



# How to regulate minimum wage in light of contemporary social change: A case study of Slovenia

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## ABSTRACT

Minimum wage stands as a fundamental right for workers and one of the oldest and most universal labour law standards in the world. Understanding the impact of labour market changes, demographic trends, and migration on minimum wage regulation could offer valuable insights into the future development of labour law institutes. This study focuses on how these trends affect the basic legal concept of the minimum wage and how they are affected by the legal regulation of the minimum wage. It draws upon a case study of minimum wage regulation in the Republic of Slovenia, with particular focus on social dialogue. In Slovenia, the minimum wage is legally determined, granting all employed individuals the right to receive it without differentiation based on domestic or foreign employment and irrespective of age. The right to a minimum wage has also been extended to cover certain non-standard forms of employment. An analysis of the minimum wage framework in Slovenia has shown that, even in the changed landscape of the labour market, traditional labour law institutions remain an important civilisational achievement and value.

## KEYWORDS

labour market, minimum wage, non-standard forms of employment, demography, migration

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## 1 INTRODUCTION AND BACKGROUND OF THE STUDY

There is a long history of legally determining the minimum acceptable remuneration for work. The minimum wage is a fundamental right of workers and one of the most important international labour law standards (Guzi 2021; International Labour Organization [ILO] 2017; Bomba 2022). Nevertheless, the minimum wage is still one of the more topical and controversial issues, persistently occupying the thoughts of politicians, experts, and the general public (Dube 2019; Luebker and Schulten 2022; Eurofound 2022; Niedzwiadek 2023). Social partners play a special role in these processes (Guardiancich and Molina 2017; ILO 2022; European Commission 2023).

As a labour law institute, the minimum wage is directly impacted by changes in the labour market, with the rise in non-standard and new forms of employment, demographic trends (particularly population ageing), and migration being the most notable. These are phenomena with numerous micro and macro effects on both individuals and companies (OECD 2019; Fialho and Høj 2020; Agyei 2020) and, as such, warrant broader attention from the scientific community. This attention should extend to traditional labour law institutes, such as the minimum wage.

Understanding the impact of labour market changes, demographic trends, and migration on minimum wage regulation could provide insights into the future development of labour law institutes in a dynamic labour market. This study delves into how these trends affect the core legal concept of the minimum wage and how they are affected by the legal regulation of the minimum wage. Our research builds upon a case study of the

legal framework in Slovenia and its recent modifications, with particular emphasis on the issue of social dialogue.

This paper will be structured around three key research questions:

- i) How do the rise in non-standard and the emergence of new forms of employment affect minimum wage regulation?
- ii) What are the implications of demographic trends (population ageing) for minimum wage regulation? and
- iii) What is the composition of the migrant workforce, and how have adjustments to minimum wage regulation occurred in the context of labour migration? Answering these research questions will help to determine whether traditional labour standards, such as the minimum wage, are still up to the challenges of modern labour markets. The paper will first present a comprehensive theoretical framework and methodology, followed by the results of Slovenia's case study, a discussion, and a synthesis of the findings in the conclusion.

### 1.1 ORIGINS, DEVELOPMENT, AND PURPOSE OF THE MINIMUM WAGE

The International Labour Organisation (ILO) defines the minimum wage as the lowest remuneration an employer must pay wage earners for their work over a specific period, which cannot be reduced through collective agreements or individual contracts (ILO 2017). The fundamental purpose of minimum wage policies is to ensure that workers have the right to a minimum income that allows for a decent living for themselves and their families (Luebker and Schulten

2022). Establishing the minimum wage can be the result of either collective bargaining or a government decision. It can be set as a uniform figure or can vary across different industries and occupations (ILO 2005). Despite the emphasis on the importance of collective bargaining, in most countries, a uniform and universally applicable minimum wage is established by governmental legislation in collaboration with social partners (Eyraud and Saget 2005; ILO 2017).

The earliest instances of minimum wage regulation date back to the end of the 19th century, with New Zealand and Australia pioneering such measures in 1884 as part of an effort to prevent and settle disputes and strikes (Starr 1993; Dube 2019). Other developed countries quickly followed suit, with Great Britain in 1909, France in 1915, Norway and Austria in 1918, among others. In the territory of the Republic of Slovenia, which was then part of the Kingdom of Yugoslavia, the first minimum wage was set in 1937 through the Minimum Wage Decree (Kresal 2015). Initially, minimum wage legislation covered a very limited number of workers or specific sectors. National minimum wage regulation was followed by international minimum wage regulation. From a European perspective, the most important are the activities of the ILO, the Council of Europe, and the European Union (EU). The ILO has included the importance of fair wages in its foundational documents since its establishment in 1919 (Marinakakis 2009). The Minimum Wage-Fixing Machinery Convention, No. 26, (International Labour Organization 1928) which covered production and trade, was adopted in 1928 and remains one of the most important and influential conventions (Kresal 2015), having been ratified by 105 member states to date.

