

OPEN ACCESS

ISSN 2280-4056

*E-Journal of
International and Comparative*

LABOUR STUDIES

Joint Issue (Vol 10 No. 03/2021 - Vol. 11 No. 01/2022)



ADAPT
www.adapt.it
UNIVERSITY PRESS

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Online Publication of the ADAPT Series
Registration No. 1609, 11 November 2001, Court of Modena
www.adaptbulletin.eu

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Minimum Wage as an Instrument to Provide Dignity at Work

Katarzyna Bomba *

Abstract

This paper analyses the minimum wage as an instrument to provide dignity at work. The major question is whether the minimum wage alone is sufficient to provide dignity at work and decent standards of living. The paper considers UN legal regulations, and ILO standards, including the Minimum Wage Fixing Convention No. 131, as well as the European Social Charter and the EU draft directive on adequate minimum wages. The paper examines the legal nature of the minimum wage, the criteria for fixing national minimum wages and whether this form of remuneration should be supplemented by social security benefits.

Keywords: Minimum Wage; Social Human Rights; Decent Work.

1. Introductory Remarks

Human rights are indivisible and interdependent. The focus of social and economic rights is to ensure a minimum of social stability, without which people cannot freely participate in political life or exercise their civil liberties. For individuals, the sufficient income may arise from the realisation of property rights, the right to work for a decent wage or the right to social security. Property rights were the original basis for income. With the emergence of paid employment, the right to work, which provides the means of subsistence for professionally active people, was

* Assistant Professor at the Faculty of Law and Administration, University of Warmia and Mazury in Olsztyn, Poland. Email address: katarzyna.bomba@uwm.edu.pl. This paper collects the findings of Research Project No. 2017/26/D/HS5/01050, financed by the National Science Centre of Poland.

formulated. This was followed by the formulation of the right to social security, being a substitute for the right to work for those unable to work or temporarily left without a job¹.

Not every worker is capable of negotiating a wage that would provide him or her with an adequate material basis of subsistence. To ensure an individual the right to work of adequate quality, the state plays a regulatory role that covers social relations related to paid work. State intervention in this area is normatively expressed, *inter alia*, in the idea of a minimum wage. The question that emerges against this background is whether the minimum wage is an adequate instrument to ensure decent work and an appropriate standard of living for workers and their families. The role of the minimum wage in the modern labour market also requires in-depth analysis.

2. The Minimum Wage in International and European Law

In the search for the foundations of the minimum wage concept in international and European law, workers' rights to just and satisfactory wages deserve special attention. As provided by Article 23(3) of the UN Universal Declaration of Human Rights, everyone who works has the right to just and favourable remuneration, ensuring for oneself and one's family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection. A holistic interpretation of this provision leads to the conclusion that "just and satisfactory remuneration" is one of the elements of the right to quality work. According to Article 23(1)-(4) of the Declaration, this notion includes the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, the right to equal pay for equal work, the right (mentioned above) to just and favourable remuneration, as well as the right to form and join trade unions for the protection of workers' interests. The right to quality work is one of the basic human rights determining the fundamental conditions for pursuing a good life. It is worth noting that a good life is close to what might be called a "minimally decent life", understood in terms of pursuing the basic activities that human beings *qua* human beings need². From this

¹ A. Eide, *Economic and Social Rights*, (in:) J. Symonides (ed.), *Human Rights: Concepts and Standards*, Ashgate, UNESCO 2000, p. 120.

² S. M. Liao, *Human Rights as Fundamental Conditions for Good Life*, (in:) S. M. Liao, M. Renzo (eds.), *Philosophical Foundations of Human Rights*, Oxford University Press, Oxford 2015, p. 81.

perspective, providing just and satisfactory remuneration is backed up by recognising that the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, as mentioned in the preamble of the Declaration. It should be noted that Article 23(3) of the Declaration states that, when necessary, wages may be supplemented by other social protection measures. Thus, it recognises that wages may not always meet the needs of workers and their families. Therefore, it may be supplemented by social security benefits.

