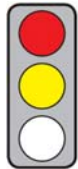


Status: 28.06.10

MAIN ISSUES

Objective of the Decision: The Commission provides Member States with a set of guidelines by which education, labour, and social policy are to be oriented.

Parties Affected: All economic sectors.



Pros: The proposed targets of increasing labour market participation and reducing unemployment improve the use of hitherto idle resources.

Cons: (1) The Commission proposes setting numerical headline targets for educational policy and for combating poverty, despite the European Council's express rejection of this.

(2) The EU has no legislative powers to set headline targets concerning educational policy and poverty.

(3) Almost all proposals to achieve the set targets infringe the principle of subsidiarity.

CONTENT

Title

Proposal COM(2010) 193 of 27. April 2010 for a **Decision of the Council on guidelines for the employment policies of the Member States** – Part II of the Europe 2020 Integrated Guidelines

Brief Summary

► Object of the Decision

- In order to substantiate the Europe 2020 strategy [COM(2010) 2020; see [CEP Policy Brief](#)], the Commission puts forward ten guidelines for coordinating the policies of Member States: Nos. 1 – 6 for the basic principles of economic policy [Proposal SEC(2010) 488] and nos. 7 – 10 for educational policy.
- The four educational policy guidelines will (Recital 16):
 - give “precise guidance” on defining national reform programmes and their implementation,
 - form the basis for any country-specific recommendations from the Council to Member States and
 - form the basis for the annual Joint Employment Report sent by the Council and the Commission to the European Parliament.
- The Commission assumes that Member States will benefit from the “positive spill-over effects of coordinated structural reforms, particularly within the euro area” (Explanation p. 2).
- In the following, the guidelines for the employment policies will, unlike the Commission's order, be presented in a chronological order following the normal course of education and employment.

► Guideline 9: “Improving the performance of education and training systems at all levels and increasing participation in tertiary education”

- Set headline target: at least 40% of the population aged 30-34 should have a higher degree or equivalent qualification (currently 31%), and a maximum of 10% of any age-group (currently 15%) should be without a school leaving certificate.
- The Commission stresses the necessity for an improved educational system, right through from early childhood education and school education to vocational and adult education and up to higher education, so as to ensure that the key competencies required to be able to actively participate in a knowledge-based society can be acquired.
- Member States should improve education and training systems by investing more in educational systems and by introducing qualification frameworks enabling flexible learning pathways.

► Guideline 8: “Developing a skilled workforce responding to labour market needs, promoting job quality and lifelong learning”

- No headline targets set.
- With regard to newcomers to the labour market, Member States should in particular:
 - develop education and training systems tailored to better meet the demands of the labour market and
 - together with the social partners help them find initial employment or further education and training possibilities, including apprenticeships.
- With regard to highly experienced professionals, Member States should in particular:
 - develop systems to recognise competencies acquired in other Member States,
 - support productivity and employability to match current and future needs in the labour market and
 - promote lifelong learning for everyone and enhance the training, skills and experience of highly skilled workers.

- Investments in the development of human resources, up-skilling and lifelong learning should be financed jointly by “governments, individuals and employers”.
- Member States should further develop entrepreneurship initiatives.
- ▶ **Guideline 7: “Increasing labour market participation and reducing structural unemployment”**
 - Set headline target: 75% of the population aged 20-64 should be in employment by 2020 (currently 69%). In particular, young people, older workers, disabled persons and legal migrants should be better integrated into the labour market.
 - Member States should increase labour force participation (share of employed population in relation to population able to work) through policies such as:
 - better tax and benefit systems enhancing competitiveness and labour force participation, in particular of low-skilled workers;
 - lay down clear rights for the unemployed and, at the same time, their obligation to actively seek work;
 - provide personalised services to workers who are difficult to employ;
 - ensure that professional mobility is “rewarded” and
 - improve the work-life balance by providing “affordable” care and a more flexible organisation of work thus facilitating a better reconciliation of family and work.
 - Member States should reduce unemployment, in particular:
 - by supporting with an active labour market policy – e.g. in areas such as “green employment” and care – self-employment and job creation;
 - take balanced and mutually reinforcing measures to increase the flexibility of labour markets and the security of workers (flexicurity principles).
 - Member States should improve the quality of jobs and employment conditions in particular by:
 - “fighting” low-wages,
 - promoting “active ageing”, gender equality and equal pay and labour market integration of young people, disabled and vulnerable groups,
 - reducing the “segmentation” of the labour market with measures combating temporary and precarious employment, reducing underemployment and undeclared work and
 - ensuring “adequate social security also for those on fixed contracts and the self-employed”.
- ▶ **Guideline 10: “Promoting social inclusion and combating poverty”**
 - Set headline target: the number of Europeans living below national poverty lines is to be cut by 20 million to 60 million.
 - To combat social exclusion and to ensure equal opportunities Member States should in particular:
 - provide access to “affordable, sustainable and high quality services and public services” and ensure an “adequate healthcare”,
 - promote the full participation in society and economy and
 - take effective anti-discrimination measures.
 - Social security and pension systems must allow for “adequate income support” and healthcare provision. At the same time, they must remain financially “sustainable”.
 - Apart from that the Commission repeats its targets regarding education and employment.

