

**Resolution
of the *Bundesrat***
-----**Proposal for a Council Recommendation on establishing a Skills Guarantee
COM(2016) 382 final**

At its 948th meeting on 23 September 2016, the *Bundesrat* adopted the following position pursuant to §§ 3 and 5 of the Act on Cooperation between the Federation and the *Länder* in European Union Affairs (*EUZBLG*):

1. The *Bundesrat* supports wholeheartedly the aim of promoting skills and basic competences, and of improving access to training provision. It is in the interests of all Member States that citizens acquire high levels of skills. Checking previous training provision for its fundamental suitability, and adapting it where necessary, may therefore be helpful in achieving this aim.
2. However, the *Bundesrat* doubts whether the "Skills Guarantee" is the right way - from both the formal and technical point of view - to achieve the aims referred to in point 1. Against the backdrop of the very narrowly delineated powers set out in Articles 165 and 166 TFEU, the *Bundesrat* takes a critical view of the Commission's proposal and advocates a fundamental re-think of the "Skills Guarantee".
3. The *Bundesrat* also has serious misgivings as regards compliance with the principle of subsidiarity. Article 5(3) of the EU Treaty states that the EU shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. In the *Bundesrat's* view, however, what the Commission has failed to do is demonstrate why suitable measures to reduce the number of low-skilled people cannot be successful if introduced by Member States acting on their own. Furthermore, the project in itself has only a limited European dimension in that the proposal for a Recommendation is concerned primarily with national issues and the transposition of specified policies, by authorities in the Member States, into national schemes financed at national level. In this context, the *Bundesrat* strongly objects to European-level supervision of national policies on education and training.
4. The *Bundesrat* is in favour of improving access to training, but not in the form of a State guarantee.
 - The term "guarantee" could give a misleading impression that a personal legal entitlement

exists, thereby leading to an "entitlement mentality" in dealings with the State and the EU. No expectations should be raised at European level which cannot be satisfied at the level of the Member States.

- Even though it is stated in the reasons for the proposal that the Skills Guarantee "is to be delivered on a voluntary basis, based on the commitment and interest of the individual concerned", the rest of the document creates the impression the "Skills Guarantee" is viable if only the Member States would make sufficient effort. The *Bundesrat* vehemently rejects this. The acquisition of skills by individuals cannot be guaranteed by the authorities because successful completion of training and further training depends on the trainees themselves. Participation in training can only be on a voluntary basis and requires motivation, personal initiative and appropriate cognitive faculties.

5. The "Skills Guarantee" as a concept has the aim of acquiring a minimum level of literacy, numeracy and digital skills and/or progress towards a qualification at European Qualifications Framework (EQF) level 4 or equivalent, acquiring a wider set of skills, building upon the Recommendation on key competences for lifelong learning. Although the *Bundesrat* firmly supports the promotion of skills, it is critical of how the above aim has been worded:

- the reference to EQF level 4 or equivalent would amount to the "Skills Guarantee" establishing a minimum level of qualification at European level. EQF levels 1 to 3, and thus also the German Qualifications Framework (DQR), would become irrelevant. The *Bundesrat* is therefore opposed to a minimum level of qualification being specified, especially since this would lead to persons who have not acquired this level of training being dismissed as "poorly qualified". An insistence on EQF level 4 would mean that, in the field of general education, some school-leaving qualifications would not even meet the required minimum level;
- the recitals to the proposal for a Recommendation contain a blanket statement that an upper secondary qualification, equivalent to EQF level 4, is increasingly being regarded as the level of qualification required to even gain any access at all to the jobs market and further general and vocational training. However, the *Bundesrat* wishes to call attention to the fact that this is not true of Germany, where qualifications equivalent to lower DQR levels still offer access to the jobs market and further vocational training;
- the *Bundesrat* would also point out that qualifications at various DQR levels may be awarded on completion of upper secondary-level education and vocational training in Germany. The very reason for this is that general education and vocational training do not have to be uniform in order to be deemed equivalent. Given the inconsistent use of terminology in the Commission's proposal, it remains unclear whether a qualification "equivalent to" EQF level 4 also includes upper secondary qualifications. Using EQF level 4 as a yardstick would, however, mean that persons who have completed two years of full training would be dismissed as poorly qualified because their qualification is fixed at DQR level 3;