With the inclusion of social rights in the catalogue of human rights, the Universal Declaration was fundamental to their development³. This found its normative expression primarily in the UN International Covenant on Economic, Social and Cultural Rights⁴. The Covenant formulates detailed solutions relating to the standards of paid work, including the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts (Article 6(1)) and the derived right of everyone to the enjoyment of just and favourable conditions of work (Article 7(a))⁵. The Covenant lists such conditions as remuneration, which should ensure that workers receive a fair wage, determined in accordance with the principle of equal pay for work of equal value (Article 7(a)(i)), and enable a decent living for themselves and their families in accordance with the provisions of the Covenant (Article 7(a)(ii)). Thus, it follows from the Covenant that just and satisfactory remuneration consists of two elements. The first element relates to a fair wage and defines the rules for determining the amount of a fair wage as a consideration to be given in return for work done. The second relates to the determination of a minimum pay level, which would ensure a decent standard of living for the worker and his or her family in all cases. It follows from the structure of Article 7(a) of the Covenant that the minimum pay level is linked to external factors⁶, such as the cost of living and other socio-economic conditions, rather than to the quantity and quality of the performed work (its economic equivalence).

³ H. Collins, G. Lester, V. Mantouvalou, *Introduction: Does Labour Law Need Philosophical Foundations?*, (in:) H. Collins, G. Lester, V. Mantouvalou (eds.), *Philosophical Foundations of Labour Law*, Oxford University Press, Oxford 2018, p. 13.

⁴ International Covenant on Economic, Social and Cultural Rights of 16.12.1966 r., <https://www.ohchr.org/> (access: 30.06.2022).

⁵ A. Eide, *Economic and Social Rights...*, p. 143.

⁶ Z. Góral, *O kodeksowym katalogu zasad indywidualnego prawa pracy*, Wolters Kluwer, Warsaw 2011, p. 170.

The United Nations Committee on Economic, Social and Cultural Rights evaluates states' implementation of the obligation resulting from article 7 (a)(ii) of the Covenant with reference to a minimum wage⁷. It recognizes that national socio-economic conditions cannot justify setting a minimum wage in disregard of this objective⁸. While the Committee notes that the criteria for determining minimum wage are flexible, in any case, they must take into account the socially acceptable standard of living so that the determined amount fulfils the worker's right to a decent wage and enables him or her to exercise the rights covered by the Covenant, *inter alia* with regard to education, health care and an adequate standard of living⁹. The Committee assumes that the minimum wage should remain in appropriate relation to the average remuneration and take into account national or regional wage levels (also those determined in negotiations) as well as the requirements for social or economic development, including the need to achieve high employment levels¹⁰. The minimum wage should be set in such a way that, together with social security benefits and legal instruments supporting families, it enables the worker and his or her family to enjoy a decent standard of living.

The preamble of the ILO Constitution, in turn, explicitly states that the realization of the principles of social justice in employment is a precondition for harmony and peace in the world. In these circumstances, fair working conditions with an adequate living wage must be ensured. The ILO's role in realising fair working conditions was further made more precise in the 1944 Declaration adopted in Philadelphia, setting out the ILO's aims and objectives¹¹. The Declaration emphasizes that labour is not a commodity (Part I.a) and views human work and work conditions

⁷ Committee on Economic, Social and Cultural Rights, *General Comment No. 23 (2016) on the Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, sec. 19. <https://www.escri-net.org/> (access: 30.06.2022).

⁸ Committee on Economic, Social and Cultural Rights, *General Comment No. 23...*, sec. 19; B. Saul, D. Kinley, J. Mowbray, *The International Covenant on Economic, Social and Cultural Rights. Commentary, Cases and Materials*, Oxford University Press, Oxford 2016, p. 405.

⁹ V. Brás Gomes, *The right to work and rights at work*, (in) J. Dugard, B. Porter, D. Ikawa, L. Chenwi (eds.), *Research Handbook on Economic, Social and Cultural Rights as Human Rights*, Edward Elgar Publishing, Cheltenham-Northampton 2020, p. 234.

¹⁰ Committee on Economic, Social and Cultural Rights, *General Comment No. 23 (2016)...*, sec. 21.

