constitutional Court decisions, **it states that, as regards the reference to 'data disaggregated by gender' in Article 10(2) of the Directive, the Republic of Bulgaria will only collect and provide data disaggregated by sex (male/female)**.

Statement by Hungary

The Hungarian Government is committed to ensuring an appropriate and efficient functioning of the national minimum wage-setting system. Since 2010, the Hungarian minimum wage has more than doubled and was set after consultation with the social partners. This fact, among others, clearly demonstrates the government's firm commitment to raising living standards for all. As a result of an agreement signed by the Government and the social partners, the national minimum wage in Hungary was further increased by 20% from 1 January 2022, which was the highest development rate in the EU.

Hungary recalls that regulation of pay, including the determination of minimum wages, clearly falls within the exclusive competence of the Member States as enshrined in Article 153(5) of TFEU and is an essential tool of national economic policy.

Furthermore, Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as the commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and with its national legislation, Hungary interprets the term 'gender' as referring to sex and, accordingly, the reference to 'data desegregated by gender' in Article 10(2) of the text of the directive as data disaggregated by sex (women and men).

Statement by Austria

Austria supports the objective of adequate minimum wages in the European Union.

Austria reiterates that primary law, the Treaty-based division of competences between the EU and its Member States, as well as the principles of subsidiarity and proportionality, must be fully respected. Different labour market models, the full autonomy of the social partners and well-established collective bargaining systems have to be preserved.

Austria underlines that, according to Article 153(5) of the Treaty on the Functioning of the European Union, notably regarding the nature and limits of Union competence in this respect, the European Union cannot intervene directly in the level of pay, so as not to affect the competence of the Member States and the autonomy of the social partners in this area. Therefore, a legal basis exists only for a Directive creating a procedural framework, which cannot oblige Member States to grant access to minimum wage protection for all workers.

Against the background of the analysis contained in the opinion of the Council Legal Service, Austria highlights its wage determination model, which is based solely on collective bargaining agreements. Austria takes the view that the proposed Directive does not intend to change or undermine the Austrian wage-setting system, and that it will not affect Member States with well-functioning collective bargaining systems.

For those reasons, Austria interprets the text in the following way:

- The proposed Directive does not confer individual rights on workers;
- Obligations on adequacy stemming from the Directive are limited to statutory minimum wages;
- According to the Directive, wages negotiated by social partners are always considered to be adequate;
- The Directive allows but does not oblige Member States to introduce statutory minimum wages;
- The Directive allows but does not oblige Member States to introduce collective agreements in areas where social partners have not agreed on a collective bargaining agreement.

Statement by Poland

Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with international human rights treaties and within the framework of the fundamental values and principles of the European Union. For these reasons, Poland will interpret the expression ‘gender equality’ as equality between women and men, and the expression ‘gender pay gap’ as disparities in pay between women and men, in accordance with Articles 2 and 3 of the Treaty on European Union and Articles 8 and 157(3) of the Treaty on the Functioning of the European Union. In view of the above, Poland will interpret other expressions containing the term ‘gender’ as referring to ‘sex’, in accordance with Article 10, Article 19(1) and Article 157(2) and (4) of the Treaty on the Functioning of the European Union.