MINIMUM WAGES IN SOFT GRASP – THE CJEU RULING ON THE ADEQUATE MINIMUM WAGES DIRECTIVE

SASCHA HURST*

This case note discusses the Court of Justice's judgment in Denmark v Parliament and Council, concerning the validity of the Adequate Minimum Wages Directive (AMWD) in light of the exclusion of 'pay' and the 'right of association' from EU social policy competences under Art. 153(5) TFEU. While Advocate General Emiliou had proposed annulling the Directive in its entirety on the ground that it impermissibly regulates 'pay', the Court upheld the core of the AMWD and annulled only limited parts of the Directive. In doing so, the Court allows the EU legislature to maintain a soft grasp on minimum wages despite the explicit competence exclusions. The judgment reaffirms the test from previous case law, according to which EU instruments must not 'directly interfere' in the determination of pay within the EU, but this note argues that the Court's reasoning still provides only limited guidance on how this standard should be applied. Nonetheless, the ruling is of constitutional significance and provides several insights into how the Court interprets the competence exclusions in practice.

1 INTRODUCTION

On 11 November 2025, the Grand Chamber of the Court of Justice of the EU (the 'Court') issued its judgment in *Denmark v Parliament and Council*[1] on the action for annulment of the Adequate Minimum Wages Directive[2] (AMWD). This new instrument represents a momentous development in EU socio-economic policy, for which there was, despite early concerns about its compatibility with EU competences, broad political agreement among Member States to pursue it and ensure fair minimum wages across the EU.

The only Member States that voted against the AMWD were Denmark and Sweden, with Denmark subsequently bringing the annulment action. This political disagreement is no coincidence. Labour law in these countries has traditionally relied on extensive autonomy for social partners and a central role of collective bargaining for determining wages and working conditions, rather than leaving these matters to legislation. Although Denmark and Sweden recognised that, given an already high collective bargaining coverage and a mere duplication of certain existing obligations under international law, the practical impact of the AMWD would be limited for them, EU actions affecting the 'Nordic model' remain a sensitive

* Doctoral candidate at the Department of Law, Stockholm University.

[1] Case C-19/23 *Kingdom of Denmark v European Parliament and Council* EU:C:2025:865.

[2] Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union [2022] OJ L275/33.

subject.[3] In this regard, the case has clear parallels to the decisions in *Laval*[4] and *Viking*,[5] which were perceived as threats to the Nordic collective bargaining systems and proved highly politically contentious at the time.[6]

The Court's judgment in *Denmark v Parliament and Council* occurs within this political tension. This note argues that it aligns with and develops the Court's previous case law to some extent, while still leaving ambiguities regarding its practical application. The ruling also provides interesting methodological insights, illustrating a change in the Court's language in interpreting exceptions.

2 THE ANNULMENT ACTION

The judgment arose from annulment proceedings against the AMWD, initiated by Denmark and supported by Sweden. As set out in its Art. 1, the Directive has three objectives, namely to establish a framework for (i) the adequacy of statutory minimum wages with the aim of achieving decent living and working conditions, (ii) promoting collective bargaining on wage-setting, and (iii) enhancing effective access of workers to rights to minimum wage protection where provided for in national law or collective agreements. To this end, it sets out minimum requirements and imposes procedural obligations on Member States.

The action centres on Arts. 4 to 6 of the Directive. According to Art. 4, Member States are obliged, with the involvement of social partners, to promote collective bargaining on wage-setting by strengthening capacities of social partners, encouraging wage negotiations between them, and protecting the actors participating in collective bargaining on wage-setting from discrimination and interference. It also provides that Member States with a collective bargaining coverage below 80% must establish and regularly review and update, in consultation or agreement with social partners, an action plan with a clear timeline and concrete measures to progressively increase the collective bargaining coverage. Under Art. 5, those Member States with statutory minimum wages are required to establish clear procedures and criteria for setting and updating them and to ensure their adequacy, aiming to achieve a decent standard of living, reduce in-work poverty, promote social cohesion and upward social convergence, and reduce the gender pay gap. Notably, Art. 5(2) AMWD sets out minimum criteria to be included, while Art. 5(3) permits automatic indexation of statutory minimum wages, provided that they are not decreased by such mechanism. Article 6 AMWD provides that any variations or deductions from statutory minimum wages for specific groups are not mandatory but must respect the principles of non-discrimination and proportionality.