In 1951, the ILO adopted the Minimum Wage Fixing Machinery (Agriculture) Convention, No. 99, (ILO 1951) followed by the more detailed ILO Convention concerning Minimum Wage Fixing, No. 131, in 1970 (ILO 1970), with special reference to developing countries, which remains the core international legal instrument in this field today.

In 1961, the Council of Europe adopted the European Social Charter (Council of Europe 1961), which, in Article 4(1), explicitly sets out the right of workers to fair remuneration for their work, enabling them and their families to maintain a decent standard of living. The same provision is retained in the 1996 Revised European Social Charter (Council of Europe 1996). Fair remuneration for workers was also explicitly mentioned in the 1989 Community Charter of the Fundamental Social Rights of Workers (European Communities 1989). However, the fundamental Treaty establishing the European Community and the subsequent Treaty on the European Union did not address the issue of minimum wages. European initiatives to regulate minimum wages gained momentum with the adoption of the European Pillar of Social Rights in 2017 (European Parliament, European Council and European Commission 2017), which explicitly highlighted fair remuneration for work that enables workers and their families to maintain a decent standard of living (Luebker and Schulten 2022). Following years of deliberation with the European Parliament and social partner representatives at the European level, the Directive on Adequate Minimum Wages in the European Union (European Union 2022) was adopted at the end of 2022. This directive serves as a “procedural directive” that establishes a framework for setting adequate minimum wages, making access

to and protection of minimum wages more effective for workers, and promoting collective bargaining in this field.

## **1.2 CHANGES IN THE LABOUR MARKET**

The labour market has experienced intense changes in recent years, driven by factors such as globalisation, technological developments, demographic shifts, and changing values and preferences among key stakeholders (Aloisi and De Stefano 2020). The rise in non-standard and the emergence of new forms of work are some of the responses to this changing economic environment (Laporšek, Franca and Arzenšek 2018; Lenaerts, Kilhoffer and Akgüç 2018). Non-standard work arrangements differ in their characteristics from standard full-time permanent employment contracts, while new forms of work exhibit changing patterns in working conditions, contractual relationships, work locations, durations, schedules, and increased use of information and communication technologies (ICT) (Eurofound 2020). In many cases, however, these characteristics also extend to existing standard and non-standard forms of work.

Non-standard forms of work typically encompass fixed-term or part-time employment, agency work, work arrangements involving more than two parties, disguised employment relationships, and dependent self-employment (ILO 2016). New forms of work typically include job sharing, employee sharing, voucher-based work, interim management, casual work or on-demand work, mobile work, platform work, and portfolio work (Eurofound 2022; Florin and Pichault 2020). While non-standard forms of work still presuppose a certain bilateral relationship between the worker and

the employer, albeit covert, the new forms of work are more akin to business cooperation among independent entities and are largely carried out with the aid of modern information and communication technologies. The right to a minimum wage and its protection can still be guaranteed to a certain extent in non-standard forms of work. However, implementing these protections becomes considerably more challenging within new forms of work. Non-standard and new forms of work can present novel opportunities for workers and employers, but they also bring with them a number of challenges (Aloisi and De Stefano 2020; OECD 2019; Standing 2018).

Population ageing is becoming increasingly pronounced in Europe and will have a major impact on employment, working conditions, living standards, and the sustainability of welfare states (Bonoli and Natali 2012; EU-OSHA et al. 2017). The median age of the EU population is increasing by 0.3 years each year, having already reached 44.4 years in 2022. The old-age dependency ratio has risen by 22% over the last decade (Eurostat 2023b). Similar trends are evident in Slovenia. However, the ageing population will impact the labour market not only in terms of ensuring adequate and, more importantly, sufficient numbers of workers, but also in terms of reallocating workers and other resources across various sectors and occupations. It will affect not only the labour market and social security systems but also, for example, savings and investment behaviour, interest rates, and even inflation (OECD 2017; Radulović and Kostić 2021). In terms of remuneration for work, a smaller size of the working-age population, combined with undiminished demand for labour, will put upward pressure on wages (Kaufman 2010). This, however, will not

directly affect the level of the minimum wage itself, as it is usually not directly or exclusively linked to overall wage growth, but typically (Eurofound 2022; ILO 2017) follows a broader set of economic (GDP, employment, productivity, inflation) and social indicators (risk of poverty, minimum cost of living, disposable income).

Rapid geopolitical, technological, and environmental changes in recent years have also had a major impact on labour migration. In 2019, there were 169 million labour migrants in the world (ILO 2021). Their number has increased by 12.7% since 2013. Migrant workers are defined by the ILO (2021) as individuals who are capable or working, whether actively employed or not, residing in a given country, and born outside that country or of foreign nationality. On average, migrant workers make up 4.9% of the workforce in the country where work is performed. In the most developed countries, which employ just under two-thirds of all migrant workers, the percentage is much higher. Of these workers, two-thirds are employed in the service sector, a quarter in manufacturing, and less than a tenth in agriculture. The importance of labour migration in modern societies and labour markets is on a notable upswing, yet not all aspects of the integration and socialisation of these individuals are keeping pace, despite the evident benefits for specific companies, sectors, or even entire countries (McGahan 2020). Attracting suitably skilled labour is becoming a pivotal concern for most developed countries (Beerli, Indergand and Kunz 2022). Labour migration can also have an indirect positive or negative impact on the level of remuneration or the minimum wage in the host country, contingent on the volume and composition of the migrant workforce and the structure of the host country's economy (Agyei 2020).