¹¹ ILO Declaration of Philadelphia. Declaration concerning the aims and purposes of the International Labour Organisation, 10.05.1944, <https://www.ilo.org/> (access: 30.06.2022).

through this very prism¹². Part III outlines the ILO's obligations, including supporting national efforts to formulate wage and remuneration policies that would ensure equitable distribution of the fruits of progress and a minimum living wage for all workers. This made one of the ILO's objectives to make a living wage a reality and an essential element of a fair society. This would be a wage that would allow the worker and his or her family to lead a simple but dignified life, at a level acceptable to their community, taking into account its economic development. This includes participation in social and cultural life¹³. This objective was restated in Part I.A(ii) of the 2008 ILO Declaration on Social Justice for a Fair Globalization, as well as in Part III.B(iii) of the 2019 ILO Centenary Declaration for the Future of Work. This objective was implemented in the ILO's actions on the minimum wage formula¹⁴.

European law also provides the basis for establishing the right to a minimum wage. The European Social Charter¹⁵, which treats rights relating to paid work as human rights, comes to the forefront¹⁶. The preamble explains that the adoption of the Charter serves the purpose of implementing ideas arising from a common heritage and facilitating economic and social progress, in particular, by defending and developing human rights and fundamental freedoms. In line with these assumptions, the objective of state policies includes the effective realisation of the rights and principles set out in Part I of the Charter, including the right of all workers to a fair remuneration sufficient for a decent standard of living for themselves and their families. (Part I, point 4). A worker's right to fair remuneration was further discussed in detail in Article 4 in Part II of the Charter. It follows that to guarantee the effective exercise of the right to fair remuneration, states undertake to recognise workers' rights to a remuneration that will give them and their families a decent standard of living (par. 1). The minimum wage provides a benchmark for the

¹² A. Supiot, *L'esprit de Philadelphie. La justice sociale face au marché total*, Seuil, Paris 2010, p. 117.

¹³ International Labour Organization, Committee of Experts on the Application of Convention and Recommendation, *General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135), Report III (Part 1B)*, Geneva 2014, p. 27.

¹⁴ E. Raynaud, *The International Labour Organization and the Living Wage...*, p. 11.

¹⁵ European Social Charter, 18.10.1961, <https://rm.coe.int/> (access: 30.06.2022).

¹⁶ R. Brillat, *Labour Rights as Human Rights*, (in:) A. M. Świątkowski (ed.), *Ochrona praw człowieka w świetle przepisów prawa pracy i zabezpieczenia społecznego. Referaty i wystąpienia zgłoszone na XVII Zjazd Katedr/Zakładów Prawa Pracy i Zabezpieczenia Społecznego, Kraków 7-9 maja 2009 r.*, Warsaw 2009, p. 80.

European Committee of Social Rights in assessing the state's compliance with the obligation under Article 4(1) of the ESC to ensure that workers are paid a fair remuneration. For this purpose, the Committee examines the relationship between the minimum wage and the average wage in a given country.

According to the Committee, the minimum wage should reach a decency threshold of 60% of the average wage. Under the ESC, a minimum wage set below this threshold is not automatically considered unfair. However, if, in a given country, the minimum wage is between 50-60% of the average national wage, the state needs to demonstrate that the workers and their families enjoy decent living standards. In particular, the European Committee of Social Rights assesses the cost of living, including health care, education, transport and others¹⁷. It also takes into account social transfers if these are made to full-time workers, regardless of their family situation. As a result, the assessment of the implementation of the fair remuneration postulate is not limited to the mere amount of the minimum wage. Z. Adams and S. Deakin rightly point out that in a free market economy, wages are the basic means of subsistence for workers and their families. The role of tax relief and benefits in adjusting household income to living circumstances is secondary in relation to the minimum wage¹⁸. Setting the minimum wage below 50% of average pay constitutes a violation of Article 4(1) of the ESC in any case. The European Committee of Social Rights recognises that irrespective of its relationship to the average wage, a worker's wage must be clearly above the national poverty line¹⁹. Thus, the concept of a minimum wage, although not stated *expressis verbis* in the Council of Europe's legal regulations, plays an important role in making a decent wage standard a reality.

