

# TOWARDS A EUROPEAN INSTRUMENT FOR MINIMUM INCOME GUARANTEE: DEBATES, CHALLENGES AND OPPORTUNITIES

Ramón Peña- Casas, Dalila Ghailani and Sebastiano Sabato

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# Aim of the paper

To discuss the political and legal feasibility of a 'European' instrument concerning non-contributory minimum income schemes for the working age and able bodied population.

3 research questions:

- 1) What are the main challenges confronting domestic GMI?
- 2) What have been the key issues characterising EU debates and actions in the domain of minimum income guarantee, and the standpoints of actors involved?
- 3) Which legal basis could be used to introduce a EU instrument guaranteeing minimum income and what could be the features of such an instrument?

# Outline of the presentation

- 1) DOMESTIC GUARANTEED MINIMUM INCOME SYSTEMS: AN OVERVIEW.
- 2) MINIMUM INCOME GUARANTEE AND THE EU: A DEBATE SPANNING TWO DECADES.
- 3) THE LEGAL BASIS AND THE POSSIBLE FEATURES OF AN EU INSTRUMENT FOR MINIMUM INCOME GUARANTEE
- 4) CONCLUDING REMARKS

# 1) Domestic guaranteed minimum income systems: an overview

- **Non-contributory minimum income schemes for the working age and able bodied population:** 26 MS (except Italy and Greece).
- **Similarities and differences in several aspects, such as:**
  - Institutional organisation;
  - Levels of benefits and **adequacy**;
  - Eligibility criteria;
  - Income components considered;
  - Composition of family and households;
  - Conditionality (**activation requirements**);
  - **Take-up**.

# Common trends and the impact of the crisis

- **2 main trends** have marked the development of GMI schemes in recent decades:
  - a) Deterioration of their relative generosity;
  - b) Increasing conditionality (esp. 'activation' requirements).
- **The Impact of the crisis:**
  - a) Pressure on national social assistance systems: increasing number of GMI recipients.
  - b) Rise of gross GMI levels (2008-2010) / More restrictive measures in the framework of fiscal consolidation (since 2010).
  - c) Activation requirements in a deteriorated labour market.

## 2) Minimum income and the EU: a debate spanning two decades

The emergence of the topic (late 1980s/ early 1990s):

- Opinion on poverty of the European Economic and Social Committee (12 July 1989).
- Community Charter of Basic Social Rights for Workers (1989).
- Council **Recommendation on common criteria concerning sufficient resources and social assistance** (1992):

*This recognises the basic right to sufficient resources and social assistance to live in a manner compatible with human dignity.*

*It sets out some principles and guidelines for MS (incl. active availability for work and vocational training)*

- **The focus on active inclusion (2000s)**
- The OMC: between the 'activation paradigm' and 'the citizenship paradigm'
- The EC Recommendation on the active inclusion of people excluded from the labour market (2008) (three pillars)
- The EP Resolution of 6 May 2009 on the Social Agenda and the Resolution of 6 October 2010 on the role of minimum income in combating poverty and promoting an inclusive society in Europe
- The EESC Opinion on the development of social welfare benefits (phasing in a guaranteed minimum level of income and services, as part of a 'new instrument' for social welfare systems)
- The EAPN proposal for a Framework Directive on Minimum Income (2010)

# Minimum income guarantee in the framework of the 'Europe 2020' Strategy

## ***Monitoring and assessing MS' schemes...***

- The European Platform against Poverty and Social Exclusion
- The Social Investment Package: the re-launch of the active inclusion strategy and the elaboration of a common methodology for reference budgets
- The EPSCO Council
- The Annual Growth Surveys and the Country Specific Recommendations

## ***...or something more?***

- The re-launch of a Framework Directive on Minimum Income (EAPN; ETUC; EESC Opinion on European Minimum Income and Poverty Indicators 2013)

# The debate at the EU level: key issues and actors' standpoints

## Key issues:

- Minimum income as a key element in combating poverty and social exclusion;
- The need for an integrated framework;
- The issue of adequacy;
- Activation policies;
- Minimum income and the economic crisis.

## Actors' attitudes to the principle of a binding EU initiative:

Against: - EC; - MS and the Council

In favour: EU civil society organisations (EAPN, ETUC), the EESC, [the EP]

***Overall, the political room for manoeuvre for a binding EU intervention appears limited. What about the legal potential?***

### 3) The legal basis and the possible features of a EU instrument on minimum income guarantee

#### The legal basis for a Framework Directive

The right to minimum resources allowing an individual to live with dignity is a fundamental human right recognised as such in various MS Constitutions, international conventions and European Charters.

#### Title X of the Treaty on the Functioning of the European Union (Social Policy):

- **Art. 153.1 (j)** on the fight against social exclusion. (cooperation among MS / EU not authorised to adopt minimum requirements for gradual implementation)
- **Art. 153.1 (c)** on social security and social protection of workers (shall not affect the right of MS to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof / limited to the social rights of workers)
- **Art. 153.1 (h) concerning the integration of persons excluded from the labour market: in this area the European legislator could adopt minimum standards via directives in the framework of the ordinary legislative procedure**

## Rationale:

-The **active inclusion initiatives** listed before, undertaken by the European Commission, the European Parliament and the Council, all refer to active inclusion of people excluded from the labour market. Without exception, these initiatives mention guaranteeing sufficient income as an essential strand of the strategy.

-**EC Recommendation on Active Inclusion:** "Combating social exclusion and poverty is among the priorities of the European Union, whose action in this area is based on Article 137 of the EC Treaty. With regard to fundamental social rights, the latter provides that 'the Community shall support and complement the activities of the Member States in [...] the integration of persons excluded from the labour market". The Commission has therefore referred explicitly to the text of Article 153.1 (h) on the integration of persons excluded from the labour market as a basis for activities connected with combating social exclusion and poverty.

-In its **Conclusions of 17 December 2008** on common active inclusion principles to combat poverty more effectively, the Council refers explicitly to Article 137.1 (h) TEC (153.1 (h) TFEU) as a legal basis for guaranteeing a minimum income.

-At the **national level**, minimum income schemes are increasingly related to the 'activation' of the beneficiaries on the labour market.

## Caveats and limitations:

-**Limited to people excluded from the labour market** (problem of working-poor);

-Principles of **subsidiarity** and **proportionality** :

• *Member States would retain responsibility for the structure and content of their minimum income schemes or social security schemes guaranteeing a minimum income. A directive should call on the Member States to guarantee a right to minimum income and set out common principles, whilst giving them the freedom to choose the instruments for attaining this objective.*

• *The implementation of the Framework Directive should obviously be gradual, given the remarkable differences between the national schemes.*

• *It should be aimed at addressing the main shortcomings of the domestic schemes, including their inadequacy when it comes to lifting people out of poverty and social exclusion and the sometimes high rate of non take-up.*

-It should be supported by the establishment of a **European Solidarity Fund**

## 4) Concluding remarks

- Domestic minimum income schemes: differences but also common trends and challenges (labour market 'activation', adequacy, take-up);
- EU discourses increasingly focused on the concept of 'active inclusion' and targeted on people excluded from the labour market.
- Is there any potential for a EU binding initiative in the domain of minimum income guarantee?
- From a legal point of view, this would be difficult but not impracticable (Art. 153.1 (h) TFEU concerning the integration of persons excluded from the labour market)
- However, political room for manoeuvre appears very limited.