### 1.3 SOCIAL DIALOGUE

The ILO (2022) defines social dialogue as all forms of negotiation, consultation, or straightforward information sharing among representatives of governments, employers, and workers on issues of common interest. It can take the form of tripartite social dialogue, in which government representatives participate alongside workers' and employers' representatives, or bipartite social dialogue, which exclusively involves workers' and employers' representatives. Both methods are used to set the minimum wage. Social dialogue can be informal or formal (institutionalised) and occur at various levels. One of the most important forms of social dialogue is collective bargaining between workers' and employers' representatives (ILO 2018). According to the ILO (2022), the following are key prerequisites for successful social dialogue:

- (i) strong and independent organisations of workers' and employers' representatives with adequate technical and substantive capabilities;
- (ii) political endorsement and a commitment to adhering to social dialogue;
- (iii) respect for the fundamental rights of freedom of association and collective bargaining;
- (iv) suitable institutional support.

Social dialogue in the 21st century confronts both longstanding and emerging challenges. From a procedural perspective, it suffers from declining support and membership of trade unions and employers' associations, an undefined role of the state, an inadequate transition from the national to the supra-national or even transnational sphere, and the deregulation of the labour

market and related structures (Aghion, Algan and Cahuc 2011; Guardiancich and Molina 2017). Substantively, issues of inequality, poverty, new forms of employment, decent work, and addressing the needs of vulnerable groups have not yet been resolved or are even being exacerbated (ILO 2018; Doherty and Franca 2020). In the area of minimum wages, social dialogue faces similar challenges in many countries (Eurofound 2022; ILO 2017). Traditionally, social partners and social dialogue have played an important role in determining remuneration for work. Nevertheless, partly due to the reasons described above, in most cases, the government now plays a key role in setting the minimum wage (Aghion, Algan and Cahuc 2011; Eurofound 2022). Even when the minimum wage is legislatively determined, the state usually at least consults with the social partners if they are not already directly involved in the process (ILO 2017).

## **2 METHODOLOGY AND RESEARCH QUESTIONS**

A review of the existing literature and an analysis of the broader theoretical context of this study have confirmed the importance of the interplay between key labour market trends and their appropriate regulation. Based on this, it is possible to examine the regulation of various labour law institutes in the context of prevailing trends in the labour market. Using the minimum wage as a litmus test of effects seems reasonable and appropriate, as it is one of the oldest and most universal labour law standards in the world (Marinakakis 2009; Zobavnik and Zeilhofer 2016). Through an inductive approach, abstraction, and synthesis, it will be possible, taking into account methodological limitations, to

generalise the results related to the minimum wage and extend their applicability to other labour law institutes, thus contributing to the universality of scientific advances (Creswell 2009).

Qualitative research on the interplay between minimum wage regulation and the rise in non-standard and new forms of work, demographic trends (population ageing), and migration will adopt a non-linear approach with a sufficiently flexible research structure that will allow insight into the research material from various perspectives and not limit itself to one aspect (Neuman 2014). This approach is essential for ensuring greater validity and reliability of the results (Webley 2010). The research structure follows the standard sequence of qualitative research steps. The analysis of the literature and the broader context of labour market developments has established a relationship between various variables and key assumptions about their interaction. These assumptions are further explored in a case study of minimum wage regulation in Slovenia. The choice of a case study enables a multifaceted examination of the highlighted variables within their natural context (Neuman 2014).

The aim of the survey was to answer the following research questions:

- (i) How do non-standard and new forms of work affect minimum wage regulation?
- (ii) What are the implications of demographic trends (population ageing) for minimum wage regulation?
- (iii) What is the composition of labour migration and how has it affected adjustments in minimum wage regulation?

A case study of the interplay between minimum wage regulation in Slovenia and

contemporary labour market trends will help answer the research questions and shed light on the relationships between specific variables. These findings, in conjunction with broader theoretical knowledge, will help to draw conclusions about the interconnectedness and impact of contemporary labour market trends on traditional labour law institutes. Taking into account methodological limitations (Harrison et al. 2017), additional research will make it possible to generalise these findings to other areas of labour law and labour market regulation.

### **3 THE INTERACTION BETWEEN MINIMUM WAGE REGULATION AND LABOUR MARKET CHANGES IN THE REPUBLIC OF SLOVENIA**

In this section, we will delve into the intricate dynamics between the effects of minimum wage regulation and the rise in non-standard and emergence of new forms of work, demographic shifts (population ageing), and labour migration in Slovenia. We will commence with an overview of the legal regulation of the minimum wage in Slovenia. Subsequently, we will elucidate its role and interaction in relation to the rise in non-standard and emergence of new forms of work, demographic shifts (population ageing), and migration.

