

To: Ursula von der Leyen President of the European Commission

Copy: Nicolas Schmit, Commissioner for Jobs and Social Rights

Stockholm, 29th January 2020

[Letter sent by email]

Dear President von der Leyen,

The Swedish Labour Market Council for EU Affairs (representing private sector workers and employers on the Swedish labour market) follows closely the developments linked to the potential EU initiative regarding minimum wage.

We would like to follow up on our letter of the 26th September 2019 in which we outlined our concerns regarding your intention to present a proposal on a fair minimum wage for every worker in our union within the 100 first days of your mandate.

During this autumn the Commission, has engaged and discussed with social partners especially in Sweden and Denmark, regarding our firm belief that a legislative initiative would be detrimental to the Swedish labour market model. We appreciate that. However, the Commission has not been able to ease our worries and on January 14, the Commission presented a first stage consultation document to the social partners on European level. We would like to share some of our views on this with you.

As we have continuously maintained, the EU lacks competence in the area of pay according to Article 153 (5) TFEU in particular. The intent of the article is not to decrease the autonomy of the social partners, but rather to protect their rights by the three basic components for a functioning autonomous self-regulative labour market system: the right of association, the right to strike and not the least the social partners' regulation of pay. The consultation document barely touches upon the limits of the treaty and does not consider these issues. It only concludes that the EU has competence in the field. We do not agree.

The Swedish Labour Market Council for EU Affairs is worried that legally binding requirements would have huge negative effects on the Swedish labour market and would be detrimental to the Commission's own objectives of ensuring fair working conditions and also counteract our common goal to maintain and promote decent living standards.

The question of collective self-regulation of the Swedish labour market model has a long and important history and was an essential component in the negotiations regarding a Swedish membership to the EU. The commitments and the strong guarantees made in the 1990s by the Commission, and especially by Commissioner Flynn, for protection of our collective self-regulation and labour market system, with wages and wage floors negotiated in nationwide collective agreements by autonomous social partners, and the protection currently provided to the social partners in article 153 (5) TFEU were decisive for the Swedish membership application. Our way of regulating the labour market, which is often referred to as successful, remains the same today.

Binding rules on EU level would entail a change in the balance of power between state/EU-level and the social partners, hence the most fundamental part of our way of regulating the labour market. If Swedish collective agreements on pay, generally with agreed wage floors, will be made subject to binding EU-legislation this would have the effect of making our system and collective agreements on pay subject to review by the European Court of Justice. This would amount to an unacceptable restriction

of the right of collective bargaining, the right of association, the autonomy of the social partners and national competence on wage formation.

The consultation document eases our concerns as little as the assurances by the Commission to safeguard our system. Instead of proposals to protect our system, the document lists criteria linked to *inter alia* wage adequacy in such a precise way that it only leads to detailed management of national wage-setting. We do not say no without a reason, but history and legal analysis has shown that "safeguards" and "firewalls" cannot be ensured within the framework of a directive.

Furthermore, the consultation document shows that the Commission believes that a European initiative on minimum wages will strengthen collective agreements. This is incorrect; mandatory rules on the level of wages and coverage will rather weaken collective bargaining systems, not least since the incentives to organise will be weakened, both among employers and workers. An EU initiative on minimum wages will not cure bad working conditions and low wages in some member states. Instead, we fear that the proposed measures will lead to negative side effects for healthy wage setting systems, such as the Swedish.

We would, once again, like to request a meeting with you in order to discuss this issue thoroughly in order to find the best solution. In the meantime, we will engage in the discussions in our respective organisations on European level, which will lead up to a reply to the first stage consultation.

Regardless of context, our opinion remains however the same. To conclude, the EU lacks competence in the area of wage setting and binding EU rules would be detrimental to the Swedish labour market system which the Commission has promised to safeguard already in 1994. That promise must be continuously upheld.

On behalf of the Swedish Labour Market Council for EU Affairs,

Yours sincerely,

Karl-Petter Thorwaldsson
President of the Swedish Trade Union Confederation



Mattias Dahl
Executive Vice-President, Confederation of
Swedish Enterprise



Martin Linder, President,
Council for Negotiation and Cooperation PTK