In international and European law, minimum wages are explicitly provided for only in selected conventions and recommendations of the International Labour Organisation. They are also subject to a draft directive on adequate minimum wages in the European Union²⁰.

¹⁷ European Committee of Social Rights, *Digest of the case law...* 2018, p. 43.

¹⁸ Z. Adams, S. Deakin, *Article 4: The Right to a Fair Remuneration* (in:) N. Bruun, K. Lörcher, I. Schömann, S. Clauwaert (eds.), *The European Social Charter and the Employment Relations*, Oxford - Portland 2017, p. 218-219.

¹⁹ European Committee of Social Rights, *Digest of the case law of the European Committee of Social Rights, Appendix...* 2018, p. 103.

²⁰ European Commission, Proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union, Brussels, 28.10.2020, COM(2020) 682 final.

What must be noted with reference to the ILO's minimum wage regulations is that they vary in intensity from period to period. In 1928, the ILO adopted Minimum Wage-Fixing Machinery Convention No. 26²¹, together with Recommendation No. 30 with the same title. Convention No. 26 only contains general principles for setting up mechanisms to establish minimum pay rates for workers employed in industries or parts of industries (especially in outworks) where there is no effective system for wage determination through collective labour agreements or otherwise, and where wages are exceptionally low. It also does not address how it should be implemented or the criteria for fixing minimum rates. These issues are regulated in Recommendation No. 30, which provides non-binding guidance for the correct implementation of the Convention's provisions. In 1951, Minimum Wage Fixing Machinery (Agriculture) Convention No. 99 was adopted²². Both Conventions are similarly structured. Convention No. 99 contains general rules on determining minimum wages, leaving the details to the non-legally binding Recommendation. The limited practical scope of Conventions No. 26 and No. 99, coupled with States' obligations to provide a mechanism for fixing the minimum wage without detailed formulation of the requirements, meant that national regulations shaped based on these Conventions provisions did not guarantee that the minimum wage level would ensure an adequate standard of living for workers and their families. Moreover, at the same time, these conventions failed to see the minimum wage as an effective instrument of social protection or as an element of an economic development strategy²³. In response to the far-reaching postulates for amendments in Conventions No. 26 and No. 99, the ILO decided to draft a new legal instrument. The work culminated in 1970 in the adoption of Minimum Wage Fixing Convention No. 131²⁴, with its complementary Recommendation No. 135.

²¹ International Labour Organization, Convention No. 26 concerning Minimum Wage Fixing Machinery, <https://www.ilo.org/> (access: 30.06.2022).

²² International Labour Organization, Convention No. 99 concerning Minimum Wage Fixing Machinery (Agriculture), <https://www.ilo.org/> (access: 30.06.2022).

²³ International Labour Organization, Committee of Experts on the Application of Conventions and Recommendations, *General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135), Report III (Part 1B)*, Geneva 2014, p. 5, sec. 9.

²⁴ International Labour Organization, Convention No. 131 concerning Minimum Wage Fixing, with Special Reference to Developing Countries, <https://www.ilo.org/> (access: 30.06.2022).

These legal acts do not contain a definition of a minimum wage. The ILO Committee of Experts defines minimum wage as 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 contract²⁵. Such a minimum wage should enable meeting workers' basic and developmental needs. It is determined with the social and economic conditions in a given country taken into account to establish the highest possible level of guaranteed pay. The minimum wage should not have a significant negative impact on the employment level in the economic sectors with the lowest pay. According to the ILO Committee of Experts, the ultimate aim of ILO Convention No. 131 is to guarantee workers an income that ensures an adequate standard of living for themselves and their families while taking into account economic factors. The minimum wage policy must be considered both as an effective instrument of social protection and as part of an economic development strategy. The minimum wage is intended to provide adequate means of subsistence, but it does not guarantee that the amount set for a specific country meets this condition at a particular time²⁶.

