

Minimum wages: Non-compliance and enforcement across EU Member States – Comparative report

Introduction

In 2020, the European Parliament requested the European Commission to carry out a pilot project on the 'Role of the minimum wage in establishing the Universal Labour Guarantee'. Eurofound was entrusted with the implementation of this pilot project (2021–2023). This module examines non-compliance with minimum wage legislation and how Member States approach enforcement.

Minimum wage-setting mechanisms represent a powerful labour market tool. They are binding, and their implementation is widespread across European countries. To design and pursue sound strategies and measures for compliance with and enforcement of minimum wages, it is important to analyse the extent and patterns of non-compliance in as much detail as the available data permit. This is relevant not only to enhancing the effectiveness of interventions but also to making strategic choices in allocating available public resources. Measuring non-compliance is not easy and requires the use of precise information on income and on minimum wage levels, which is often difficult to obtain, as in countries where pay floors are set through collective bargaining at sectoral level such information is seldom available or can be difficult to recover. Enforcing minimum wages is essential, and understanding how enforcement affects compliance is crucial for policymaking. However, data on enforcement and compliance are scarce, and comparison across countries is difficult.

Policy context

- In the EU, the European Parliament and European Council adopted the Directive on adequate minimum wages on 19 October 2022.
- Of the 27 Member States, 22 establish statutory minimum wages at national level, and the others have sector-level bargaining.

- Compliance with minimum wage regulation is fundamental to guarantee workers' rights, their protection in the labour market, a level playing field for business and fair competition.
- In 22 EU countries, the enforcement of minimum wages is included in overarching labour regulations. Some countries have specific regulations or procedures for those industries/sectors, territorial areas or workers that present, or are expected to present, a higher incidence of non-compliance.

Key findings

- The estimated levels of non-compliance with the minimum wage legislation depend crucially on the source of data. Estimates of non-compliance are to be taken as approximations, not precise numbers. When using the Structure of Earnings Survey, which covers only larger firms and uses income information reported by employers, non-compliance levels tend to be generally quite low. When using European Union Statistics on Income and Living Conditions, which covers the entire working-age population, and in which workers report their own incomes, non-compliance levels tend to be higher.
- Non-compliance is positively correlated with the Kaitz index (ratio of the minimum wage to the average/median wage), suggesting that it is higher when the minimum wage is set higher.
- Non-compliance rates are higher than the median level according to both surveys in Cyprus, Denmark, Estonia, France, Germany, Hungary, Luxembourg and Spain. Non-compliance levels are consistently lower than the median in Belgium, Bulgaria, Croatia, Finland, Latvia, Malta, Poland, Portugal and Slovakia.
- Workers paid less than the minimum wage are generally younger and less educated, and more likely to be female, on a fixed-term or part-time contract and employed by smaller firms. The services sectors are generally more affected by this phenomenon than manufacturing.

- Non-compliance is much more common among employees working shorter working hours, which could reflect a low level of attachment to the labour market. Non-compliance is also higher when estimated using hourly instead of monthly wages. That could be because some employers may comply with monthly minimum wages but make employees work more hours than stated in their contracts, so they do not comply with hourly minimum wages.
- In most countries, generalist institutions in charge of labour law enforcement and dealing with the whole spectrum of labour laws enforce minimum wages.
- Labour inspectorates are the main institutions involved in minimum wage enforcement in 19 countries, together – to varying degrees and in different ways – with labour courts, and tax and social insurance authorities. Three countries have more than one institution directly responsible for enforcing minimum wages.
- Social partners play a key role in enforcing minimum wage regulations. In Nordic countries they have a direct inspection role to enforce the application of collective agreements. In the other Member States they often provide guidance and support to workers and employers, with roles in dispute resolution and policymaking.
- The strategies to enforce minimum wages are increasingly based on balancing deterrence with prevention. There is also growing attention to the advisory, guidance and informative role of inspectorates, and to the use of incentives for employers, information and awareness-raising campaigns, and data sharing.
- In the last decade, several Member States have made major reforms to enforcement systems and regulations: changing enforcement regulations; reforming labour inspectorates; changing the type and intensity of sanctions and access to information and data sharing on non-compliance; and creating competent groups/commissions for minimum wage enforcement.
- A set of mechanisms – exchange of information and coordination of relevant stakeholders, use of naming and shaming, use of chain liability, empowerment of workers – are effective in contexts characterised by highly at-risk economic sectors, complex bureaucratic procedures and limited human resources. Likewise, a holistic approach combining deterrence and preventive measures, an extensive scope of subcontracting chain liability and a pre-existing culture of partnership influence the way in which authorities act and reach outcomes.
- In the absence of specific systems for enforcing minimum wages in most countries, labour inspectorates increasingly use indirect strategies that increase the probability of compliance. By doing so, they aim to support three main groups during the process: workers, employers and authorities. A combination of soft initiatives with tougher measures has been shown to increase the effectiveness of inspectorates' actions when enforcing minimum wages.

Policy pointers

- Quantifying non-compliance is a challenging task that crucially depends on the quality and characteristics of the data used. To improve our knowledge of this phenomenon, more harmonised, comprehensive and precise data sources on income at EU level should be made available to researchers. Efforts should also be made to recover better information on the legal pay floors set by collective bargaining, typically set at industry level by trade unions and employers' associations. This information is generally lacking and not easily accessible.
- In recent years, labour market deregulation and new forms of work have made identifying non-compliance and enforcement more complex than in the past. Greater attention should be given to the use of data mining, the provision of guidance to workers and employers, and strengthened cooperation with the social partners and other institutions in enforcement activities.
- Although financial allocations for enforcement institutions have increased over the last decade in many Member States, and the number of inspectors increased in half of the countries for which data are available, resources are still only partially adequate for effective enforcement activities in many countries. More financial resources and trained staff are necessary to improve the labour inspectorates' capacity to respond to recent labour market trends and risks.
- Cooperation with social partners and other institutions in enforcement activities improves the capacity to reach out to those beyond conventional inspections and to share information on compliance. Cooperation and mutual learning among enforcement institutions and the social partners at EU level should be strengthened.
- Deterrence and preventive measures complement each other and should be adopted together for effective enforcement strategies. In some countries, greater attention should also be paid to protecting workers against adverse treatment resulting from issuing a complaint.
- Evaluation of national interventions directly and/ or indirectly addressing minimum wage compliance is key. It needs to be based on more structured and formalised data collection.

Further information

The report *Minimum wages: Non-compliance and enforcement across EU Member States – Comparative report* is available at <https://eurofound.link/ef23059>

Research manager: Carlos Vacas-Soriano

information@eurofound.europa.eu