The problem of the case concerns the competence of the EU to adopt this Directive,

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[3] For details on the Nordic perspective on the AMWD, see Petra Herzfeld Olsson and Mette Søsted Hemme, 'Scandinavian States' in Luca Ratti, Elisabeth Brameshuber, and Vincenzo Pietrogiovanni (eds), *The EU Directive on Adequate Minimum Wages. Context, Commentary and Trajectories* (Hart Publishing, 2024); Niklas Selberg and Erik Sjödin, 'The Directive (EU) 2022/2041 on adequate minimum wages in the European Union: Much ado about nothing in Sweden?' (2024) 15(4) European Labour Law Journal 939.

[4] Case C-341/05 *Laval un Partneri v Svenska Byggnadsarbetareförbundet and Others* EU:C:2007:809.

[5] Case C-438/05 *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line* EU:C:2007:772.

[6] See Nicola Countouris, 'Avoiding another "*Viking and Laval*" moment – a critical analysis of the AG opinion on the Adequate Minimum Wage Directive, Case C-19/23' (2025) 16(2) European Labour Law Journal, 315.

as required by the principle of conferral.[7] The AMWD is based on Art. 153(2)(b) TFEU, in combination with Art. 53(1)(b) TFEU, granting the EU competence over 'working conditions'. However, under the prominent exclusion in Art. 153(5) TFEU, the provisions of this Article do not apply to, among others, pay and the right of association. Competence conflicts are thus apparent from the outset. The AMWD pursues multiple objectives beyond working conditions and the adequacy of minimum wages, with 'pay' potentially at the forefront. Even before its adoption, the legislature was aware that it was teetering on the edge of acting ultra vires.[8] The Directive is carefully drafted and emphasises that it does not aim to harmonise the level of minimum wages or establish a uniform mechanism for setting them.[9] It also claims full compliance with the right to collective bargaining, in particular by leaving Member States free to introduce statutory minimum wages or declare collective agreements universally applicable.[10] Nevertheless, the annulment action challenged the EU's competence to adopt the AMWD and sought, primarily, the annulment of the Directive in its entirety on two grounds.[11] The first alleged that the legislature disregarded Art. 153(5) TFEU and misused its powers. The second claimed that Art. 153(1)(b) TFEU could not be a valid basis, as the AMWD regulates not only 'working conditions' but also workers' representation and collective defence of interests, which fall under Art. 153(1)(f) TFEU and require a differing legislative procedure with unanimity within the Council.

3 THE ADVOCATE GENERAL'S OPINION

When Advocate General Emiliou issued his Opinion[12] in early 2025, this intensified the already ongoing debate over the legal and political implications of AMWD. The Advocate General opined that the AMWD is incompatible with Art. 153(5) TFEU, so the Court should uphold the annulment action and annul the Directive in full. His Opinion is essentially based on a broad interpretation of the exclusion of 'pay' from EU competences. Its starting point, drawing on the Court's case law, is that Art. 153(5) TFEU, as a derogation from the other paragraphs of that Article, must be interpreted strictly so as not to unduly affect the scope of those paragraphs or the objectives of Art. 151 TFEU, and covers only measures that directly interfere in the determination of pay within the EU.[13] On the other hand, the Advocate General stresses that the provision must not be interpreted so strictly as to deprive it of its effectiveness.[14] On this basis, while seeing no breach of the exclusion relating to the right of association, he concludes that the AMWD does not comply with the exclusion of 'pay'. He argues that this exclusion should not, given its wording and the context of earlier

[7] Art. 5(1)(2) TEU.
[8] See Sacha Garben, 'Choosing a Tightrope Instead of a Rope Bridge – The Choice of Legal Basis for the AMW Directive' in Luca Ratti, Elisabeth Brameshuber, and Vincenzo Pietrogiovanni (eds), *The EU Directive on Adequate Minimum Wages. Context, Commentary and Trajectories* (Hart Publishing, 2024).
[9] See esp Recital 19 and Art. 1(3) AMWD.
[10] Recital 19 and Art. 1(4) AMWD.
[11] In the alternative, and based on the same arguments as for the primary head of claim, the action sought the annulment of Arts. 4(1)(d) and/or (2) AMWD.
[12] Opinion of Advocate General Emiliou in Case C-19/23 *Denmark v Parliament and Council* EU:C:2025:11.
[13] ibid paras 39 f.
[14] ibid para 55.

