Introduction
Minimum wages for the self-employed are being investigated as part of a pilot project on minimum wages in general that Eurofound is carrying out on behalf of the European Commission between 2021 and 2023. Minimum wages for the self-employed could almost be considered an oxymoron, as one of the main characteristics of being self-employed is negotiating fees with a client or co-contractor independently. However, as Eurofound’s research shows, multiple types of self-employment exist, with very different characteristics and powers. Some self-employed people experience vulnerabilities and are at risk of material deprivation, with low incomes and difficulties making ends meet; they have an increased likelihood of falling into poverty and lack social protection. In response to these conditions, some Member States are discussing establishing statutory forms of minimum pay for certain categories of self-employed people (for example, for certain professions or occupations, the economically dependent self-employed and the solo self-employed). In the context of the wider analysis of interest representation and collective bargaining for the self-employed, the main objective of this report is to understand how minimum wages, wage rates, tariffs, fees and/or other forms of pay can be fixed for specific jobs or professions within sectors that have a high level of freelancers/vulnerable and ‘concealed’ self-employed workers, namely by mapping national and sectoral approaches.

EU policy context
In June 2020, Margrethe Vestager, Executive Vice-President of the European Commission, with responsibility for competition policy, stated that in today’s labour market the concepts of ‘worker’ and ‘self-employed’ have become blurred, stressing that ‘competition rules are not there to stop workers forming a union’ (European Commission, 2020). This acknowledges that – while EU and national anti-trust law can hamper collective bargaining on minimum payments for the self-employed – from a competition law perspective it can make sense to extend collective agreements to some types of self-employed people who find themselves in a situation of imbalance of power in their contractual relationship. In December 2021, a draft proposal for guidelines was tabled by the European Commission, with the aim of clarifying the circumstances in which competition law does not impede collective agreements. The guidelines cover two categories of solo self-employed people: (1) people who are economically dependent or work side by side with other employees in the online and offline world and people who work through digital labour platforms; and (2) people who negotiate their working conditions with counterparties of some economic strength or who participate in collective bargaining agreements in line with the Copyright Directive and national labour law provisions. The objective of the initiative is to eliminate barriers to collective bargaining for some self-employed people in the most balanced manner possible. At the end of this initiative, more legal certainty regarding the application of the EU competition law will possibly lead to a scenario in which certain categories of self-employed people may enter into collective agreements without incurring the risk of breaching anti-trust law.

Key findings

Trade union representation for self-employed people
- Trade union representation for self-employed people is allowed in 16 of the 27 Member States. In some cases, the legal basis is provided by labour law, as in Belgium, Croatia, France, Hungary, Malta, Poland, Spain and Sweden. In other countries, it is a right (also) granted by the constitution, as is the case in Croatia, Denmark, Finland, France and Slovenia. In Austria, Germany, Greece and Ireland, trade union statutes provide the legal basis, whereas competition law provides the legal basis in the Netherlands.
This interest representation is channelled via general trade unions or their separate branches for the self-employed in nine Member States, that is, Austria, France, Germany, Ireland, Italy, Lithuania, Malta, Poland and Sweden. There are specific trade unions for the self-employed in 14 Member States: Austria, Croatia, Cyprus, Denmark, Finland, France, Hungary, Ireland, Malta, the Netherlands, Portugal, Slovenia, Spain and Sweden.

Only three Member States – Estonia, Romania and Slovakia – do not allow trade union representation for the self-employed, in all cases on the grounds of labour law. The law is silent on this issue in Bulgaria, Cyprus, Czechia, Latvia, Lithuania, Luxembourg and Portugal.

Collective bargaining for self-employed people

Only in Poland is collective bargaining for the self-employed allowed – de jure – without any restrictions, while Austria, France, Germany, Greece, Ireland, the Netherlands, Portugal, Spain and Sweden allow collective bargaining for the self-employed in exceptional cases.

Nine Member States do not allow collective bargaining for the self-employed. In some cases, the legal basis is provided by labour law, as in Bulgaria, Hungary, Romania and Slovakia. In others, it is provided by competition law, as in Czechia, Denmark, Estonia, Finland and Latvia. In the remaining eight Member States – Belgium, Croatia, Cyprus, Italy, Lithuania, Luxembourg, Malta and Slovenia – collective bargaining rights of self-employed people are not regulated.

Statutory minimum wages or other forms of pay for the self-employed

There are 13 Member States with statutory minimum wages or other forms of pay for the self-employed. In Belgium, Bulgaria, Croatia, France, Germany, Greece, Italy, Malta, Portugal, Romania and Slovenia, there are minimum wages for specific groups of self-employed people. Usually, these groups relate to a very small number of occupations, most notably the legal or medical professions. In Hungary and Poland, a general statutory minimum wage for workers also applies to the self-employed. The remaining 14 Member States are without any statutory minimum wages or other forms of pay for the self-employed.

Collectively agreed minimum wages or other forms of pay for the self-employed

There are only eight Member States with collectively agreed minimum wages and other forms of pay for the self-employed: Belgium, Denmark, Estonia, Germany, Italy, Malta, the Netherlands and Slovenia. The remaining 19 Member States are without any collectively agreed minimum wages or other forms of pay for the self-employed.

Overall assessment

While this report has identified 14 Member States with comparatively extended rights of representation and collective bargaining rights for the self-employed (Belgium, Croatia, Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Portugal, Slovenia, Spain and Sweden), only a small number of Member States tick all the boxes when it comes to trade union representation, rights to collective bargaining, statutory minimum wages and collectively agreed minimum wages or other forms of pay for the self-employed.

Note:
Research described in this report has been carried out in the context of the pilot project ‘Role of the minimum wage in establishing the Universal Labour Guarantee’. This project was proposed by the European Parliament and delegated to Eurofound by the European Commission’s Directorate-General for Employment, Social Affairs and Inclusion.

Further information
The report Regulating minimum wages and other forms of pay for the self-employed is available at https://eurofound.link/ef22064
Research manager: Christian Welz
information@eurofound.europa.eu