

## THE GERMAN CASE STUDY

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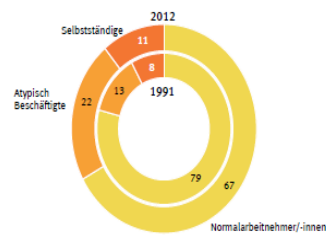
## Background

- Introduction of the general minimum wage (GMW) is considered as one of the **biggest social reforms** in the post-war period in Germany
- GMW was a long imposed socio-political demand in Germany (latest since the early 90ies)
- GMW has been established in the **coalition agreement** of the **18th legislative term** of the German Bundestag (justified by the declining collective bargaining coverage of the social partners (16.12.2013))

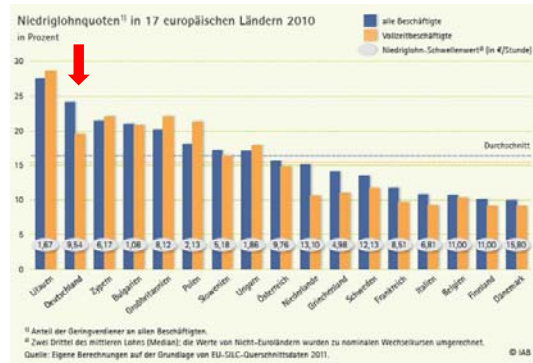
## Background

- Since 90ies tremendous increase
  - of **'precarious employment forms'** (from 13% in 1991 to 22% in 2012)
  - of **low-income sector** (2010= $\sim$ 25%)

Erwerbstätige nach Erwerbsform  
in %



Ergebnisse des Mikrozensus. - Ohne mithelfende Familienangehörige. - Aktuellere Angaben liegen zum Redaktionsschluss noch nicht vor.



## Consequence

- Increase of 'atypical employment forms' related to hope to improve employment situation of low-qualified people
  - ⇒ didn't pay-off, no springboard-effect to 'better employment'
  - ⇒ decline of wages in lower income range (wage dumping),

**Therefore, introduction of GMW was unavoidable!**

- Large numbers of employees entitled to a wage increase (2012 more than 2.5 Mio. employees less than 6€)
  - ⇒ first prognosis of Federal Government was that 3.7 Mio employees are entitled to a wage rise

## THE LEGAL CONTEXT

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### Minimum Wage Act (MiLoG)

- From 1st of January 2015 in Germany a new Act on Minimum Wages has been introduced
  - ⇒ *Mindestlohngesetz* (MiLoG) from 11.8.2014.
- **This Act...**
  - ...contains a general legal minimum wage of **8,50€** per hour
  - ...has has the **same effect** in East- & West-Germany.

## Exceptions

- Some exceptions from the Minimum Wage for **specific groups of persons** (Young workers, Trainees, Longtime unemployed workers, Paper-boy/Paper-girl).
- Exceptions for **specific branches** are allowed for the **next two years**. These exceptions should be made in a **collective labour agreement** that is declared universally binding and agreed upon by representative unions and employers' organizations.

## Posting of Workers (AEntG)

- Germany also knows **several minimum wages in specific branches** (this is common use).
- This is an effect of the German act on the '**Posting of Workers**' (*ArbeitnehmerEntsendegesetz* -AEntG)
- This act concerns the **minimum working conditions** for employees who are employed in one EU Member State but sent by their employer on a temporary basis to carry out their work in another Member State.
- Following the 'Posting of Workers Act' for special sectors the federal minister for labor is entitled to declare minimum wage for binding

## Law on Temporary Employment (AÜG)

- The Law on Temporary Employment (*Arbeitnehmerüberlassungsgesetz - AÜG*) provides the Minimum Wage for Temporary Workers.

## Collective Labour Agreement Act

- The minimum wage is also guaranteed by the **Collective Labour Agreement Act** (*Tarifvertragsgesetz – TVG*)
- This act provides the entitlement for the minister for labor to declare minimum wage for binding
- To declare collective labour agreements binding is made more easy
- From 1.1.2015: no strict representativity conditions

## New conditions for declaring binding of CLA's

- The declaring binding of the CLA appears as a rule to be necessary on behalf of the public interest, when:
  1. the CLA has obtained a predominating importance for the making of working conditions for its scope, or
  2. the protection of the working of the collective labour agreements demands a decision to declare the CLA binding, in order to prevent the effects of economically ,non-desirable developments'

## Branches (1)

- For **18 branches do** branch-specific minimum wages apply.
- Approximately **4,6 Million workers** are working in these branches.
- These minimum wages are set between **7,20 & 14,20€**, depending on specific branch or the regional CLA-scope.

