

Project's general interest abstract

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"The right to a minimum wage for work as a fundamental right of an employee"

1. Purpose of the project

The right to fair remuneration for work is an emanation of human dignity and the human rights based on it. The need to provide a decent wage rooted in the idea of de-commoditization of work present in Catholic social teaching is governed by the international and European law. In most countries of the world this right is exercised through the institution of the minimum wage. Such a situation exists in Poland, where art. 65 sec. 4 of the Constitution guarantees the right to a minimum wage, while art. 13 of the Labour Code ensures that remuneration for work should be fair. The right to a fair wage is ensured by setting the minimum wage in the Act of October 10, 2002 on minimum wage.

The statutory mechanism for determining the minimum wage with reference to economic criteria, excluding social criteria, does not satisfy Poland's supra-national obligations to ensure fair wages resulting from sustainable socio-economic development and leads to a disagreement between the goals of the minimum wage policy justified by the dignity rhetoric (art. 13 of the Labour Code) and the procedure of setting the minimum wage. As a result, this procedure is ineffective in achieving the goals of the minimum wage policy, i.e. combating poverty. In addition, the Minimum Wage Act provides for the criteria for the adjustment of the minimum wage, not for fixing it. Consequently, in the context of meeting by the statutory regulation of the criteria set out in the supra-national law and art. 13 of the Labor Code, doubts arise not only in relation to the criteria of adjustment of the minimum wage amount, but also the criteria of fixing the base amount. What is also becoming more and more evident is the marginalized role of the social partners participating in the process of setting the minimum wage, previously within the Tripartite Commission on Socio-Economic Affairs, and now within the Council for Social Dialogue. The minutes of the Commission / Council meetings indicate the total ineffectiveness of the social consultations conducted.

The purpose of the project is to demonstrate that the employee's right to a minimum wage is rooted in the dignity rhetoric. As such, the minimum wage should be determined taking into account the needs of the worker and his family, the cost of living and social security benefits and economic factors, becoming an element of the sustainable development policy. Comparative legal research will lead to identification of the good practice in the application and interpretation of the minimum wage determination criteria indicated in supra-national law so as to meet the needs of the worker and his family; the criteria for setting the minimum wages in selected European countries; the national practices in balancing the social and economic determinants of minimum wages, and mechanisms for social consultations in the area of minimum wage determination. The project will also examine the issue of differentiation of the minimum wage, its axiological justification, and the effect of the minimum wage on poverty, unemployment and the level of wage inequality in Poland.

2. Research method to be applied

The project will use the empirical legal method

3. Scientific significance of the project

So far in the foreign and domestic literature little attention has been paid to the criteria for setting minimum wages, focusing on the impact of the minimum wage on employment and on poverty. The main focus was therefore on the effects of the minimum wage rather than on the problem which minimum wage is supposed to solve, i.e. ensure decent working conditions. A gap in this area is particularly evident in Poland, where there is no publication comprehensively addressing this issue with reference to its social and economic context. The proposed project contains an innovative approach to the topic. It requires an analysis of the axiological, sociological and economic determinants of minimum wage fixing in the Polish law and creation of a juridical model corresponding to Poland's supra-national obligations while preserving their relativism. In addition, the subject matter is extremely topical, taking into account the amendment of the Minimum Wage Act of 22 June 2015, which introduces a minimum hourly rate for some contractors.