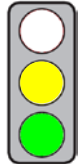


KEY ISSUES

Objective of the Regulation: The Commission wants to extend the existing network of employment services "EURES" in order to improve employee mobility.

Affected parties: Employees, trainees, employers, private and public employment services.



Pro: The European ESCO classification may improve the procurement of job seekers for job vacancies.

Contra: The EU has no competence to require the Member States to promote cross-border mobility as a permanent part of the national employment policy.

CONTENT

Title

Proposal COM(2014) 6 of 17 January 2014 for a **Regulation** of the European Parliament and of the Council on a **European network of Employment Services, workers' access to mobility services** and the further **integration of labour markets**

Brief Summary

► Context and objectives

- According to the Commission, in 2013 only 0.29% of employees were employed in a foreign Member State (termed mobility rate). By comparison with the mobility rate between the federal states of the USA (2.4%) and the federal states of Australia (1.8%) the EU rate is very low.
- As a consequence of low employee mobility, unemployment in many Member States is high; in other Member States many jobs remain vacant.
- The Commission wants to extend the existing network of employment services "EURES" (European Employment Service) in order to improve employee mobility.
- This Regulation will replace the existing rules on the EURES network contained in the Employee Mobility Regulation (Chapter II and Art. 38 EU Regulation No. 492/2011).

► Organisation of the EURES network

- The basic organisation of the EURES network will remain in place: It will still include (Art. 4 (1))
 - the "European Coordination Office",
 - the "National Coordination Offices" and
 - the "EURES Partners".
 In addition, a Coordination Group will be set up (Art. 11).
- **European Coordination Office**
 - The European Coordination Office will be appointed by the Commission and will (Art. 6(1))
 - operate and develop the on-line jobs portal "EURES Portal",
 - carry out information and communication activities including the exchange of best practices,
 - develop training programmes for EURES staff,
 - analyse occupational mobility in the EU and
 - monitor and evaluate the activity and employment performance of the EURES network.
- **National Coordination Offices**
 - The National Coordination Offices will promote (Art. 7 (1))
 - the organisation and coordination of the work of the EURES network at national level,
 - cooperation with each other and with the EURES Partners and
 - cooperation with third parties such as universities, chambers of commerce and information and advice centres.
 - They publish up-to-date information on (Art. 7 (2) and 3)
 - living and working conditions,
 - administrative procedures as regards employment and rules applicable to workers,
 - apprenticeships and traineeships,
 - special rules for frontier workers and
 - the EURES partners authorised to operate in their Member State.
 - The Member States can – as is already the case in Germany – designate their public employment services as national coordination offices.

– EURES Partners

- EURES Partners may be organisations, at the national, regional or communal level of the employment market (Art. 9 (1) and Art. 18 (3)), that
 - provide job vacancies, job applications and applicants' CVs or
 - provide "support services" such as general or individual information and advice for employees and employers.
- This means, for example, private and state-run employment services and trade unions.
- EURES Partners are authorised by the Member States and registered with the Commission (Art. 8).
- Each EURES Partner shall designate at least one contact point for carrying out the responsibilities in connection with the EURES Network (Art. 9 (2) and (3)).

► Coordination Group

- A Coordination Group will be set up which
 - draws up the multi-annual work programme of the EURES Coordination Office in conjunction with the latter (Art. 6 (2)) and
 - supports the implementation of this Regulation, in particular the development of technical standards and formats required for data transfer and processing (Art. 11 (2)).
- The Coordination Group consists of representatives from the National and European Coordination Office. The European Coordination Office will chair the meetings. (Art. 11 (1) and (3))
- Representatives of the social partners at EU level may attend the meetings of the Coordination Group (Art. 11 (3), sentence 2).