Convention No. 131 is the first legally binding ILO document that obliges states to establish a universal minimum wage system that meets certain standards. It is also the first legally binding ILO regulation to formulate criteria for setting the minimum wage. Thus, a gradual widening of the subjective scope of the minimum wage and the development of detailed requirements for its determination can be observed. Not only did the assumptions for the legal structure of minimum wage change, but the function of the minimum wage also evolved from a poverty mitigation tool to an instrument of sustainable social and economic development. Convention No. 131 is now considered to be a legal act most fully formulating standards for the minimum wage²⁷.

²⁵ International Labour Organization, Committee of Experts..., *General Survey...* 2014, p. 33, sec. 68.

²⁶ International Labour Organization, Committee of Experts..., *General Survey...* 2014, p. 27, sec. 51.

²⁷ W. Cunningham, *Minimum Wages and Social Policy. Lessons from Developing Countries*, World Bank, Washington 2007, p. xvi.

3. Criteria for Fixing Minimum Wages

Detailed criteria for fixing minimum wages have been included in the relevant ILO legal instruments and the draft EU Directive on adequate minimum wages.

With respect to the ILO legal instruments, it should be noted that the first ILO Conventions do not explicitly formulate the criteria for fixing the minimum wage. It is only Convention No. 131 of 1970 in its Article 3 that lists, in a legally binding way, several social and economic factors that should be taken into account when setting minimum wages. Article 3 of Convention No. 131 provides that the elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include - a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

These provisions regulate social criteria and economic criteria separately. With regard to social requirements, it must be noted that the criterion of the needs of workers and their families constitutes an overriding indicator of a social nature for fixing the minimum wage. The needs of workers and their families must be satisfied with the remaining listed factors taken into account. The catalogue of criteria specified in the provision is close-ended. According to these regulations, the states should take these criteria into account “*so far as possible and appropriate in relation to national practice and conditions.*” Therefore, the only viable conclusion is that Article 3(a) of Convention No. 131 leaves states ample room to adapt these criteria to the national socio-economic situation. Convention No. 131 does not formulate the types of needs of the workers and their families that should be covered by the minimum wage. The link that Article 3(a) establishes between the needs criterion and several social factors reflects the complex nature of this indicator. Such a provision may give rise to practical problems at its application stage due to its detailed enumeration of criteria for fixing the minimum wage and its being legally binding²⁸. It should be stressed that its interpretation should take into account the concept of an adequate living wage adopted in the ILO Constitution. As a result, the

²⁸ E. Raynaud, *The International Labour...*, p. 23.

requirement listed in Article 3 (a) to meet the needs of workers and their families should not be limited to basic material needs.

As regards the economic criteria listed in Article 3(b) of ILO Convention No. 131, it should be noted that in determining the minimum wage, states should take into account factors of an economic nature, including the preconditions for economic development, the level of labour efficiency and the desire to achieve and maintain a high level of employment. The fact that the provision does not introduce a hierarchy between the specific economic criteria deserves to be stressed. These criteria are formulated in a very general way, without specifying what preconditions for economic development are at stake.

The draft EU directive on adequate minimum wage also refers to detailed criteria for setting their levels. In line with Article 5(1) of the Directive, the Member States with statutory minimum wages shall take the necessary measures to ensure that when setting and reviewing the statutory minimum wage criteria designed to promote their adequacy to ensure decent working and living conditions, social cohesion and positive convergence are taken into account. In relevant national legislation, decisions of the competent authorities or tripartite agreements, Member States define these criteria in accordance with their national practices. The criteria shall be established in a stable and clear way. According to Article 5, paragraph 2, of the Directive, the national criteria shall account for at least the following elements: a) the purchasing power of statutory minimum wages, taking into account the cost of living and the contribution of taxes and social benefits; b) the general level of gross wages and their distribution; c) the growth rate of gross wages; d) labour productivity developments. It should be noted that Article 5 of the Directive only refers to the determination of statutory minimum wages. It formulates an open catalogue of criteria that should be taken into account by the state when determining adequate minimum wages. At the same time, it does not provide a hierarchy between varied indicators. The catalogue provided in paragraph 2 focuses on maintaining the purchasing power of minimum wages and keeping them in appropriate relation to the general level of wages and the economic growth rate. It does not make a direct reference to the requirement to provide for the needs of workers and their families. However, paragraph 1 implies that the criteria for fixing the minimum wage should be defined to ensure decent living conditions. It may be the case that the necessity to meet the needs of the workers and their families can be derived from the requirement to ensure decent living conditions. Indirectly, such a conclusion can also be drawn from the inclusion of “cost of living and the contribution of taxes and social

benefits” among the criteria for setting minimum wages. It should also be noted that the literature proposes to delete “productivity” from the criteria for setting adequate minimum wages²⁹.

