

President of the Bundesrat

President of the European Commission
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1049 Brussels
Belgium


Berlin, 11.02.2011

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Commission Work Programme 2011 COM (2010) 623 final

Sir,

At its 879th sitting on 11 February 2011 the Bundesrat decided to transmit the Resolution in the Annex to the Commission.

Complimentary close

A handwritten signature in black ink, appearing to be 'J. C. Barroso', written in a cursive style.

11.02.11

Bundesrat Resolution**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Commission Work Programme 2011 COM (2010) 623 final**

At its 879th meeting on 11 February 2011, under § 3 and § 5 of the Act on Cooperation between the Federation and the Länder in European Union Affairs (EUZBLG), the Bundesrat adopted the following opinion:

1. The Bundesrat takes note of the Commission Work Programme for 2011. It welcomes the Commission's decision to concentrate on four action lines: restoring growth for jobs by accelerating the Europe 2020 reform agenda, pursuing the citizens' agenda, Europe pulling its weight on the global stage and making the most of EU policies. It particularly welcomes the fact that the Commission is continuing to focus on improving competitiveness to increase growth and employment in Europe through the Europe 2020 strategy, particularly on accelerating recovery, while making the model of the social market economy a central feature.
2. As in the case of the 2010 Work Programme (cf. Bundesrat opinion of 7 May 2010; BR-Drucksache 188/10 (Resolution)) the Bundesrat is again critical of the fact that the annexes to the Work Programme, which detail the initiatives, were not published in German until later. It is precisely the detailed listing of the planned initiatives that makes the annexes especially interesting when discussing the Commission's plans. It calls on the Commission, which had promised the German Government a review of its translation strategy back at the beginning of 2010, to make good on its promises to ensure effective participation of national Parliaments under the Lisbon Treaty.
3. The Bundesrat will deliver a separate and comprehensive opinion on the individual initiatives set out in the Work Programme. It has already done so with regard to some of the measures which have been proposed and, in some cases, already presented. The Bundesrat views the discussion of the Commission Work Programme as an important aspect of political dialogue and cooperation with national Parliaments which makes it possible to take up an early position on the Commission's overall strategy in its work schedule and on selected priority initiatives.

Re: item 2 - Restoring growth for jobs by accelerating the Europe 2020 reform agenda

Re: item 2.1 - Strengthening economic governance and initiating the European Semester

4. The Bundesrat welcomes the proposals to strengthen the instruments for enhancing the surveillance of fiscal policies and extending the coordination of economic and budgetary policy under the Europe 2020 strategy. However, it is opposed to the bringing to bear of any political influence, especially in the euro area, which could jeopardise the independence of the ECB. Member States must continue to be guaranteed budgetary sovereignty.
5. The Bundesrat applauds the greater economic policy coordination arising out of the first Annual Growth Survey, which launches the European Semester, and the emphasis placed on a strict course of budgetary consolidation. It considers the proposed legislation to improve the coordination of macroeconomic policies necessary but points out that it has not yet been clarified which parameters will be used as indicators to identify adverse macroeconomic imbalances, and with what weighting.
6. The Bundesrat is opposed to the Commission's proposals to develop recommendations backed up with sanctions as a means of enhancing competitiveness, if such measures were to be triggered by indicators that in a market economy could not, or at least not adequately, be steered by national policy. The situation must not be allowed to arise where market-driven coordination is supplanted by central state coordination.

Re: item 2.2 - Financial regulation: completing the reform

7. The Bundesrat welcomes the Commission's plans to continue the already ongoing reform of the financial sector and hopes for a swift agreement on the whole reform package.
8. The Bundesrat considers an amendment to the Regulation on Credit Rating Agencies to be a sensible move to complement adjustments already made, particularly with regard to the establishing of criteria and the proposed measures to support competitiveness.
9. The Bundesrat supports the proposals for legislation on crisis management. This can ensure that banks can pursue their activities in a way that reduces the risk of contagion to a minimum and safeguards the continuity of basic financial services. It is part of the raft of measures on involvement in the banking sector and in line with similar thinking at international and national level.
10. The Bundesrat welcomes the review of the Market Abuse Directive. Now that the Directives have been in force for a few years, a number of areas have emerged as

being in need of adjustments. It also welcomes the revision of the Market in Financial Instruments Directive, which is aimed at enhancing investor confidence and creating a level playing field. Since the current Directive came into force, new practices, operational systems, etc., have created a need for adjustment.

11. In 2009, following consultation, the Commission advocated improving access to banking services by means of a Code of Conduct, making explicit reference to the Code operating in Germany. The proposed legislation would meet with the disapproval of the Bundesrat especially if its scope went significantly beyond the current legal situation in Germany.

Re: item 2.3 – Smart growth

12. The Bundesrat applauds the Commission for devoting more attention in its 2011 Work Programme to SMEs than was the case in its 2010 Work Programme, as they account for by far the largest share of employment and training places in Europe. Facilitating market access for SMEs, for example, is to be one of the Commission's priorities in 2011 and the following years. With regard to export-oriented businesses in particular, the Bundesrat welcomes the Commission's announcement of a proposal to increase its support for European SMEs in markets outside the EU.