► Common EURES portal – common IT platform

- The Member States ensure that the EURES portal provides (Art. 14 (1):
 - all job vacancies from the EURES partners irrespective of the type and duration of the employment – i.e. including traineeships and apprenticeships – and
 - all job applications and CV's of applicants insofar as they have consented to publication.
- Exceptions are only permitted for job vacancies which are only open to the country's own citizens "due to their nature or to national rules", such as judges' appointments (Art. 14 (2)).
- The data must be provided by way of a uniform IT system. The Commission lays down the required technical standards and formats by way of implementing acts. (Art. 14 (7) and (8))
- The public employment services must ensure that all job vacancies and job applications from the EURES portal are made available in the same way as their national data (Art. 15 (3)).

► European classification system

- The Commission is developing a European system for the classification of skills, competences, qualifications and occupations (ESCO) in order to facilitate the cross-border process of matching applicants with vacancies (matching process) within the EURES portal (Art. 16 (1)).
- In cooperation with the Commission, the Member States will ensure the interoperability of the national classification systems and the European classification system (Art. 16 (2)).

► Support services

- Member States must ensure that employees and employers can gain access to the "support services" provided by the public employment services or other EURES Partners (Art. 18 (1), (3) and (4)).
- The support services include (Art. 20 and Art. 21)
 - information about
 - employment policy measures,
 - rules on the employment of workers from other Member States and
 - the EURES network, the EURES portal and the EURES Partners,
 - assistance on the formulation of the job offers, job applications and CVs and
 - referring people to another EURES Partner.
- The support services listed in the Regulation (Art. 18 (5) and 6))
 - are free of charge for employees,
 - may be subject to a fee for employers.
- The EURES Partners will also inform employees and employers, where required, about support services such as language courses and integration training which can only be taken up once a vacancy has been filled. These support services by the EURES Partners may also be subject to a fee for employees. (Art. 22 (1) and (2))
- The Member States will set up information points in border regions for frontier workers (Art. 19 (2)).
- An employee may not be refused access to national employment policy measures on the basis that he/she is using them to seek employment in another Member State (Art 24).

► Examining barriers to mobility

- The Member States
 - collect and analyse information on, inter alia, national labour shortages and -surpluses, on EURES activities and on the "relevance" of the EURES network for employment services at national level,
 - exchange this information with other Member States and
 - develop "mobility policies" to promote cross-border mobility "as an integral part of their employment policies" (Art. 26).

Main Changes to the Status Quo

- Until now, EURES only had to publish details of vacancies which "could" be filled by nationals of other Member States [Art. 13 (1) (a) Regulation (EU) No. 492/2011]. In future all job vacancies will have to be published in EURES.
- Until now, only "universal service providers" could be EURES Partners; their sub-contractors can be "associated EURES Partners". In future, all organisations that are active on the employment market can be EURES partners.

Statement on Subsidiarity by the Commission

In order to facilitate cross-border employment services, particularly for the cooperation between the organisations in the Member States, common rules are required. These cannot be provided by the Member States.

Policy Context

Major parts of the proposal are already contained in the Employee Mobility Regulation (EU Regulation No. 492/2011) and particularly in a Commission Implementing Decision (2012/733/EU). In 2013, the European Parliament brought an action in the European Court of Justice against the Implementing Decision because it also modified non-essential elements of the Regulation which can only be carried out by way of an amending or delegated act (ECJ, Case C-65/13). In order to uphold the provisions in the event of judgement in favour of the EP, the Commission is now submitting a new proposal in the form of a Regulation whose enactment will involve the EP. In addition, as early as April 2012, the Commission announced an improvement of the EURES network in its Communication "Job Rich Recovery" [COM(2012) 173; see [cepPolicyBrief](#)].

Legislative Procedure

17 January 2014 Adoption by the Commission
 Open Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

Options for Influencing the Political Process

Directorate General:	DG Employment and Social Affairs (leading)
Committees of the European Parliament:	Employment (leading), Rapporteur TBA; Internal Market; Regional Development; Culture; Legal Affairs; Equality of the Sexes
Federal Ministries:	Federal Ministry for Employment and Social Affairs (leading)
Committees of the German Bundestag:	Labour (leading); Economy; Family
Decision mode in the Council:	Qualified majority (Adoption by a majority of the Member States and with 260 of 352 votes; Germany: 29 votes)