case law, be confined to the level of pay.[15] Instead, he maintains that any instrument directly interferes with 'pay' in a manner incompatible with Art. 153(5) TFEU if its object is to regulate pay, even when this is done flexibly through general and loosely framed requirements for national wage-setting frameworks and irrespective of whether it encroaches upon the contractual autonomy of social partners.[16] The Opinion argues that the very title of the AMWD is a clear indication that its object is to regulate 'pay', which he considers confirmed by Arts. 1 and 3, which aim to regulate how wages are determined, and the method relied on. The same, according to the Advocate General, goes for Arts. 4 and 12 AMWD, which he considers intervening in how wages are to be organised.[17]

4 THE JUDGMENT

The Court does not follow the Advocate General's Opinion proposing full annulment of the AMWD. Unlike the Advocate General, it does not consider the entire Directive to exceed the boundaries set by Art. 153(5) TFEU but only does so in part, annulling specifically Art. 5(2) and, insofar as it requires indexation adjustments not to decrease statutory minimum wages, Art. 5(3) AMWD. The remainder of the action is dismissed.

The Court begins its analysis of the first plea by examining, in line with its settled case law, whether the chosen legal basis can be based on objective factors. It finds that the purpose and content of the AMWD, while relating to pay, nevertheless prima facie fall within the matters listed in Art. 153(1) TFEU, including the EU competence over 'working conditions'.[18] The Court then considers whether the exclusion of 'pay' from this competence is respected. Referring to its previous case law, it recalls that the exclusion exists because pay-setting falls within the contractual freedom of national social partners and the competence of the Member States, and that it only covers measures amounting to a 'direct interference by EU law in the determination of pay within the EU'.[19] Consequently, not every matter linked to pay is excluded under Art. 153(5) TFEU, and EU competence is not precluded merely because the AMWD concerns this field or may affect the level of pay.[20]

Having set out this standard of review, the Court examines whether the Directive's contentious provisions – Articles 4 to 6 – amount to direct interference in the determination of pay. It largely answers in the negative. Regarding Art. 4 AMWD, it argues that there is no interference with the Member States' choice as to the wage-setting model, that neither the content nor the result of collective bargaining is governed or prescribed, and that the autonomy of social partners is fully guaranteed.[21] Regarding Art. 5 AMWD on statutory minimum wages, the Court identifies direct interference in the determination of pay only in the harmonisation of some of the wages' constituent elements in Art. 5(2), and in the requirement of a non-regression clause if they are subject to automatic indexation adjustments under Art. 5(3).[22] By contrast, the obligation on Member States to establish

[15] Opinion of AG Emiliou in Case C-19/23 *Denmark v Parliament and Council* (n 12) paras 51–59.
[16] Ibid paras 60–70.
[17] Ibid paras 89–94.
[18] *Denmark v Parliament and Council* (n 1) paras 56–66.
[19] ibid, paras 67 f.
[20] cf. ibid paras 70–74.
[21] ibid paras 76–85.
[22] ibid paras 94–98.

procedures and criteria for setting and updating statutory minimum wages, as well as the rules on indicative reference values, regular updates, and consultative bodies in the remainder of Art. 5, do not, in its view, amount to direct interference. The Court emphasises that the Directive neither defines the concept of 'adequacy' of statutory minimum wages nor confers an individual right to those,[23] that it lays down no mandatory elements or harmonised components of statutory minimum wages,[24] and that Arts. 5(5)–(6) merely set out procedural rules without prescribing mandatory substantive elements[25]. Similarly, as regards Art. 6 AMWD, the Court notes that Member States remain free to introduce variations or deductions from statutory minimum wages.[26]

The Court then conducts the same analysis with regard to the exclusion of competence relating to the right of association. It begins by interpreting this concept, stating that the exclusion's primary purpose is to preserve the autonomy of social partners. Drawing on Arts. 153(1)(f) and 156 TFEU, as well as the Charter of Social Rights and the European Social Charter, it interprets the 'right of association' as protecting the freedom to form and join organisations, but not as encompassing rules on collective bargaining.[27] It then examines whether Art. 4 AMWD amounts to a direct interference with this right, more specifically in 'the establishment, functioning and administration of associations', which it concludes is not the case.[28]