Re: item 2.4 – Sustainable growth

13. The Bundesrat welcomes the Commission efforts to promote sustainable growth, particularly its focusing on resource efficiency, and advocates, in this respect, looking out for technology and market-oriented solutions.
14. The Bundesrat takes the view that legislation aimed at introducing environmentally-friendly production techniques must be weighed up carefully against the costs ensuing and that European industry should not suffer disproportionate disadvantages which could have an impact on its global competitiveness. Given the close relationship between energy, transport and the promotion of low-emission industry, the strategies and roadmaps proposed by the Commission, such as the implementation of the Energy Roadmap 2050, must be consistent and designed to be complementary, as well as dovetailing with the Member States' roadmaps.
15. The Bundesrat believes that the White Paper on the future of transport announced for 2011, which will, according to the Commission, be one of the key instruments for resolving congestion and gaps in provision, will map out the course for transport policy for the next ten years. The Bundesrat attaches the greatest importance to the question of intermodality of the various modes of transport.

Re: item 2.5 – Inclusive growth

16. The Bundesrat does not believe it necessary to conduct a comprehensive review of the Working Time Directive as part of the Commission's plans for inclusive growth. It would be more sensible simply to fine-tune certain aspects of the Directive, where necessary. Care should be taken to ensure that employers have scope for flexibility but without employees losing out. The Bundesrat considers it particularly important that the maximum working times opt-out should be retained.
17. With regard to the proposed review of the Posting of Workers Directive, the Bundesrat is of the view that the current standards, particularly in relation to the national authorities' controlling powers in the host Member State should remain unaltered.
18. The Bundesrat welcomes the proposed revision of the state aid rules for services of general economic interest. Defining services of general economic interest must, however, remain a matter for the Member States, as has always been the case. Care must be taken to ensure that any quality notion for services of general economic interest must remain voluntary - if purely for reasons of competence. In this connection the Bundesrat refers the Commission to its opinion on the Commission communication "Towards a Single Market Act" (BR-Drucksache 698/10 (Resolution)).
19. Against the backdrop of the consequences of demographic trends and the sustainability of public finances, the Bundesrat welcomes the Commission initiative to launch a debate of adequate and sustainable European pensions systems which was begun with the Green Paper on Pensions. With regard to the proposed White Paper, however, it points out that responsibility for welfare systems which differ from country to country lies solely with the Member States and the individuality and diversity of the existing old-age provision systems in the Member States must be retained.

Re: item 2.6 - Tapping the potential of the Single Market for growth

20. The Bundesrat is critical of the Commission proposals for an airports package, particularly as the Commission's objectives are not always clear. The Bundesrat doubts whether opening up the market further will have a positive impact on the market for ground handling. The Bundesrat believes that the revision should focus primarily on substantial omissions or inadequacies of the Directive, such as the criteria for awarding contracts, the development of interim provisions to cover when service providers leave the market or rules on the removal of concession fees.

Re: item 3 - Pursuing the citizens' agenda: freedom, security and justice

21. The Bundesrat welcomes the Commission's aim of improving the quality and coherence of contract law. The Green Paper on policy options for progress towards a European Contract Law for consumers and businesses discusses a variety of options for improving contracts which can be achieved without recourse to specific legislation.

The Bundesrat believes it advisable to adopt an approach to European contract law which ensures the open and transparent forming of opinion, with the Member States as central players, and avoids laying down certain outcomes *a priori*.

22. The Bundesrat welcomes the legislative proposals for the electronic registering of data on the entry and exit of third-country nationals at EU external borders to counter illegal immigration and organised crime within the EU more effectively. Personal data should, however, be gathered in accordance with the generally accepted principles of data protection and data security.
23. The Bundesrat welcomes the Commission's proposals to renew the legal framework for dealing with supra-national disasters with a view to improving the Member States' disaster response capacity. The Bundesrat also welcomes the fact that the Commission increasingly recognises prevention as a means of avoiding disasters, and thus as a means of civil protection, and that the Commission is planning legislation to update mechanisms for providing humanitarian aid. Any enhancement of legislation on crisis prevention and response must, however, take due account of the subsidiarity principle and the competences of Member States, particularly the regions. The Bundesrat points out that bundling together humanitarian aid measures and disaster prevention measures in a proposed legal instrument on humanitarian aid must be avoided to preclude the possibility of undermining national and regional competences by directing measures through humanitarian aid.

Re: item 5.2 – Promoting smart regulation

24. The Bundesrat supports the Commission's efforts to promote smart regulation in the EU. However, it will not be possible to give a final assessment of the ex-post evaluation of legal instruments and "fitness tests" in certain areas of law until the first results are presented. It also reminds the Commission that smart regulation must not confine itself purely to the form of regulation, but must also examine whether there is any need at all for regulation at EU level.
25. The Bundesrat stresses the need to achieve by 2012 the objective of reducing by 25% the administrative burden arising from the requirement on SMEs in the EU to provide information. As the savings thus far achieved have fallen short of the Commission's predictions, it calls on the Commission to continue its efforts and produce further ambitious proposals for reductions in 2011. The Community legislature is also urged to adopt the drafts already presented by the Commission swiftly.
26. The Bundesrat welcomes the increasingly important role of the Impact Assessment Board in connection with the adoption of Commission proposals. However, it again regrets that the Commission still refuses to envisage an objective external element for

checking the quality of impact assessments. It calls on the Commission to increase the involvement in the smart regulation process of the "Stoiber-Group" on the basis of their extended mandate.

27. The Bundesrat will send this opinion directly to the Commission.