

## Position paper

---

# Topics for improved subsidiarity and/or more policy responsibility at Member State level

Transparency register no.: 5189667783-94

Brussels, May 2018

## **Topics for improved subsidiarity and/or more policy responsibility at Member State level**

### **1. The Single Market**

In accordance with the basic principles of subsidiarity and proportionality, no further EU regulations should be adopted regarding the internal market for services. Comprehensive rules already exist in this field, for example in Directive 2006/123/EC for approvals and other requirements regarding establishments.

Moreover, in accordance with the principle of subsidiarity, greater importance should be attached to the fact that in the area of the recognition of professional qualifications and/or the coordination of minimum training requirements (as in the field of sectoral professions under Articles 21 - 49 of Directive 2005/36/EC on the recognition of professional qualifications), the competence of the EU ends and that of Member States begins.

The Member States must continue to be able to freely decide on the “whether” and “how” of any professional regulation, in line with the jurisprudence of the European Court of Justice, which, in its rulings on the freedom of movement, neither restricts the autonomy of Member States nor lays down any rules regarding the level of regulation.

### **2. Vocational education and training (VET)**

Recently increased interference in Member State competences regarding VET can be observed, a field where the competence of the European Union is restricted to issuing recommendations without a binding political character. In addition, a clear ban on harmonisation exists with regard to training contents and to the development of a country's VET system.

Nevertheless, the EU Commission is trying to establish EU-wide common training frameworks or European competence profiles for certain professions via the ESCO initiative. Although the national initial and continued vocational education and training rules (IVET and CVET) will continue to exist, EU-wide standards would have the effect of exerting pressure on Member States to adjust their national VET systems. As VET is in their competence, Member States should continue to retain a high level of self-responsibility in this field.

### **3. Social policy**

In the social policy field as well, the EU Commission has been increasingly making use of its policy-making competence since the adoption of the Maastricht Treaty (for instance the Working Time Directive, the Maternity Leave Directive, the Posting of Workers Directive or the European Pillar of Social Rights). In many cases, such EU legislative initiatives severely impact the competitiveness of small, labour-intensive skilled craft companies, as they cause payroll costs to rise and increase red tape. Moreover, the principle of subsidiarity also applies to the field of social security systems.

The Member States should therefore be given more autonomy in the social policy field, especially in countries where long-established and proven social partner structures exist. The whole field of wage-setting (including the setting of apprentice wages) is a national responsibility, often subject to negotiations between the social partners. Similarly, the main aspects of working conditions must be decided at the level of those concerned, i.e. at Member State and/or regional level.

The bottom line is that the division of competences in the social policy field must not be questioned by the EU Commission, thereby eroding essential national competences. In particular, we must not arrive at any form of a transfer union in which the social burdens in the individual Member States are to a great extent determined by EU policy.

#### **4. State aid regulations**

Ensuring undistorted competition in the European Single Market is a precious asset and needs to be backed by EU state aid rules. This applies especially to major distortions of competition triggered by companies operating on a global scale and unjustifiably high state aid amounts. The EU state aid rules have however moved away from their main goal of preventing severe distortions of competition. The very detailed rules are in many cases not even transparent for experts and in combination with the lack of flexibility they are hurdles in the way of constructive national SME policy. Greater flexibility for the Member States is urgently required.

The rules governing de minimis aid are one example. As their effects on competition in the European Single Market are not noticeable, they do not need to be notified to the EU Commission prior to their granting. Yet, the EU Commission reserves the right to monitor de minimis aid. The European control system causes significant administrative burdens, and – given the low amounts of aid – is disproportionate to the objective of preventing noticeable competitive distortions. For instance, in the German skilled craft sector alone, some 40,000 companies have to fill out complicated de minimis declarations each year, even though the aid amounts are nowhere near the de minimis limit of EUR 200,000 and in most cases even lower than EUR 10,000 in the past three tax years. The rules are now leading to meaningful and socially important aid instruments being rolled back or even not being taken up at all.

It is therefore necessary to significantly simplify the rules regarding state aid for small and micro companies. On the one hand, this could be done at European level through generally exempting a certain amount of state aid from information and documentation requirements (e.g. EUR 10,000, a so-called “minimum de minimis” rule) or extending the categories of aid compatible with the Single Market in Regulation (EU) No 651/2014. Another possibility would be to delegate the responsibility for the design and control of de minimis aid to the Member States, as they are better placed to do this and as no significant distortion of competition is to be feared either at national or Single Market level. In particular, the complicated rules on information and documentation requirements for de minimis aid could be made more practical at national or even local level.

Regarding state aid for VET infrastructures, less rigid rules are needed, taking the specific features of national VET systems into account. These rules are best set at national level.