Turning to the second plea, the Court relies on its established case law that an instrument's main purpose or component determines the legal basis. It argues that this is the improvement of living and working conditions, with the promotion of collective bargaining on wage-setting merely a means to this end, not an autonomous objective, so that the EU legislature relied on the correct legal basis.[29]

5 COMMENT

Many will likely welcome that the Court did not follow the Advocate General's Opinion, given the extensive criticism levelled at its legal reasoning.[30] The judgment is particularly interesting for how its approach aligns with existing case law on the 'pay' exclusion, the difficulties arising in its application, and the way the Court handles the interpretation of the competence exclusion as an exception.

5.1 A FIT INTO PREVIOUS CASE LAW

In interpreting the 'pay' exclusion in Art. 153(5) TFEU, the Court could draw on its previous

[23] *Denmark v Parliament and Council* (n 1) paras 88–92.
[24] ibid para 99.
[25] ibid para 100.
[26] ibid paras 102 f.
[27] ibid paras 106–115.
[28] ibid paras 116–126.
[29] ibid paras 132–139.
[30] See e.g. Emanuele Menegatti, 'Why the Directive on Adequate Minimum Wages does fit within EU competence – A response to the Advocate General's opinion' (14 April 2025) ETUI Policy Brief 2025.02 <http://dx.doi.org/10.2139/ssrn.5227333> accessed 10 December 2025; Countouris (n 6); Claire Kilpatrick and Marc Steiert, 'A little learning is a dangerous thing: AG Emiliou on the Adequate Minimum Wages Directive' (2025) EUI Law Working Paper 2025/2 <https://hdl.handle.net/1814/77887> accessed 10 December 2025.

case law concerning this provision. In *Del Cerro Alonso*, the Court held that as a derogation from the other paragraphs of that Article, the exclusions must be interpreted strictly so as not to unduly affect the scope of those paragraphs or the objectives of what is today Art. 151 TFEU.[31] It explained that 'fixing the level of wages' falls within the national social partners' freedom and the Member States' competence, so that it is the 'determination of the level of wages' that is excluded from harmonisation.[32] The 'direct interference' doctrine originated a few months later in *Impact*. Building on *Del Cerro Alonso*, the Court interpreted the exclusion as covering measures, such as equivalence of constituent parts of pay or its level, which amount to direct interference by EU law in the determination of pay within the EU.[33] This has been confirmed repeatedly,[34] and in the present case the Court applied this approach to assess the AMWD.

The judgment thereby both confirms and further develops this line of case law in several respects. First, the Court clarifies that the 'direct interference' test is its general interpretation of Art. 153(5) TFEU and not confined to the contexts of previous cases.[35] Thus far, the Court has dealt with the 'pay' exclusion in the context of Directives on fixed-term[36] and part-time work,[37] equal treatment,[38] and working time.[39] These earlier contexts involved a more remote connection to pay and merely potential implications for wage levels. In contrast, the AMWD addresses workers' wages more overtly. *Denmark v Parliament and Council* makes clear that this does not alter the standard of reviewing the competence provisions.

Secondly, the Court expands on the role of its notion of 'direct interference in the determination of pay within the EU'. In *Del Cerro Alonso*, *Impact*, and *Bruno and Pettini*, the Court primarily relied on the strict interpretation of Art. 153(5) TFEU as an exception and argued that the principle of non-discrimination, which was at issue in these cases, cannot be interpreted restrictively, even if it affects pay.[40] In *Specht* and *VB*, it argued that pay as part of employment conditions does not directly relate to the 'setting of a level of pay' or that the case is not concerned with the 'amount of remuneration'.[41] In *Denmark v Parliament and Council*, the Court reaffirms that the mere fact that the AMWD relates to and can impact the level of pay is not sufficient for a breach of the 'pay' exclusion. It uses the concept of 'direct interference in the determination of pay' more clearly as the central benchmark for guiding the assessment. While this appears as a more structured approach based on the object and content of the respective provisions, it is generally consistent with the previous case law. Specifically, the Court identifies a direct interference by the AMWD only where it had