#### **3.1 MINIMUM WAGE**

The minimum wage in the Republic of Slovenia is established and regulated by the Minimum Wage Act – ZMinP (*Zakon o minimalni plači*) (Republic of Slovenia 2010a). This act mandates a national minimum wage that all employers must comply with when compensating their workers. Wages are determined through the process of collective bargaining.

Remuneration for work performed in Slovenia is regulated by the Employment Relationships Act – ZDR-1 (*Zakon o delovnih razmerjih*) (Republic of Slovenia 2013a), which stipulates that employers must pay at least the minimum wage specified by law or by a collective agreement that binds the employer. Collective agreements, negotiated at various levels and freely bargained between workers' and employers' representatives (Republic of Slovenia 2006), form the basis for wage regulation across various levels of job complexity. They also autonomously decide on the amounts of initial or baseline salaries for various levels of job complexity (Kresal 2001). The ZMinP was adopted towards the end of 2009 and entered into force in 2010. The act was adopted with the support of trade unions but faced strong opposition from employers. The act underwent amendments in 2015 and 2018, gradually excluding allowances, job performance bonuses, and business performance bonuses from the minimum wage amount. It also established a connection to the minimum cost of living (Smole 2021; Klarič 2019).

The ZMinP stipulates that every full-time worker employed in Slovenia is entitled to the minimum wage, while part-time workers are entitled to a proportionate share of the minimum wage. Various allowances provided for by laws, regulations, and collective agreements, as well as the portion of wages allocated for job performance and business performance specified in a collective agreement or employment contract, do not count towards the minimum wage. The minimum wage is determined based on a calculation of the minimum cost of living, in accordance with social legislation (Republic of Slovenia 2010b), which provides for such a calculation to

be carried out at least every six years using a comparable methodology. The minimum wage must be set at a level of least 120% of the calculated minimum cost of living. However, it can also be established at a higher rate, taking into account factors such as rising consumer prices, wage trends, economic conditions, growth, and employment trends, provided that it does not exceed 140% of the calculated minimum cost of living. The minimum wage is set by the minister responsible for labour, in consultation with social partners, within three months of any change in the minimum cost of living. The minimum wage is adjusted annually, at the very least in line with the growth in consumer prices, and may also take into account the other criteria mentioned above. The adjustment of the minimum wage is determined by the minister responsible for labour after consultation with social partners, by 31 January of the current year, and it applies to work done from 1 January onwards. The Labour Inspectorate of the Republic of Slovenia (IRSD) is tasked with overseeing the implementation of the ZMinP.

In 2023, the minimum wage in Slovenia stands at €1,203, putting the country in line with the most developed EU Member States and ranking it seventh among EU Member States with a legally defined minimum wage. The highest minimum wage is found in Luxembourg (€2,387) and the lowest in Bulgaria (€399). In neighbouring Croatia, it is set at €700 and in Hungary at €579. In Germany, the last country to introduce a legal minimum wage, it is set at €1,987. Over the last five years, the minimum wage has grown by 36% in Slovenia, 14% in Luxembourg, 39% in Bulgaria, 38% in Croatia, 25% in Hungary, and 27% in Germany (Eurostat 2023c).

With the adoption of the ZMinP in 2010 and its subsequent amendments, Slovenia has, to a large extent, established a modern and relatively simple legal framework for determining and validating minimum wage. This framework aligns with the principles outlined in the European Social Charter and the ILO's Minimum Wage Fixing Convention, No. 131 (ILO 1970), a convention to which Slovenia is a signatory. Some key issues from the past related to the definition of the minimum wage, its setting, and indexation have been effectively addressed (Leskošek et al. 2008; Poje 2009). The linkage of the minimum wage to the minimum cost of living establishes a logical connection between the income of active (employed) and passive (unemployed) individuals. Furthermore, by fixing the minimum wage at a level of at least 20% above the minimum cost of living, it partially embodies the concept of a decent living wage (Bennett 2012; Guzi 2021).

However, one lingering shortcoming remains within the regulations, a concern that the expert community began highlighting towards the end of the last century (Kresal 2001; Poje 2009). The absence of a direct correlation between the minimum wage and the basic wages of the pay grades established by collective agreements results in basic wages falling below the minimum wage. In 2023, the basic wages of the pay grades in all collective agreements of extended validity in Slovenia were, in the vast majority of cases, below the minimum wage. Furthermore, most allowances (bonuses), whether mandated by law or negotiated in collective agreements, are also calculated based on the basic wage, further reducing workers' incomes (Laporšek, Vodopivec and Vodopivec 2017; Malačič 2019).



### 3.2 THE RISE OF NON-STANDARD AND THE EMERGENCE OF NEW FORMS OF WORK

As the new millennium began, Slovenia, much like other developed nations, witnessed a rise in the adoption of more flexible and new forms of employment. However, it is important to note that the choice of the legal form of work in Slovenia is not left to the discretion of the involved parties but is instead determined and defined by law, with the elements of an employment relationship playing a key role in this context (Murgia et al. 2020; Poglajen et al. 2021). When determining the existence of an employment relationship, it is therefore the actual circumstances that reveal how the contractual arrangement is carried out in practice that are relevant, not the parties' description of the relationship or their status.