The criteria for fixing minimum wages in ILO regulations and the draft directive are highly general. Moreover, states have been left with a lot of freedom in adapting these criteria to national socio-economic conditions, as well as in adopting additional indicators. Limitations for the states in fixing minimum wages result primarily from the very nature of this instrument, which is intended to provide workers and their families with adequate means of subsistence. Such a method of regulating criteria for fixing the minimum wage promotes a compromise between the social needs of workers and their families and the financial capacity of employers, and the general economic development level of a specific country. International law and European law do not provide for a hierarchy between these two groups of factors. However, social requirements could be perceived as a priority since the meta-criterion of a decent living standard provides the basis for fixing the minimum wage.

4. The Significance of a Minimum Wage in Today’s Labour Market

In the face of technological change and climate crisis, halting the process of the dehumanisation of work in the 21st century requires a revision of the concepts of work organisation and making production methods sustainable³⁰. To remain active in this area, the ILO refers to the paradigm of sustainable development, which involves establishing rules to allow enterprises to thrive while sparing natural resources as much as possible while taking measures to ensure full and productive employment and decent work for all. Such a view of labour protection standards sets the requirements of the social aspect of sustainable development and has an impact on the achievement of economic and environmental objectives, thus contributing to guaranteeing decent work in the broad sense³¹. A

²⁹ L. Visentini, *Directive on Adequate Minimum Wages: European institutions must respect the promise made to workers!*, Italian Labour Law e-Journal 2021, Issue 1, Vol. 14, p. 37.

³⁰ A. Supiot, *Labour is not a commodity: The content and meaning of work in the twenty-first century*, International Labour Review 2021, Vol. 160, No. 1, p. 5.

³¹ T. Novitz, *Engagement with sustainability at the International Labour Organization and wider implications for collective worker voice*, International Labour Review 2020, Vol 159, No. 4, p. 464-465.

minimum wage is one of the indicators adopted by the ILO to assess progress in the way countries provide for decent work³².

Recognising a minimum wage as one of the requirements for decent work was reflected primarily in the 2008 Declaration on Social Justice for Fair Globalization. In this Declaration, the ILO reaffirmed its constitutional principles and specified that making progress and social justice a reality in ever-changing circumstances requires the development of further global programmes for full employment, improved living standards, a minimum living wage and the expansion of social security benefits to guarantee a basic income for all in need of such protection. It also states that, alongside other policies on working conditions, measures aiming to make such wages a reality should be part of the ILO's global and integrated strategy for decent work³³. In the context of implementing the above-mentioned objectives, it is the 2010 Resolution concerning the recurrent discussion on employment that attracts attention. It states that the minimum wage should be understood as an instrument to reduce poverty and inequality, increase demand and support economic stability. Convention No. 131 should provide guidance for the implementation of these intentions³⁴.

The 2008 ILO Declaration is referred to in the 2015 Resolution concerning the recurrent discussion on social protection (labour protection)³⁵. According to this resolution, remuneration policies are an element of a strategy for decent work and sustainable development. It recognises that a minimum wage is conducive to ensuring fair and equitable distribution of the fruits of progress. It protects workers against unduly low wages and is one of the instruments for overcoming poverty. It also stresses that it should apply to all workers, regardless of the legal basis of their employment.

Current ILO activities reflect this perspective. The 2019 ILO's Centenary Declaration on the Future of Work reaffirms its constitutional principles³⁶. It also describes the conditions in a changing world of labour, including

³² ILO Declaration on Social Justice for a Fair Globalization, 10.06.2008, Geneva 2008, p. 13.