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[31] Case C-307/05 *Yolanda Del Cerro Alonso v Osakidetza-Servicio Vasco de Salud* EU:C:2007:509, para 39.
[32] ibid para 40.
[33] Case C-268/06 *Impact v Minister for Agriculture and Food and Others* EU:C:2008:223 para 124.
[34] Joined Cases C-395/08 and C-396/08 *INPS v Tiziana Bruno, Massimo Pettini, and INPS v Daniela Lotti, Clara Matteucci* EU:C:2010:329 para 37; Joined Cases C-501/12 to C-506/12, C-549/12, and C-541/12 *Thomas Specht and Others v Land Berlin and Rena Schmeel, Ralf Schuster v Bundesrepublik Deutschland* EU:C:2014:2005 para 33; Case C-262/20 *VB v Glavna direktsia 'Pozharna bezopasnost i zashtita na naselenieto'* EU:C:2022:117 para 30.
[35] cf. *Denmark v Parliament and Council* (n 1) para 69.
[36] *Del Cerro Alonso* (n 31); *Impact* (n 33).
[37] *Bruno and Pettini* (n 34).
[38] *Specht* (n 34).
[39] *VB* (n 34).
[40] *Del Cerro Alonso* (n 31) para 38; *Impact* (n 33) para 114; *Bruno and Pettini* (n 34) para 32.
[41] *Specht* (n 34) para 34; *VB* (n 34) para 31.

previously indicated the dividing line, namely in Art. 5(2), which in its view harmonises constituent elements of wages, and in Art. 5(3), which regulates their amount through obligatory non-regression.

The third clarification of the judgment relates to the exclusion of the right of association. In this regard, the Court had the opportunity to set out, for the first time, the meaning of this exclusion and to clarify that the 'direct interference' test also applies in this regard.[42] This suggests that there is a coherent underlying rationale to this test, so that it will likely govern all elements of Art. 153(5) TFEU.

5.2 ASSESSING DIRECT INTERFERENCE

If the Court had only to reaffirm and apply its previous case law, one might wonder how the Advocate General reached a different conclusion. One view could be that he simply sought to extend the Court's standpoint towards a broader understanding of the 'pay' exclusion. However, his Opinion largely relies on the Court's previous case law and indicates an intention to apply it. The same applies to the applicant, Denmark, and its supporting intervener, Sweden, whose principal argument was that the AMWD provisions, taken together, amount to direct interference in the determination of pay. In other words, this test itself was not in dispute. As has been noted,[43] the Opinion arguably committed some fallacies in its recourse to the relevant case, including over-reliance on the wording and insufficient regard to the travaux préparatoires of the Maastricht Treaty. This may have led to an overly broad conclusion that EU instruments must not have as their object the regulation of pay. On the other hand, some commentators have found, unlike the Court, that in applying the direct interference test the entire AMWD is compatible with Art. 153(5) TFEU, including its Art. 5(2)(3).[44] This suggests that the test for whether an instrument directly interferes in the determination of pay may not be as workable or straightforward as it initially appears.[45]

It seems that the judgment offers only limited guidance on making this assessment more predictable. Unlike its approach to the right of association, it does not clearly set out a more holistic understanding of what constitutes 'determination of pay'. Some passages indicate that this includes the level of wages and their constituent elements,[46] but elsewhere the argumentation is framed broader and also refers to the free choice of Member States as to the wage-setting model and of workers on joining a trade union.[47] At the same time, even the concept of constituent elements of wages remains ambiguous. Consider Art. 5(2) AMWD, for example, which sets out minimum criteria that shall only 'guide' the setting and updating of statutory minimum wages, leaving it to the Member States to determine their content and weight. It is notable that the Court regards this as directly

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[42] *Denmark v Parliament and Council* (n 1) paras 105–117.
[43] See above n 30.
[44] Giacomo Di Federico, 'The Minimum Wages Directive Proposal and the External Limits of Art. 153 TFEU' (2020) 13(2) Italian Labour Law e-Journal 107; Menegatti (n 30) 4 f.; Kilpatrick and Steiert (n 30) 7 ff.
[45] See also Niklas Selberg and Erik Akseli Sjödin, 'The Adequate Minimum Wage Directive Decision: A Remembrance Day Ruling' (*Global Workplace Law & Policy*, 10 November 2025) <https://legalblogs.wolterskluwer.com/global-workplace-law-and-policy/the-adequate-minimum-wage-directive-decision-a-remembrance-day-ruling> accessed 10 December 2025, arguing that the outcome of the case was difficult to predict.
[46] cf. *Denmark v Parliament and Council* (n 1) paras 96, 99 f.
[47] cf. ibid paras 78–84.

affecting the level of wages and harmonising statutory minimum wages' constituent elements. The role of those criteria could have, after all, significantly varied across Member States.