The rise in non-standard and the emergence of new forms of work in Slovenia, in the first phase, akin to other countries, primarily impacted certain marginalised groups in the labour market, such as young people and migrants. However, over time, some of these trends began to affect the general population as a whole (Leskošek et al. 2008). Non-standard forms of work in Slovenia are largely represented by fixed-term employment contracts, part-time work, temporary and casual work opportunities for students, and agency work (Kresal Šoltes, Strban and Domadenik 2020). New forms of work (Eurofound 2020) gained momentum in Slovenia after 2012, mirroring global trends, often taking the legal form of non-standard work arrangements, manifesting as self-employed individuals, one-person limited liability companies, temporary and casual work for students, and other civil relationships (Laporšek,

Franca and Arzenšek 2018; Kresal Šoltes, Strban and Domadenik 2020).

However, it is noteworthy that some of this work is carried out in the informal economy and cannot be captured analytically (Dieuaide and Azaïs 2020). It is important to highlight the unclear legal status of such workers and their relationship with the employer or with the client commissioning the work. It is a fundamental question of labour law whether or when and under what terms an employment relationship is established, whether the person performing the work is an employee, and identifying the employer in this context (Aloisi and De Stefano 2020; Harmon and Silberman 2019). The use of contemporary information and communication technologies in this type of work further blurs the lines in fundamental employer-employee (worker) or client-contractor relationships. In the case of new forms of work, it is therefore also necessary to examine the specific work circumstances and the relationship between the worker and the employer and, on this basis, to assess the elements of the employment relationship (Murgia et al. 2020). The ZDR-1 mandates the use of an employment contract if the elements of an employment relationship exist in Slovenia, making it unlawful to perform work based on civil law contracts.

The adoption of the ZMinP coincided with the intensive growth of non-standard forms of work and the emergence of new forms of work. However, the ZMinP established a minimum wage exclusively for traditional employment relationships. The act does not regulate the minimum wage in non-standard or new forms of work, nor did the 2015 and 2018 amendments address this issue. Nevertheless, the new minimum wage

legislation did encourage the regulation of minimum allowed remuneration for work in the context of non-standard forms of work. For instance, in 2012 (Republic of Slovenia 2014), a legal minimum hourly wage was introduced for temporary and casual work for students. This wage cannot be lower than the ZMinP minimum wage calculated per hour of the average full-time monthly work. A similar regulation was adopted in 2013 (Republic of Slovenia 2013b) for temporary and casual work carried out by pensioners.

The importance of ensuring adequate remuneration for work in the context of other forms of work was also recognised by the ZDR-1, which was adopted in 2013. In the case of economically dependent self-employed persons, the ZDR-1 provided, as part of the limited labour law protection, a guaranteed remuneration for the contractually agreed work as comparable for the type, volume, and quality of the work undertaken, taking into account the collective agreements and the general acts binding the client, as well as the obligations to pay taxes and contributions. Collective agreements in Slovenia apply only to employed individuals and do not extend to other legal forms of work. In this context, the initiative by the Mladi Plus (Youth Plus) Trade Union in 2023 to enter into a collective agreement for the food delivery service carried out by contract workers for various online platforms is also worth highlighting (Mladi Plus Trade Union 2023).

### **3.3 DEMOGRAPHIC TRENDS (POPULATION AGEING)**

According to the European Commission's EUROPOP2023 baseline scenario demographic projections, the birth rate

in Slovenia will increase slightly by 2100 and will be higher than the EU average in all years. The mortality rate in the first year after birth, which is already one of the lowest, is expected to decrease further in the coming years and remain well below the EU average. Life expectancy is projected to increase and will be slightly higher than the EU average. Net migration is expected to gradually decrease. Despite a slight increase in fertility, the trends of declining mortality and increasing life expectancy, coupled with a modest decline in net migration, will contribute to the significant ageing of the Slovenian population. The old-age dependency ratio is projected to rise from today's 33.8% to 53.7% in 2050 and to 58.5% in 2100 (Eurostat 2023a).

The intensive ageing of the population will lead to a decline in the working-age population and an increase in the number of older people in Slovenia. According to the findings of the Institute of Macroeconomic Analysis and Development – IMAD (Kajzer and Fajčič 2016), the consequences of such demographic trends will be visible primarily in the labour market, education, public expenditure, housing, spatial planning, and regional development. The decline in the number of people of working age will become a limiting factor for economic growth over the next 10 years (Fialho and Høj 2020). Even with the assumption of increased participation in the workforce by both younger and older individuals, the number of available workers will not be sufficient to meet the demands of the job market (Perko and Rogan 2023). An ageing population will lead to a simultaneous decline in public revenues and an increase in public expenditure, especially in social protection expenditure (Kajzer and Fajčič

2016). As Mramor and Sambt (2020) point out, the rapid ageing of the population represents the most important current challenge for Slovenian society.

