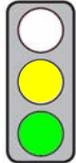


## KEY ISSUES

**Objective of the Communication:** The Commission wants to promote entrepreneurship by way of recommendations to the Member States and some of its own measures.

**Affected parties:** Founders of companies, young people, women and the unemployed as well as educational institutions.



**Pro:** (1) Member States often fail to allow sufficient room in their educational curricula for economic issues. The Commission rightly wants to counteract this.

(2) Reducing administrative costs, simplifying national employment law and relaxing national inheritance tax requirements in relation to corporate succession improve the framework for companies and start-ups and facilitate job creation.

**Contra:** (1) Difficulties experienced by entrepreneurs in acquiring capital are not due to market deficiencies but reflect the risk assessment of capital providers; subsidies are therefore the wrong approach.

(2) Awarding public contracts in smaller lots does promote SMUs but prevents the economies of scale offered by large concerns thus making public contracts more expensive.

## CONTENT

### Title

**Communication COM(2012) 795** of 9 January 2013: **Action Plan Entrepreneurship 2020** – Reigniting the entrepreneurial spirit in Europe

### Brief Summary

#### ► Background

- The Commission is calling for entrepreneurship to be promoted. It expects this to result in an increased rate of company creations thus providing a positive impulse for growth and employment as well as contributing to the EU's recovery from the economic crisis.
- It presents the EU and Member States with a range of measures which it subdivides into three action pillars:
  - Developing and extending entrepreneurial education
  - Promoting new businesses and
  - Promoting a "new generation of entrepreneurs".

#### ► Developing and extending entrepreneurial education

- Between 15% and 20% of students, who participate in a mini-company programme at secondary school, go on to set up a company. This figure is three to five times that for students without a mini-company programme. (p. 5/6)
- The Commission therefore welcomes the fact that some Member States have included entrepreneurial education in their curricula.
- It would be even better if practical experiential learning models were part of the school curriculum and real-world entrepreneurs were involved.
- In addition, higher education institutions should contribute to entrepreneurial education.
- In particular, the Commission wants to
  - help the Member States to include entrepreneurial education in their education systems by way of exchanging best practices,
  - submit an "entrepreneurial university guidance framework" in early 2013 and assist interested universities to implement it, and
  - encourage universities who want to develop university-driven concepts for business creation (spin-offs).
- The Commission invites the Member States to,
  - ensure that the "key competence entrepreneurship" is embedded into the curricula across all educational levels by the end of 2015 (p. 7),
  - promote entrepreneurial education as second chance education,
  - allow all students to have a practical entrepreneurial experience in a company before leaving compulsory education,
  - introduce learning modules on entrepreneurial education for those participating in national Youth Guarantee schemes [COM(2012) 729; see [cepPolicy Brief](#)] and
  - make use of resources from the European Social Fund (ESF) and the European Agricultural Fund for Rural Development (EAFRD) to finance these measures (p. 7/8).

► **Promoting new businesses**

New small and medium-sized undertakings (SMUs) require sufficient finance. In addition, they require particular support in the early stages of the business.

– **Access to finance**

- The Commission puts difficulties in accessing finance down to "market deficiencies" (p. 8/9) and wants to develop alternatives to bank lending for SMUs.
- It wants to support the micro-finance market (loans up to € 25,000) with
  - the "Joint Action to Support Micro-finance Institutions in Europe" (JASMINE) and "Progress Micro-financing" as well as
  - money from the European Social Fund (ESF) and the European Regional Development Fund (ERDF).
- The draft amendment to the MiFID Directive on markets in financial instruments [COM(2011) 656; see [cepPolicy Brief](#)] contains the proposal to create special trading platforms for SMU shares and securities.

– **Support in the early stages**

- About 50% of new businesses fail during their first five years. The Commission concludes that an environment must be created in which businesses can grow.
- It considers its contribution to be mainly the development and expansion of networks for the exchange of knowledge and information on EU funding.
- In particular, the Member States should
  - open up the social systems available to employed persons to cover the self-employed,
  - prevent double-taxation of cross-border businesses,
  - convert tax declarations to electronic systems and
  - extend the limitation periods on losses carried forward.

