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The Court of Justice of the European Union has delivered a landmark verdict on the EU Minimum Wage Directive that I would characterise as "Social Europe 2, Liberal Europe 1". This ruling represents another example of an unintended yet politically motivated "spillover" of policymaking powers to the EU level—one that ironically stems from employers' own strategic miscalculations during the financial crisis.

The Court has upheld the directive's most significant provisions, preserving the architecture of what could become a transformative instrument for European workers (CJEU 2025). These include the directive's reference values for adequate national statutory minimum wages—set at 60 per cent of the national median wage and 50 per cent of the national average wage. The Court also validated the directive's obligation on member states to promote collective bargaining, including its ambitious target of achieving 80 per cent collective bargaining coverage. Perhaps most significantly, it preserved crucial articles on trade union rights, particularly those requiring employers to grant unions access to their employees.

The political irony at the heart of this verdict cannot be overstated. The EU Court would hardly have endorsed this decommodifying directive on adequate minimum wages had national and European employer associations not successfully lobbied the European Union after the 2008 financial crisis to impose commodifying wage cuts and collective bargaining reforms. These interventions came through the country-specific policy prescriptions embedded in the EU's new economic governance regime.

By pushing EU executives to intervene directly in national wage-setting mechanisms during the crisis years, employer associations inadvertently transformed wage policymaking and collective bargaining into legitimate areas of EU competence. As we documented in "Politicising Commodification: European Governance and Labour Politics from the Financial Crisis to the Covid Emergency" this strategic choice by

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employers created an unexpected precedent that would later enable progressive EU legislation (Erne et al, 2024: p. 27).

The Court of Justice could no longer credibly argue that the EU lacks powers in decommodifying wage policy and collective bargaining after having previously endorsed the EU's commodifying country-specific interventions. These earlier rulings had validated the EU's new economic governance interventions imposed after 2008 in the social field, including wage cuts and collective bargaining decentralisation (Erne et. al. 2022, FN 5; Erne 2025a; FN 5; Kilpatrick 2017; Kilpatrick and Steiert 2025). The workers of Europe would simply not have understood why the EU possessed the power to cut wages and decentralise collective bargaining during the crisis, yet lacked the authority to establish a framework for adequate minimum wages and higher collective bargaining coverage rates (Erne 2025b).

To address concerns from the Danish government about potential EU overreach in pay policy, the Court made selective deletions to provisions it deemed overly prescriptive. Most notably, it removed the final sentence of Article 5.3, thereby allowing member states with automatic wage-indexing rules to lower statutory minimum wage levels. This concession certainly serves the interests of Danish and Swedish employer associations, who pressed their governments hard to mount this legal challenge against the directive.

What remains more puzzling is the support of many Danish and Swedish progressives for a legal challenge that is facilitating of lower minimum wages elsewhere in the EU, as if this would strengthen the Nordic social model. This view appears to reflect a misunderstanding of how wage competition operates within the single market and how higher wage floors across Europe could actually protect Nordic standards rather than undermine them.

This verdict demonstrates how the expansion of EU competences often occurs through unintended consequences of political manoeuvring. Employer associations, in their eagerness to use EU institutions to impose wage restraint during the crisis, inadvertently opened the door for EU-level social legislation that they now find themselves unable to close. The Court's ruling confirms that once policy areas become Europeanised—even for commodifying purposes—they remain available for decommodifying intervention when political winds shift.

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The decision represents a significant victory for advocates of Social Europe, even with the minor concessions made to appease Nordic concerns. It establishes that the EU can set meaningful standards for wage adequacy and collective bargaining coverage, creating a foundation for upward convergence in labour standards across the Union. The employers' tactical victory during the financial crisis has thus become their strategic defeat in the longer struggle over European social policy.

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