Formalities

Legislative competence:	Art. 46 TFEU (Freedom of movement for workers)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 294 TFEU (Ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Comparing mobility between the EU Member States with mobility in the USA and Australia is misguided and bound to reflect unfavourably on the EU because, firstly, unlike the USA and Australia, the EU does not have a single language and the foreign language of another Member State is a major barrier to mobility. Secondly, in both of the comparison countries, there is a unified system of social insurance and taxation. For many Europeans, ignorance of these systems is also an important barrier to mobility. There has to be serious doubt, therefore, as to whether the expansion of the EURES network will significantly increase mobility within the EU. Nevertheless, the Commission's proposal does improve the basic framework for EU-wide employee mobility.

Impact on Efficiency and Individual Freedom of Choice

The ability of employees to make use of support services free of charge promotes the use of such services and thus increases the chances of employment and recruitment. Although this argument also applies to employers, if employers are also able to use the support services free of charge this will reduce the incentive for private employment agencies to participate in the EURES network because private employment agencies are generally motivated by profit and thus do not work free of charge.

The ban on refusing employment policy support services solely on the grounds that employment is being sought in another Member State is basically appropriate because it enhances cross-border employee mobility. However the wording is vague which carries the risk that it will be interpreted by judicial decisions at the expense of the budgets of the Member States. Where national law allows scope for discretion in granting such support, this should remain in place in order to prevent excessive claims or misuse.

Impact on Growth and Employment

The chances of employees being able to find work via the EURES portal also depends on the number of jobs made available. The fact that the authorisation of EURES Partners, particularly private employment agencies, has been made easier may increase the number of job vacancies as long as job vacancies and searches which are not registered with state employment services are entered into the EURES portal by private employment agencies. The number of job vacancies will also be increased by the mandatory EU-wide requirement to make all job offers available. However, it is unlikely that many vacant apprenticeships or part-time jobs with a small number of hours will be filled by job seekers from other Member States.

To ensure the efficiency of the European labour market, an improvement in the matching process within the EURES portal is especially important. **The European classification of the skills, competences, qualifications and professions (ESCO) may contribute to this and improve the procurement of job seekers for vacancies** because this allows the knowledge and skills of the individual applicant to be more effectively matched up to the requirements of the positions advertised. In addition, it is consistent with the principle of subsidiarity that the national systems of classification are retained and only have to be interoperable with each other and with the European system.

Impact on Europe as a Business Location

Europe's quality as a business location depends considerably on the availability of manpower. Europe's status as a business location will rise in line with the increase in mobility within the EU.

Legal Assessment

Legislative Competency

The EU can adopt Regulations and Directives to improve the freedom of movement of employees. This expressly includes provisions to "ensure close cooperation between national employment services" (Art. 46 (1) (a) TFEU) and provisions on "setting up appropriate machinery to facilitate the achievement of a balance between supply and demand in the employment market" (Art. 46 (1) (d) TFEU).

The EU, however, has no competence to impose "mobility measures" on the Member States in order to promote cross-border mobility as a permanent part of the national employment policy because the EU's competence is restricted in this regard to encouraging cooperation between Member States and in doing so it must respect the competences of the Member States (Art. 147 TFEU).

Subsidiarity

Unproblematic.

Proportionality with regard to the Member States

Unproblematic.

Compatibility with EU Law in other Respects

The transfer of power to the Commission for the adoption of implementing acts in order to specify the technical standards for the IT system accords with primary law requirements because the standards are a condition for the uniform implementation of the Regulation as stipulated in Art. 291 TFEU.

In the interests of legal certainty, one provision should be added to the proposal in order to ensure that the ESCO classification system which is to be set up complies with the Directive on the recognition of professional qualifications (Directive 2005/36/EC).

Impact on German Law

There is not expected to be any significant impact on German law. In particular, support measures for job searches in other Member States can already be made available (Section 44 (2) Social Code (SGB) III).

Conclusion

The European ESCO classification may improve the procurement of job seekers for job vacancies. The EU has no competence to require the Member States to promote cross-border mobility as a permanent part of the national employment policy.