This links to the further question on the 'directness' of the interference, which lies on a spectrum, with underlying normative considerations determining what falls within the competence exclusion and what does not. There is no clear threshold for when EU instruments' interference in pay is so 'direct' to exclude EU competence. Unlike the Advocate General, the Court does not elaborate this issue.[48] It distinguishes, although the term 'determination' can arguably entail procedural aspects, between permissible procedural rules and non-permissible mandatory substantive elements as regards the level or constituent elements of minimum wages.[49] The normative foundation and practicability of this approach are debatable, not least as substantive rules may take the form of procedural obligations in disguise.[50]

5.3 A CONTEXTUAL APPROACH TO EXCEPTIONS

On a methodological and more positive note, it is noteworthy that, unlike in previous decisions and the Advocate General's Opinion, the Court does not make the explicit argument that exceptions must be interpreted strictly. In prior rulings, a principally strict interpretation of exceptions such as Art. 153(5) TFEU had guided, in combination with other considerations, the Court's reasoning. This remains a widely used approach.[51] At closer look, however, the mere statement reminding of the Roman principle '*exceptio est strictissimae interpretationis*' is of limited practical value and also conceptually problematic. It leaves unclear what such strict interpretation entails, and it can be questioned that the restrictive interpretation of derogations is a general principle of EU law.[52] Ultimately, both the general rule *and* the exception reflect a norm that must be given effect in interpretation. What matters, therefore, is a purposive reading of the exception, which gives practical effect to its objective while aligning it with the purpose and meaning of the general rule from which it derogates. This methodological exercise does not need the claim that exceptions must generally be interpreted strictly.

The Court's approach in *Denmark v Parliament and Council* is in line with these considerations. Its reasoning departs from the interpretation of 'pay' as excluding direct interferences in the determination of pay, an ultimately strict interpretation which is, however, not strict for its own sake but based on the specific context of Art. 153(5) TFEU. Similarly, when developing an interpretation of the 'right of association', the Court does not, as in *Del Cerro Alonso*, *Impact*, and *Bruno and Pettini*, take a necessary strict meaning as its starting point; instead, it relies directly on the wording, objectives, context, and other EU law.[53] This is a small but welcome shift in the approach to Art. 153(5) TFEU.

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[48] See Opinion of AG Emiliou in Case C-19/23 *Denmark v Parliament and Council* (n 12) paras 62–64.
[49] cf. *Denmark v Parliament and Council* (n 1) para 100.
[50] cf. Opinion of AG Emiliou in Case C-19/23 *Denmark v Parliament and Council* (n 12) para 84.
[51] See Marie Herberger, *Ausnahmen sind eng auszulegen: Die Ansichten beim Gerichtshof der Europäischen Union* (Duncker & Humblot 2017).
[52] Opinion of Advocate General Geelhoed in Case C-334/00 *Fonderie Officine Meccaniche Tacconi Spa v Heinrich Wagner Sinto Maschinenfabrik GmbH* EU:C:2022:68 para 34; Opinion of Advocate General Jacobs in Case 96/00 *Rudolf Gabriel* EU:C:2001:690 para 46.
[53] *Denmark v Parliament and Council* (n 1) paras 105 ff.

6 CONCLUSION

The ruling is certainly an influential and thought-provoking decision. By upholding the majority of the AMWD, the Court allows the EU legislature to maintain a soft grasp on minimum wages despite the exclusion of 'pay' and 'right of association' from EU social policy competences. The partial annulment is not problematic, as the annulled parts are severable from the remainder of the Directive. While the judgment will have practical significance in this policy area, this note has shown that its importance also lies, more fundamentally, in its implications for the principle of conferral under EU constitutional law. The Court reaffirms its test of direct interference in the determination of pay within the EU and offers some insights into how it applies this test. Its broader guidance nevertheless remains limited, particularly because much of the reasoning is tied to the specifics of the AMWD. For the legal certainty and clarity about the criteria governing the division of competences, which the Court aims at,[54] there is thus still some way to go.

[54] *Denmark v Parliament and Council* (n 1) para 70.

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