³³ Part I.A(ii) of the 2008 ILO Declaration.

³⁴ *Resolution concerning the recurrent discussion on employment*, 16.06.2010, (in:) *Resolutions adopted by the International Labour Conference at its 99th Session, Geneva June 2010*, International Labour Office, Geneva 2010, p. 11.

³⁵ *Resolution concerning the recurrent discussion on social protection (labour protection)*, 12.06.2015, sec. 7-8, <https://www.ilo.org> (access: 30.06.2022).

³⁶ A. Supiot, *The tasks ahead of the ILO at its centenary*, *International Labour Review* 2020, Vol. 159, No. 1, p. 122.

technological innovation and demographic, climate and environmental changes and globalisation. The declaration highlights the impact of persistent inequalities on the nature and future of work and respect for workers' dignity. Therefore, a human-centred approach to the future of work, based on 'trilateralism' and social dialogue, must be further developed. To this end, the very institution of labour must be strengthened, and all workers must be granted adequate protection measures. Such protection measures should be in line with the Decent Work Agenda and, therefore, require the provision of an adequate minimum wage, established by law or through negotiation³⁷. Despite the ILO's universal mandate in labour protection³⁸, the minimum standards it sets may still not be adopted by member states. Minimum wage conventions are binding upon states only if ratified. ILO Member States' failure to directly apply these legal instruments has prompted a search for ways of making the standards formulated therein a reality outside the scope of normative activities of the organisation.

Close links between the ILO's decent work goals and the goals adopted in 2015 in the United Nations 2030 Agenda for Sustainable Development should also be stressed³⁹. The 2030 Agenda provides for action to ensure decent work for all women and men and the implementation of its four pillars, i.e., job creation, social security, working conditions and social dialogue⁴⁰. The 2030 Agenda provides a form of pressure on the states to take action conforming with these assumptions. It formulates 17 goals that address three different dimensions of development: social, economic and environmental. Goal 8 of the 2030 Agenda calls for the promotion of sustainable, inclusive and balanced economic development, full and productive employment and decent work. Moreover, it links the implementation of these postulates to labour law. In turn, the tenth objective of the Agenda concerns the reduction of inequalities within and between countries, among others, through the adoption of wage policies progressively leading to greater equality. Such an approach follows the

³⁷ Part III lit. B(ii) of the 2019 ILO Declaration.

³⁸ A. Suptot, *Labour is not a commodity: The content and meaning of work in the twenty-first century*, *International Labour Review* 2021, Vol. 160, No. 1, p. 126.

³⁹ UN General Assembly Resolution, *Transforming our world: the 2030 Agenda for Sustainable Development*, 25.09.2015, <https://www.un.org/> (access: 30.06.2022).

⁴⁰ G. Casale, M. Fasani, *An Overview of the Main ILO Policies and Tools in the Organization of Promotional Activities on Social Rights*, (in:) A. Perulli, T. Treu (eds.), *Sustainable Development, Global Trade and Social Rights*, Wolters Kluwer International 2018, p. 177.

objectives set out by the ILO in its Decent Work Agenda⁴¹. Not only does it confirm the ILO's intentions regarding decent work and minimum wages, but it also contributes to strengthening their impact.

It should be noted that Goal 8 of the 2030 Agenda is reflected in the activities of the Council of Europe. This organisation supports member states in implementing sustainable development goals⁴². Article 4 of the European Social Charter refers to the right to fair remuneration, which makes decent subsistence possible, and, according to the European Committee of Social Rights, this objective is implemented with reference to the minimum wage⁴³. In this way, the activities of the Council of Europe match the ILO minimum wage regulations. Therefore, it should be assumed that the minimum wage standard plays an important role today in the UN's efforts, in cooperation with the ILO and the Council of Europe, to promote sustainable socio-economic development and ensure decent working conditions. It appears that the adoption of this perspective results from the conviction that it is not possible to provide conditions for personal development without, at the same time, guaranteeing a material basis for subsistence.