Changes Compared to the Status Quo

- ▶ The proposed guidelines substitute those which have been in force since 2008 (Decision 2008/618/EC).
- ▶ New are the quantitative headline targets. To date, such headline targets have only been set for the areas of employment services, combating long-term unemployment and life-long learning.
- ▶ The recommendations for action concerning the implementation of the set headline targets are mainly in line with hitherto existing recommendations.

Statement on Subsidiarity

The Commission does not address the principle of subsidiarity.

Policy Context

On 26. March 2010 the European Council approved the Strategy Europe 2020 [COM(2010) 2020; s. [CEP Policy Brief](#)] as the successor to the failed Lisbon Strategy, yet expressly refused to adopt any numerical targets concerning education and the fight against poverty. However, on 11. May 2010 the Council decided nevertheless to recommend to the European Council that they approve the targets set for educational policy. Moreover, on 8. June 2010 the Council decided to recommend to the European Council that they approve target setting also for the fight against poverty.

Legislative Process

27. April 2010	Adoption by Commission
Open	Adoption by Council, publication in the Official Journal of the European Union, entry into force.

Options for Influencing the Political Process

Leading Directorate:	DG Secretariat General
Committees of the European Parliament:	Employment and Social Affairs (leading), rapporteur: Csaba Óry (EPP Group, HU); Economy; Industry; Women's Rights
Committees of the German Bundestag:	EU-Affairs (leading); Finance; Employment and Social Affairs; Economy and Technology
Decision mode in the Council:	Qualified majority (rejection with 91 of 345 votes; Germany: 29 votes)

Formalities

Competence:	Art. 148 (2) TFEU (Employment policy)
Form of legislative competence:	Concurrent legislative competence
Legislative procedure:	Special legislative procedure (Hearing EP)

ASSESSMENT

Economic Impact Assessment

A coordinated employment strategy at EU level is principally wrong. For it is solely and exclusively national labour markets and social security schemes **which would benefit from possible structural reforms.** Even the Commission seems unable to explain what exactly the “positive spill-over effects” that might justify coordinated action look like.

Notwithstanding, the Commission's proposals are assessed as follows:

Guideline 9: It is to be welcomed that the Commission takes into account educational and training systems, which are upstream to the labour market, when dealing with employment policy measures; the groundwork for employability is already laid down in kindergarten.

There is a risk that the set headline targets – to increase the number of university graduates and people with equivalent qualifications to 40% and to reduce the number of people leaving school without qualifications to 10% – might lead to Member States lowering the requirements needed to acquire qualifications in order to reach the set targets, instead of taking efforts to improve the quality of education.

Guideline 8: The Commission is right in emphasising the necessity for a smooth passage from education to the labour market and the necessity for “life-long learning”: both maintain employability and prevent unemployment.

However, it is not the responsibility of a state to foster the continuous development of human resources, up-skilling measures and life-long learning. The workers themselves are exclusively responsible for that and, where the skills needed are of a company-specific nature, employers are also responsible. After all, it is them who benefit most from the improved skills of their workers.

The **system for a mutual recognition of educational competencies**, as requested by the Commission, strengthens the single market, since it would **make it easier to change jobs at cross-border level.**

Guideline 7: Through appropriate framework conditions to increase labour participation and reduce unemployment, hitherto idle resources are brought (back) into productive use and the enormous financial and psychological under which the unemployed suffer are prevented.

As requested by the Commission, tax and social systems should be mutually compatible so as not to stand in the way of commencing a new job. However, it would be a mistake – as discussed e.g. in Germany – “to buy” the jobless “out” of unemployment, for instance by means of expensive combined wage plans (cp. [CEP Policy Brief](#)). After all, the unemployed are obliged to actively seek work, as even the Commission stresses: beneficiaries must keep society's unquestioning support down to a minimum and may not consider it unconditional.

Nevertheless, it is right to provide additional support in the form of personalised services to those who are extremely difficult to employ, as the ability of such people to take the initiative is limited.