## Branches (2)

- In six branches the minimum wage is still **under 8,50€**.
- In these branches
  - the **exception of the Minimum Wage Act** is used.
  - it is planned to raise the CLA-wages to the minimum of 8,50€, **step by step**.

Branche	Jan. 2015	Next step	From
Meat Industry	8,00	8,60	10/2015
		8,75	12/2016
Hairdresser(Ost incl. Berlin/West)	7,50/8,00	8,50	08/2015
Land- und Forstwirtschaft, Gartenbau Ost/West (Farming/Gardening)	7,20/7,40	7,90/8,00	01/2016
		8,60	01/2017
		9,10	11/2017
Leiharbeit Ost inkl. Berlin (Temporary Work)	7,86	8,20	04/2015
		8,50	06/2016
Textil- und Bekleidungsindustrie Ost (Textile)	7,50	8,25	01/2016
		8,75	11/2016
Wäschereidienstleistungen Ost inkl. Berlin (Cleaning industry; laundry)	8,00	8,75	07/2016

## Regional Open Tender (Länder)

- Minimum wages in 'Regional Open Tender Act'
- In 12 of 16 federal states (Bundesländern) minimum wages have already existed
- 4 federal states (Berlin, Bremen, Hamburg & Schleswig-Holstein) have extra minimum wage rules
- They form an extension of the minimum wages for public projects

## Open tender (2)

- In the regional open tender legislation the minimum wage per hour varies between 8,50 and 9,18€.
- In the mentioned 4 Bundesländern, the minimum wage is higher than the legal minimum of 8,50 €.
- The purpose of this rules is to **stimulate wages** to make a decent living, but also to **stimulate a fair competition**, that gives boundaries to the so-called 'race to the bottom' in case of open tender.

## Offence against the Minimum Wage Act

- **Penalty** between 2.500 en 50.000€
- **Enforcement** ⇒ by **civil service** called '**Zoll**' (resorting under the Finanzamt; sort of inspection)
- **Individual employee** ⇒ can also go to court and ask the judge to sentence the employer to pay the minimum wage correctly
- **Until now:** not much case law available (matter of time)



## European Commission (1)

- The European Commission decided to **launch an infringement procedure** against Germany, concerning the application of the Minimum Wage Act to the **transport sector...**

## European Commission (2)

- Whilst fully supporting the introduction of a minimum wage in Germany, the Commission considers that the application of the Minimum Wage Act to all transport operations which touch German territory restricts the freedom to provide services and the free movement of goods in a disproportionate manner.

### European Commission (3)

- In particular, the application of German measures to transit and certain international transport operations can in the Commission's view not be justified, as it creates disproportionate administrative barriers which prevent the internal market from functioning properly.

### European Commission (4)

- The Commission considers that more proportionate measures are available to safeguard the social protection of workers and to ensure fair competition, whilst allowing for free movement of services and goods.

## Next steps

- The German authorities now have **until end of July 2015** to respond to the arguments put forward by the Commission.
- The Commission's letter of formal notice only concerns the specific case of the German law and is without prejudice to further initiatives that the Commission may take to clarify the rules, for example in the context of the labour mobility package scheduled for adoption later this year.

## THE ROLE OF THE SOCIAL PARTNERS

## The role of the social partners - general

### DGB

- Welcomed coalition agreements for the introduction of general minimum wage (GMW) ⇒ **in line with a long-term demand!**
- **Improvement of living & working conditions of people** (in particular for full-time employed still depending on additional support)
- **Improves companies competitiveness** due to fair treatment of their employees
- **Critique:** fixing GMW until 2018 (plea for an earlier increase)

### BDA

- Introduction of GMW will leave **'skid marks'** on the labor market ⇒ in particular for marginal groups (low-qualified) difficult to be integrated into the labour market.
- Plea for more **'differentiation'** of a possible law to allow for deviations from the GMW (in particular existing collective agreements shouldn't be violated)
- **Concerns:** role of the minimum wage commission

## The minimum wage commission

- **Nine-member committee** in which employers and trade unions are represented (17.12. 2014)
- **AIM:**
  - **Evaluating the impact of GMW on industries & regions**
  - **Assessing need of much criticized documentation requirements**
  - **Proposing** every two years, to what extent the GMW has to be raised.