The ZMinP does not provide for different minimum wage levels according to the age of workers, despite the existence of such practice in some EU Member States (Eurofound 2022). Age-based discrimination in remuneration for work is also unacceptable under the ZDR-1. At this point, however, it is important to highlight the institute of seniority (length of service) bonuses, which is a right of workers under the ZDR-1, with further regulation left to sectoral-level collective agreements. It should be noted that in Slovenia, the ZDR-1 defines the seniority bonus as a right that applies to the entire length of service of an individual, but at the level of sectoral collective agreements, this bonus may be limited to the length of service accumulated with the most recent employer. Although allowances and bonuses are excluded from the minimum wage calculation, the length-of-service bonus, as a universal right of workers, significantly impacts workers' final remuneration. The OECD has issued warnings that the current length-of-service bonus framework may hinder older workers' mobility and their motivation to learn, while at the same time compelling employers to pay wages higher than the actual productivity of older workers in comparison to younger workers. This situation can also contribute to a high ratio of the minimum wage to the median or average wage (Fialho and Høj 2020), although the high ratio of the minimum wage to the median wage or average wage in Slovenia is more a result of the compressed wage structure and the relatively low value added in the economy (Rogan 2020)

rather than the minimum wage being excessively high. Furthermore, the minimum wage in Slovenia has remained lower than the current at-risk-of-poverty threshold (Statistical Office of the Republic of Slovenia 2023b, 2023c; Ministry of Labour Family, Social Affairs and Equal Opportunities 2023) in all the years since the ZMinP came into force.

### 3.4 LABOUR MIGRATION

Slovenia has never had a comprehensive, formally adopted population policy, with only time-limited, partial measures introduced in specific areas (Malačič 2015). The same applies to migration in general and labour migration. Demographic changes in Slovenia are already reducing the available workforce and directly affecting economic development (Fialho and Høj 2020). Without intensive net migration, the employment rate is projected to turn negative in the coming years (Kajzer and Fajič 2016). The historically highest number of employees and the lowest number of unemployed individuals, together with the low volume of the available and potentially employable workforce, are already generating circumstances in which Slovenian companies are facing labour shortages (Perko and Rogan 2023). The arrival of foreign workers to Slovenia in recent decades has not been the result of a comprehensive strategy or measures to attract workers in short supply. Rather, it has been the result of various initiatives by employers in high-growth sectors (Kajzer and Fajič 2016). This does not imply that the government has not regulated and controlled these processes, but it has certainly not been an initiator or proactive participant in these labour migration efforts (Malačič 2017).

In 2022, according to the Statistical Office of the Republic of Slovenia (2023a), 120,958 foreign nationals were in employment in Slovenia, accounting for 13.4% of the total working population. This number has increased by almost 48% in the last five years. Foreign workers make up a little over 13% of the total workforce. While the share of EU nationals in the total population has remained relatively stable at around 2% in 2022, the share of non-EU nationals has surged by almost 40% over the last five years to reach just over 11% in 2022. The number of all individuals in employment in Slovenia increased by 5.9% from 2018 to 2022, according to SORS data, but the bulk of this increase was accounted for by foreign workers.

Foreign workers are most often employed in the construction sector, where they account for nearly half of the total workforce, as well as in transportation and storage, where they account for just under a third of all workers, and in various other business activities, including labour brokerage or agency work, where they account for a quarter of all workers. According to the Ministry of the Interior of the Republic of Slovenia (2021), at the end of 2021, more than three quarters of all foreign nationals in the country were citizens of former Yugoslav republics, almost half of them Bosnia and Herzegovina nationals, followed by nationals of Kosovo, Serbia, and North Macedonia. Data from the Employment Service of the Republic of Slovenia (2023) provides a more detailed insight into the educational and age structure of workers from Bosnia and Herzegovina who hold valid work permits, offering some insights into the characteristics of the overall foreign worker population. More than three-quarters of these workers had completed lower or secondary

vocational education, and just over two-thirds were under 40 years of age, out of which more than half were under 30.

The basic legal framework for labour migration in the Republic of Slovenia is provided by the Resolution on the Migration Policy of the Republic of Slovenia (Republic of Slovenia 2002), the Foreigners Act (Republic of Slovenia 2021a) and the Employment, Self-employment and Work of Foreigners Act – ZZSDT (*Zakon o zaposlovanju, samozaposlovanju in delu tujcev*) (Republic of Slovenia 2021b), as well as the employment agreements concluded with Bosnia and Herzegovina (Republic of Slovenia 2012) and the Republic of Serbia (Republic of Slovenia 2019). None of these legal acts define the remuneration for work, with the exception of the provisions of the ZZSDT relating to workers posted in associated companies. However, employment agreements concluded with Bosnia and Herzegovina and the Republic of Serbia explicitly provide for equal treatment of foreign and domestic workers, including in terms of wages. The ZMinP does not distinguish between domestic and foreign workers in terms of the right to minimum remuneration for work. In some cases, the remuneration of foreign workers is even under greater scrutiny by the IRSD from the perspective of indirect control, due to the verification of other circumstances of employment and work than in the case of domestic workers. As the competent supervisory authority, the Labour Inspectorate of the Republic of Slovenia (2021) has not detected any specific deviations in recent years concerning the minimum wage payment to foreign workers.