An active labour market policy creating job promotion in, for instance, the fields of healthcare or green employment, **is to be rejected:** For if the value added is higher than (labour) costs, such jobs will be created anyway without state subsidies being needed. State subsidies only lead to deadweight effects. **If, however, the added value is lower, then subsidies would constitute a waste of taxes.**

In principle, flexible labour markets are to be welcomed. The expectations regarding flexicurity measures should not, however, be too high. For this concept pursues two contradicting goals simultaneously: the aspired to increase in workers' security, e.g. through greater protection from dismissal, can only be achieved by means of additional regulation, which goes against flexibility. Besides the fact that greater protection from dismissal only benefits those in employment. For the unemployed, it makes it more difficult to (re-)enter the labour market, because the more difficult it is to dismiss unneeded workers, the more companies tend to forego employing new staff members.

The called for course of action against “low wages” threatens to undermine the second goal of increased employment: by prescribing minimum wages, those jobs are eliminated whose added value lies below the minimum wages. In particular, young and disabled people, whose productivity is normally below the average to start with, cannot be integrated into the labour market if, as requested, they are paid equal to labour forces

who are more experienced and fully operational. **Only a flexible wage system enabling payment in line with actual productivity creates employment.** “Low wages” can be avoided only in the long term through the sufficiently high qualification of workers.

Guideline 10: The fight against social exclusion and poverty is based on a social consensus. However, the subsidised provision of access to “affordable” services, which after all are rendered privately, is to be rejected, as this would require meddling with pricing. Prices are not something that politics can pick and choose; they are based on supply and demand. Any sort of meddling would distort the signalling function of prices and harm the efficiency of the overall economy.

Instead, Member States should, where necessary, increase financial support to affected parties in order to enable them to fully participate in social and cultural life.

The Commission is right in stressing the importance of “sustainable social security systems”. In the guidelines it does not address this issue, but previously it did [COM(2009) 180; cp. [CEP Policy Brief](#)]: Member States were advised not to finance social security systems through wages. So wages can (again) reflect real scarcity after all. This increases the efficiency of the overall economy.

Legal Assessment

Legislative Competence

The EU Member States have agreed on a coordinated employment strategy (Art. 145 TFEU). The possibility to adopt guidelines (Art. 5 (2) TFEU) in the form of a decision – which according to Art. 288 TFEU makes them legally binding – further affirms that approach. However, **the delimitation of competences is broadened by the legally binding nature of the proposed guidelines to an unacceptable degree.** The “Europe 2020” strategy stipulates that the EU must monitor the achievement of the targets set and should be entitled to deliver warnings in case of non-compliance. However, that would mean that the EU is acting outside the legal grounds of the delimitation of competences. For pursuant to Art. 121 TFEU warnings are permitted only in the field of economic policy. **In the area of general education or vocational training and the fight against social exclusion, the EU must not set any legally binding targets.** Only in the area of employment policy (Guideline 7) as part of economic policy does the EU have the required power to set headline targets (numerical employment target).

On the other hand, the measures proposed to achieve the headline targets do not infringe the delimitation of competences, for the Commission uses the conditional tense exclusively which confers upon the proposed measures the character of being an unbinding recommendation.

Subsidiarity

The setting of **numerical headline targets concerning employment**, which is subjected to the delimitation of competences, **and almost all proposals for the implementation of this target infringe the principle of subsidiarity.** For apart from the Member States’ mutual recognition of qualifications, it only affects issues without cross-border relevance.

Proportionality

Unproblematic.

Compatibility with EU Law

The Commission reiterates the numerical headline targets concerning education (Guideline 9) **and poverty** (Guideline 10), **despite the fact that the European Council expressly rejected numerical targets**, mainly due to pressure from Germany. Thus it creates a worrying situation: the adoption of the Proposal – which makes it legally binding – requires only a qualified majority in the Council (Art. 16 (3) TEU) while an amendment of the Proposal by the Council is subject to unanimity (Art. 293 (1) TFEU). However, a rejection of the Proposal by the European Council is not likely since the Council has accepted the setting of numerical headline targets.

Compatibility with German Law

Unproblematic.

Possible Future EU Action

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Conclusion

In principle, the targets of increasing labour market participation and reducing unemployment facilitate the use of hitherto idle resources. Nonetheless, Member States should refrain from taking action concerning labour policy, for such action leads to deadweight effects and a waste of taxpayers’ money. The headline targets regarding educational policy and poverty infringe the delimitation of competences, and almost all proposals for the implementation of the set targets infringe the principle of subsidiarity. The planned procedure for a mutual recognition of educational degree by the Member States is the only exception to the above: this strengthens the single market and makes it easier to change jobs at cross-border level.