– **Reducing administrative costs and simplifying public procurement**

- The Commission estimates the regulatory burden on companies to be € 123.8 billion.
- Micro-enterprises and the liberal professions are particularly vulnerable to high levels of bureaucracy due to their limited human resources.
- The Member States should reduce the burden of bureaucracy by
  - simplifying their employment legislation and developing more flexible working hours and
  - ensuring that, by the end of 2015, authorisations required for starting a business are issued within one month.
- Large public procurement contracts should, where possible, be divided up into several smaller lots to facilitate access to SMUs. The Commission recommends a maximum order volume of € 300,000 per lot.

– **Easier business transfers**

- Business transfers include both the transfer of businesses within a family by way of inheritance or gift, and transfer by selling the business to a third party.
- Many business transfers do not take place due to the regulatory and tax burdens as well as over long procedures.
- The Commission estimates that about 150,000 companies with 600,000 jobs are lost every year as a result.
- The Commission considers that national tax reforms to make it easier to transfer family businesses, such as by way of inheritance, do not go far enough.
- Together with national experts, it is going to develop proposals to make business transfers easier.
- The Member States are to improve the regulatory framework, in general, and tax law, in particular.

– **Second chance for "honest bankrupts"**

- The Commission describes bankruptcies "without any fraud" as "honest failures".
- It recognises business failures as a part of the market economy but, in cases of "honest failure", calls for "better" possibilities for discharging bankruptcies and facilitating "second starters" (p. 18).
- The Member States are to change their insolvency legislation in 2013 to limit the discharge and debt settlement period to three years for an honest entrepreneur.
- In 2013, the Commission wants to hold a public consultation on this "new approach" to business failure.

► **Promoting young entrepreneurs**

- The Commission would like to persuade more people - particularly students, young people, women, migrants and the unemployed - to become entrepreneurs. For this it wants to
  - remove the legal obstacles to the establishment of businesses by migrant entrepreneurs,
  - provide unemployed people with financial support to set up businesses,
  - introduce a "Europe-wide EU Entrepreneurship Day" (p. 22) for students in their last year of secondary education,
  - ensure knowledge transfer from older to younger entrepreneurs and
  - establish a network for female entrepreneurs.
- In particular, the Member States should
  - appoint known entrepreneurs as "Entrepreneurship Ambassadors" (p. 22),
  - design and implement strategies to encourage female entrepreneurs,
  - improve work-life balance by establishing care for children and elderly dependants,
  - ensure that the participation of senior entrepreneurs in knowledge transfer projects is compatible with their pension prospects,

- enable qualified migrants to set up businesses,
- target unemployed young people and help them find their way into entrepreneurship and provide financial and other support for setting up businesses and
- introduce entrepreneurship education schemes as a route into second-chance education.

## Policy Context

In its Communication, "Towards a Job Rich Recovery" [COM(2012) 173; see [cepPolicy Brief](#)], the Commission has already proposed various measures to promote entrepreneurship and announced the Action Plan Entrepreneurship in its Communication on Industrial Policy [COM(2012) 582].

## Options for Influencing the Political Process

Leading Directorate General:	DG Enterprise and Industry
Committees of the European Parliament:	Industry, Research & Energy (leading), rapporteur N.N.; Gender Equality; Legal Affairs; Regional Development; Economic & Monetary Affairs; Transport; Employment; Trade; Environment; Internal Market
Federal Ministries:	Federal Ministry of Economics (leading)
Committees of the German Bundestag:	Economy & Technology (leading); Employment & Social Affairs; Education; Research; European Union; Finance, Legal Affairs

# ASSESSMENT

## Economic Impact Assessment

### Ordoliberal Assessment

**Member States**, including Germany often **fail to allow sufficient**, if any, **room in their educational curricula for economic issues and particularly entrepreneurship. The Commission rightly wants to counteract this. Difficulties** experienced by SMUs and particularly by entrepreneurs **in acquiring capital are not generally due to market deficiencies but reflect the individual risk assessment of capital providers.** With every investment, it is they who bear the risk of a partial or total loss of the capital invested and they therefore have to carefully weigh up the risk against the likely gain. This also applies to "micro-finance". **Subsidising them** – whether by way of government loans or support schemes – **is therefore not justified.**

By calling on the Member States to grant self-employed people similar social protection to employed people, the Commission – as was the case recently with its proposals on the Gender Quota [COM(2012) 614; see [cepPolicy Brief](#)] and on the Youth Guarantee [COM(2012) 729; see [cepPolicy Brief](#)] – is once again trespassing upon the Member States' area of responsibility. Socio-political measures should rightly be regulated at national level because only there can they take full account of the democratically expressed preferences of the public. Mandatory participation in social security systems would be counter-productive, especially in the initial phase of starting a small business or micro-enterprise, because this additional financial burden makes business creation more expensive and therefore more risky and less attractive. Opening up the social security system on a voluntary basis may, on the other hand, be helpful as a way of supplementing private offerings. Contributions would then have to be risk-equivalent, however. The social security system cannot allow entrepreneurs to be subsidised by employees.