#### BESETZUNG DER MINDESTLOHN-KOMMISSION

Alle fünf Jahre schlagen die Spitzenverbände der Arbeitgeber und Arbeitnehmer ihre Vertreter vor, die die Bundesregierung dementsprechend in die Mindestlohnkommission beruft.

#### 1 VORSITZENDE(R)

Die oder der Vorsitzende wird auf Basis eines gemeinsamen Vorschlags der Spitzenorganisationen der Arbeitgeber und Arbeitnehmer berufen. Die Berufung erfolgt durch die Bundesregierung. Wird kein gemeinsamer Vorschlag unterbreitet, beruft die Bundesregierung je eine Person auf Vorschlag der beiden Parteien. In diesem Fall wechselt der Vorsitz nach jedem Beschluss (nach je zwei Jahren). Über den erstmaligen Vorsitzenden entscheidet das Los.

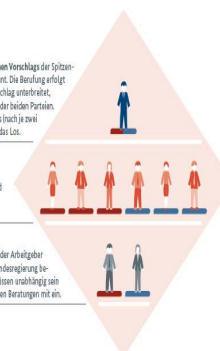
#### 6 STIMMBERECHTIGTE MITGLIEDER

Je drei der stimmberechtigten Mitglieder werden auf Vorschlag der Spitzenorganisationen der Arbeitgeber und Arbeitnehmer von der Bundesregierung berufen.

#### 2 BERATENDE MITGLIEDER

Zusätzlich wird auf Vorschlag der Spitzenorganisationen der Arbeitgeber und Arbeitnehmer je ein beratendes Mitglied von der Bundesregierung berufen. Sie kommen aus den Kreisen der Wissenschaft, müssen unabhängig sein und bringen ihren wissenschaftlichen Sachverstand bei den Beratungen mit ein.

■ Vorschlag durch Spitzenverbände der Arbeitgeber  
 ■ Vorschlag durch Spitzenverbände der Arbeitnehmer  
 ■ gemeinsamer Vorschlag durch die Spitzenverbände



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## Opinion of the social partners

### DGB

- Positive development;
- So far no tremendous job cuts are observable;
- Debate about **increase of GMW**
- **Strict controls** of employers circumvention strategies
- Demand for a **public complaint management** including full effective right of collective action (DGB youth)

### BDA

- Harms **collective bargaining & inhibits entry into work**;
- Creates **new bureaucratic burdens** for employers (documentation of working time)
- **Linkage of GMW Act and Working Hours Act** is not covered (specifications in Working Hours Act are unrelated to requirements of Minimum Wage Act)
- Essential to modify **employer liability**

## Evaluation & critiques on the GMW

### Introduction of GMW raises question concerning

- **How many people** (employees but also employers) does it affect?
  - Different sources report different statistics: GMW concerns 8,7% (West) & 18,1% (East) of employees
- What are **social & economic long-term consequences**?
  - ⇒ **Wage increase** of around 20% for full-time employees (1,3% (West) and 4,8% (East))
  - ⇒ **How do employers/companies react?**
    - Increase in prices
    - **Massive job cuts** (in low-paid segments) ⇒ increase of social risks
    - Employment of excluded groups (underaged, unemployed, outsourcing)
    - Increase of **illegal work**

## Situation after 100 days of GMW

### Overall:

- Marginal employment decreased by **256.000** (Dec. 2014-Jan. 2015 ⇒ not only a seasonal effect)
- **But:** Already mid 2014, 7% of all businesses have adapted their wages to the GMW standards (impact less strong)
- **Company reactions:**
  - Recent study (Drescher & Buer 2015) shows that personnel costs in hotel & catering industry have increased 9%/13% (82% are due to GMW) ⇒ **will lead to an increase in prices.**
  - **Job cuts** in taxi sector ⇒ shift towards **self-employment**
  - **New regulation of working time** of professionals

## Challenges

- To evaluate effect of MW need of detailed **high quality data.**
- To focus on **number of employed persons & number of hours worked (!)** ⇒ focus only on unemployment rate ignores marginalized groups, who are more affected; not covered by unemployment stats
- **'Counterfactual' analysis** (how to apply on basis of an area-wide minimum wage with no regional differentiation ⇒ but share of affected employees differs between regions, sectors etc.)

## Conclusion and further steps

- Finishing the description of the legal developments & the role & positioning of the social partners (end of summer)
- Contacting & interviewing social partners (September / October)
  - DGB (branches) / BDA / MW commission members
  - Scientific community (overall evaluation)
- Nov. –Dec.: wrapping up!

## THANK YOU

- Questions?
- Comments?
- Suggestions?

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