The structure of foreign workers in Slovenia, which in terms of occupation, education, age, and nationality could indicate pressure on the level of pay

for work performed (Eurofound 2022), does not reach a sufficient volume to displace better paid domestic workers or to intensify employers' pressure on the minimum wage due to the limitation on the number of work permits. The key reason for this is likely to be the overall labour shortage, linked to demographic factors that require employers to improve working conditions if they are to meet the demand for workers. The highest wage growth in 2022, for instance, was recorded by the industries with the largest labour shortages and a relatively high share of foreign workers (IMAD 2023).

#### 4 DISCUSSION

In terms of content, the ZMinP follows modern trends in minimum wage regulation, which can also be seen from the alignment of the solutions of the more than 12-year-old law with the Directive on adequate minimum wages in the EU adopted in October 2022 and the alignment with the relatively new concept of a decent living wage (Guzi 2021). Procedurally, however, it is burdened by the absence of constructive social dialogue, which affects wage regulation at the level of collective agreements as well. One notable issue is that the gap between the statutory minimum wage and the basic wages of the pay grades under collective agreements is widening and, along with the flattening of the wage structure, is generating a number of other negative effects such as inefficiency of remuneration systems, the payment of (too) low allowances, and a lack of motivation for further education or training, which collectively challenge the entire wage system. To address these challenges, the minimum wage should become the lowest basic

wage in all collective agreements in both the public and private sectors. The establishment of a new wage model is necessary in view of the changed labour market circumstances and the fact that the private sector wage model has not changed significantly for more than 30 years, and some of its elements date back to the previous socio-political system. Negotiations to overhaul the public sector wage system started in 2022, and similar initiatives have been taking place in the private sector, so far without success. Establishing meaningful social dialogue on the minimum wage and wages in general remains a challenging task in Slovenia.

The intensive growth of non-standard forms of work at the beginning of the new millennium triggered a series of legislative and other initiatives that have resulted in greater flexibility in employment contracts, as well as achieving comparable cost structures between different forms of work and more comparable labour law protections in Slovenia (IMAD 2014). For instance, the protection of the minimum remuneration for work performed under an employment contract, established by the ZMinP, has been extended to certain non-standard forms of work. However, it is important to consider the underlying reasons for the rise in non-standard and the emergence of new forms of work. The standard employment contract still seems to offer an adequate balance between flexibility and security (Aloisi and De Stefano 2020). Overemphasis on flexibility at the expense of job security inevitably leads to various negative phenomena both for individuals and society in general, often captured by the term "precarity" (Pogljajen et al. 2021; Standing 2018). Given the fundamental purpose of the minimum wage, which is

to ensure a decent standard of living for workers and their families, differentiating between workers in various forms of work seems unacceptable from the point of view of the right to a minimum wage. Indeed, if we consider the minimum wage a fundamental human right (Eyraud and Saget 2005; Kresal 2015), then this right should be guaranteed to all workers, regardless of the legal form, method, or other circumstances of their work. The introductory provisions of the ZMinP should therefore be revised and expanded to cover all workers who perform remunerative work under any legal basis.

Slovenia is expected to face intensive population ageing in the coming years (Kajzer and Fajič 2016). The decline in the number of people of working age will become a limiting factor for economic growth over the next 10 years (Fialho and Høj 2020). In line with classical economic theories of supply and demand, a reduction in the volume of workforce supply should lead to wage increases. This should, to some extent, be followed by an increase in the minimum wage. On the other hand, there is also pressure to reduce or de-emphasise age- or long-service-related remuneration (Eurofound 2019). This shift reflects a move away from long-term career-focused approaches towards shorter-term, productivity-focused models that may neglect factors like skills specialisation, investment in training, productivity gains, and worker loyalty (Böckerman, Skedinger and Uusitalo 2018; Pfeifer 2013). Further “dilution” of the universal length-of-service bonus would hit minimum wage workers hardest. Due to the specific relationship between the ZMinP and the basic wages set out in collective agreements, most of these workers have been paid the

minimum wage for their entire careers, and the only increase in their income has actually been from the length-of-service bonuses. Such an approach would also seem unreasonable at a time when efforts are being made to incentivise workers to prolong their working lives.