The ILO's influence on shaping the European Pillar of Social Rights in the European Union is also noteworthy. In its 2016 report, "Building a Social Pillar for Social Convergence", the ILO indicated that a balanced approach to minimum wage policy based on the principles provided for in ILO legal instruments could reduce worker poverty in the EU and help limit competition based on reducing wages while promoting sustainable enterprises and sustainable economic development. In point 7 of the Recitals, the European Commission's draft directive on adequate minimum wages in the European Union⁴⁴ explicitly refers to Convention No. 131. The draft directive recognises minimum wages as a key element of the EU social market economy. The conclusions on promoting the ILO Centenary Declaration on the Future of Work, adopted in 2019 by

⁴¹ ILO, *Time to Act for SDG 8. Integrating Decent Work, Sustained Growth and Environmental Integrity*, Geneva 2019, p. IX.

⁴² *Indicative list (not exhaustive) of Council of Europe Conventions and Partial Agreements contributing to the United Nations 2030 agenda for sustainable development goals*, www.coe.pl (access: 30.06.2022)

⁴³ *Digest of the case law of the European Committee of Social Rights*, December 2018, p. 85, [//rm.coe.int/](http://rm.coe.int/) (access: 30.06.2022).

⁴⁴ COM(2020)682.

the EU Council, are also noteworthy⁴⁵. This perspective was confirmed in May 2021 in the declaration adopted at the EU Social Summit in Porto.

5. Conclusions

All workers have the right to a wage that provides them and their families with a decent standard of living. A minimum wage is one of the instruments fostering a decent standard of living. It follows from international and European regulations that ensuring a decent standard of living goes beyond satisfying basic human needs such as food and housing. It also covers social and cultural life. Thus, the minimum wage will not always be set at a decent level with regard to national social and economic conditions. In such situations, to ensure a decent standard of living for the workers and their families, other social policy instruments need to be implemented, particularly social security benefits. It is not exclusively the employer who is responsible for ensuring a decent standard of living for the workers and their families. It is a challenge for the whole of a society organised on the basis of human rights and the principle of social solidarity⁴⁶. Therefore, when fulfilling this objective, the minimum wage may be supplemented by social transfers, especially social security benefits. However, it needs to be stressed that it is the minimum wage as an income from work that plays an essential role in providing decent living conditions for workers and their families. For this reason, it should be set well above the poverty threshold in all cases.

In the face of globalisation, pauperisation and the dehumanisation of work, a minimum wage is an essential tool for achieving the paradigm of sustainable social, economic and environmental development. The minimum wage primarily affects its social aspect. However, it remains not without influence on the economic and environmental dimensions. A properly shaped and enforced national minimum wage policy may contribute to ensuring decent work conditions in the 21st century. It makes it possible to distribute the fruits of progress throughout the whole society⁴⁷ to guarantee a minimum income that enables all the employed to

⁴⁵ EU Council Conclusions, *The Future of Work: the European Union promoting the ILO Centenary Declaration*, 24.10.2019, 13436/1/19 REV 1.

⁴⁶ T. Mertens, *A Philosophical Introduction to Human Rights*, Cambridge University Press, Cambridge 2020, p. 253

⁴⁷ International Labour Organization, *Global Wage Report 2020-21. Wages and minimum wages in the time of Covid-19*, International Labour Office, Geneva 2020, p. 166.

earn their living⁴⁸. However, poorly designed wage policies could jeopardise the well-being of workers and their families and increase the attractiveness of undeclared employment. For these reasons, preventing the dehumanisation of work requires more than simply setting a minimum wage⁴⁹. It must be followed by the implementation of other social protection measures. Only such a combination is capable of guaranteeing a decent standard of living for workers and their families.

⁴⁸ *ILO Declaration on Social Justice for a Fair Globalization*, Geneva 2008, p. 6.

⁴⁹ E. Albin, *Social inclusion for Labour Law: Meeting Particular Scales of Justice*, (in:) H. Collins, G. Lester, V. Mantouvalou (eds.), *Philosophical Foundations of Labour Law*, Oxford University Press 2018, p. 304.

ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at www.adapt.it.

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