**Reducing administrative costs will improve the framework for companies and start-ups** because unnecessary bureaucracy ties up valuable human resources which are then unavailable for the creation of real value. **Simplifying national employment law reduces staff and information costs** for businesses, **which makes job creation more attractive.** For small companies and micro-enterprises in particular, employment law disputes – not infrequently caused by anti-discriminatory EU legislation which has gone too far – are an expensive undertaking. It will also help start-ups if government authorisations have to be issued within one month.

Any inheritance tax is a hindrance to corporate succession because the value of a company consists essentially of the tied-up capital so payment of inheritance tax generally has to come out of company assets. This jeopardises existing jobs as well as hindering the expansion of a company and thus the creation of new jobs. **Relaxing national inheritance tax requirements** therefore **improves the framework for European companies.**

**The invitation** to the Member States **to divide public contracts into smaller lots** and where possible limit them to an order volume of € 300,000 per lot, **does encourage SMUs** because, with their smaller capacities, it is easier for them to handle smaller contract volumes. **There is a danger, however, that**, as a result, large companies will not be successful in quoting for a large number of small and specialised tenders and **possible economies of scale offered by large concerns will not be realised. This will make public contracts more expensive.**

Shorter discharge and debt settlement periods in the case of "honest" business failures are a double-edged sword. On the one hand, they do allow failed entrepreneurs to quickly start up new companies or to continue running their existing insolvent but viable company. On the other hand, shorter discharge and debt settlement

periods necessarily come at the expense of creditor protection. For creditors, the risk of having to forego a larger proportion of their claims, in the event of insolvency, is increased. This in turn results in more rigid credit conditions or higher credit costs for founders of precisely those companies which have not yet become established.

The Commission's idea that it can persuade more students, women, seniors, migrants and unemployed to become entrepreneurs, simply by offering supportive measures, fails to take account of the most important requirement for any new business: it must sell goods or services which are not yet available on the market or not in sufficient quantity. If the group of people subject to the measures does not set up a company, this is either due to a lack of marketable ideas or to the fact that the risks and the "costs" of entrepreneurship are seen as too high as compared with employee status.

## Legal Assessment

### Legislative Competency

Most of the measures proposed by the Commission are non-binding recommendations to the Member States. This is appropriate because the EU has no competency for the respective areas. This applies as much to the harmonisation of discharge periods contained in national insolvency rules as to the diverse recommendations aimed at the national education systems. Their composition is in fact left expressly up to the Member States, particularly as regards the inclusion of "entrepreneurship as a core skill" at all levels of the school curricula (Art. 165 (1) TFEU) and making entrepreneurial education part of vocational training (Art. 166 (1) TFEU). The decision on mandatory participation by self-employed people in the social security system is also reserved to the Member States (Art. 153 (4) TFEU).

The tax relief called for on business transfers could theoretically be achieved at EU level by harmonising direct taxation (Art. 115 TFEU). This requires unanimity in the Council.

The removal of the legal obstacles to the establishment of businesses by migrant entrepreneurs, announced by the Commission, can be based on Art. 19 TFEU (Anti-discrimination).

### Alternative Approach

In order to remove legal obstacles to the establishment of businesses by migrant entrepreneurs all that is required is an amendment to the Directive on achieving a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) to include discrimination on the grounds of ethnic origin.

## Conclusion

Member States often fail to allow sufficient, if any, room in their educational curricula for economic issues and particularly entrepreneurship. The Commission correctly wants to counteract this. Difficulties experienced by entrepreneurs in acquiring capital are not due to market deficiencies but reflect the risk assessment of capital providers; subsidies are therefore the wrong approach. Reducing administrative costs, simplifying national employment law and relaxing national inheritance tax requirements in relation to corporate succession improve the framework for companies and start-ups and facilitate job creation. Awarding public contracts in smaller lots does promote SMUs but prevents the economies of scale offered by large concerns thus making public contracts more expensive.