Labour migration is one of the responses to the shrinking size of the working-age population and the shortage of adequate labour, but it is also a sensitive political and social issue (Hansen and Randeria 2016). In terms of labour migration, Slovenia has mainly relied on labour migration from former Yugoslav republics, particularly Bosnia and Herzegovina. The characteristics of foreign workers, such as lower education levels, younger age, and employment in labour-intensive sectors, could suggest a higher presence of foreign workers among minimum wage earners. However, the issue of foreign workers has never been raised in the context of the minimum wage debate, either by trade unions or by employers, either from the perspective of guaranteeing and protecting the minimum wage or from the perspective of labour costs. This could be due to the fact that wage growth in recent years has been strongest in sectors with a higher labour shortage, where the representation of foreign workers is also relatively high (IMAD 2023). Nonetheless, in the event of a disproportionate increase in the number of foreign workers in the future, the willingness of foreign workers to accept lower pay (Agyei 2020) could become a limiting factor for the growth of the minimum wage in Slovenia. On the other hand, significantly higher minimum wages in certain other neighbouring EU Member States are already becoming a limiting factor for the inflow of foreign workers into Slovenia.

The issue of remuneration for work and the minimum wage is one of the central themes of social dialogue. The role of the state in this respect varies considerably from country to country and, reflecting socio-political developments and the autonomy and capacity of social partners to reach appropriate agreements at the bipartite level (Aghion, Algan and Cahuc 2011; Kohl and Platzer 2007). The decline in trade union membership, the disorganisation or ineffectiveness of employers' associations, the absence or presence of formal social dialogue structures, globalisation, and technological developments are undermining the ability of social partners to reach binding agreements at the bipartite level, increasing the need for state intervention. This is particularly characteristic of Central European and Eastern EU Member States (Aghion, Algan, and Cahuc 2011; Franca 2017; Kohl and Platzer 2007). Similar processes can be observed in Slovenia, where the bipartite wage agreements of the 1990s, which were subsequently verified by the state through a legal act, were replaced by the state's legal regulation of the minimum wage with prior consultation with the social partners (Kresal 2015; Poje 2009). Contemporary mega-trends in the labour market and the opportunities and challenges they bring are also key issues for social dialogue. Social dialogue has proven successful in addressing highly complex issues during the economic crisis and the COVID-19 pandemic (European Commission 2023; ILO 2022). The issues of the rise in non-standard and emergence of new forms of work, demographic changes (population ageing), and labour migration cannot be adequately addressed without effective social dialogue.

## 5 CONCLUSION

Labour law institutes, as the cornerstone of the regulation of employment relationships, one of the most important aspects of human life, and a vehicle for socio-economic autonomy, represent an important civilisational achievement and value, even in the changed circumstances of work. The specific format, incidence, or prevailing technologies of performing work may change over time, but they do not play a particular role in the regulation of labour interrelationships (Aloisi and De Stefano 2020; Standing 2018). Understanding the purpose of various labour law institutes at the level of the worker and the employer, as well as at the level of society, is crucial. This understanding should serve as the basis for regulating contemporary worker-employer relations. With this approach and appropriate guarantees and support from the government, social partners should act as guardians of these fundamental ideas and values and ensure that they are implemented in the changing world of work.

This study, conducted on minimum wage regulation in the Republic of Slovenia, provides a detailed examination of a traditional labour law institute in the context of a modern labour market within one EU Member State. Methodological limitations of case studies must be taken into account (Harrison et al. 2017) and a cautious position adopted when generalising the results to other countries or other labour law institutes (Webley 2010). In this context, future research could focus on a comparative review of specific labour law institutes or a set of labour law institutes in a structured sample of selected countries and test their effectiveness within or across selected countries.

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### **Data availability statement**

Majority of used data are available in the manuscript; additional data are also available from the authors upon request.

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# Kako regulisati minimalnu zaradu u kontekstu savremenih društvenih promena – Studija slučaja Slovenije

## SAŽETAK

Minimalna, odnosno garantovana zarada jeste fundamentalno pravo radnika i jedan od najstarijih univerzalnih standarda rada. Promene na tržištu rada, demografski trendovi i migracije mogu imati značajan uticaj na razvoj radnopravnih instituta u budućnosti. S tim u vezi, u radu se sagledavaju implikacije navedenih fenomena na pravni i konceptualni okvir instituta minimalne zarade, kao i *vice versa* odnosno na koji način pozitivna pravna regulativa o minimalnoj zaradi utiče na njih. Istraživanje je zasnovano na analizi pravnog okvira minimalne zarade u Republici Sloveniji, sa posebnim fokusom na socijalni dijalog. U Republici Sloveniji je minimalna zarada utvrđena zakonom, kojim se svim zaposlenim licima garantuje pravo na minimalnu zaradu. Zakon ne pravi razliku između domaćih i stranih radnika niti pak predviđa različitost tretmana uzimajući u obzir starosni kriterijum, s tim da utvrđuje pravo na minimalnu zaradu za određene kategorije radnika angažovanih u nestandardnim formama rada. Analiza normativnog okvira minimalne zarade u Republici Sloveniji pokazala je da, čak i u promenjenim okolnostima na tržištu rada, nastalim kao posledica socijalnih i demografskih promena, tradicionalni radnopravni instituti i dalje predstavljaju značajno civilizacijsko dostignuće i važnu opštečovečansku vrednost.

## KLJUČNE REČI

tržište rada, minimalna zarada, nestandardne forme rada, demografija, migracije