- in addition, the *Bundesrat* considers it unacceptable that the question of the level of qualification should be linked with the issue of literacy, numeracy and digital skills in the "Skills Guarantee". This would lead to a sweeping assumption that persons who do not have an EQR level 4 or equivalent qualification are lacking basic and digital skills. It is precisely these basic and digital skills which are not reflected in the EQR system, which is concerned solely with qualifications.
6. The *Bundesrat* also wishes to voice its concern that many of the measures referred to in the proposal would involve significant administrative cost, e.g. arrangements for a skills audit, or the imposition of evaluation and reporting requirements. The *Bundesrat* would point out that the expense associated with a measure must be proportionate to the benefits it will bring. It is doubtful whether this is the case here.
 7. The *Bundesrat* takes a critical view of the requirement that one or more central contact points be established in order to implement the Recommendation, and wishes to point out that decisions on administrative arrangements at national level are a matter for the Member States. In view of Germany's multifaceted federal system, the differing areas of responsibility in the field of vocational training and also the additional administrative burdens and expense involved, the *Bundesrat* takes an unfavourable view of any new arrangements and would call attention to the tried and tested organisational structures within the existing institutions (e.g. chambers of crafts/trades and further-education establishments).
 8. With regard to arrangements at EU level, the *Bundesrat* notes that the proposal remains unclear about the role to be played by the Advisory Committee on Vocational Training, which is to support the Commission in implementing the Recommendation in conjunction with relevant European coordination bodies. Nor is there any clarification of what is meant by "coordination bodies".
 9. The *Bundesrat* is critical of the undifferentiated use of basic concepts in the proposal for a "Skills Guarantee", and of the resultant lack of clarity which is exacerbated even further in the German translation of the document. Throughout the text, the Commission refers to skills in a broad sense; according to footnote 3 in the proposal, the term "skills" (German: "*Kompetenzen*") is also supposed to encompass a person's "knowledge and competences" (German: "*Kenntnisse und Fertigkeiten*"). The German translation is also inconsistent in itself. For example, the terms "skills" and "competence" are translated interchangeably as "*Fertigkeiten*" or "*Kompetenzen*". The *Bundesrat* would point out that these terms cannot be used as synonyms and, in this connection, recommends that the Commission's departments look more closely at language use and translation accuracy.
 10. The reference to "a tailored and flexible learning offer" would suggest that the intention is to gear education and training to the individual concerned by designing and making training offers in the form of learning-outcome modules on the basis of individual skills assessments. The *Bundesrat* rejects this modularisation, which runs counter to Germany's holistic approach to

general education and vocational training. In particular, the linking together of practical and theoretical vocational training under the "New Skills Agenda", as practised under Germany's work-linked training scheme, requires coordinated and integrated learning which is not compatible with modular learning units. However, this does not rule out the possibility of individuals also catching up on specific elements of training.

11. In the explanatory memorandum, the Commission states that the successful implementation of the proposed Recommendation will require appropriate and adequate funding, and that implementation at national level will entail an administrative cost. In this context, the *Bundesrat* takes a critical view of the fact that no funding from the EU budget is being provided for the very costly measures set out in the proposal, and of the fact that virtually the whole of the huge sum which would be required for a "Skills Guarantee" would have to be made available by the Member States themselves. The Commission's proposal to use money from the European Social Fund (ESF) must be rejected because the allocation of funds for the 2014-2020 programming period has already been finalised.
12. Under the proposal, it is also recommended that the Commission support the use of European funding programmes, in particular "Erasmus+". The *Bundesrat* would point out that the principal aim of the "Erasmus+" programme is to encourage mobility. The *Bundesrat* would again point out that it sees the particular added value of the programme in its bringing together young people from different Member States and enabling them to experience friendship between peoples and European-level collaboration at first hand (see also point 22 of the position statement of 29 January 2016, *Bundesrat* (BR) document No 510/15 (Resolution)). Notwithstanding the importance of promoting the acquisition of skills, the promotion of personal contacts - especially between schools in the framework of "Erasmus+" - should not be forgotten. The number of exclusively school-based partnerships in particular has decreased dramatically as a result of the modified funding arrangements. Thus there needs to be a complete change of direction in how programmes are implemented in order to counter the structural disadvantages experienced by schools under the "Erasmus+" programme. New priorities for the Commission should not be allowed to restrict the scope of school partnerships (see also point 41 of the position statement of 10 July 2015, BR Document No 212/15 (Resolution)).
13. The *Bundesrat* takes a critical view of the Commission's reference, in the explanatory memorandum, to the European Semester as a measure to support upskilling within Europe, whereas the purpose of the Semester is in fact to coordinate economic and fiscal policy in the Member States rather than to improve the skills of individuals.
14. The *Bundesrat* welcomes wholeheartedly the fact that the Slovak Presidency has put the Education Council in overall charge of the negotiations concerning the proposal for a Recommendation, and is critical of the Directorate-General for Employment, Social Affairs and Inclusion having played the leading role in drafting a Recommendation largely concerned with training issues. The envisaged "Skills Guarantee" is thus geared to the purely economic aspects

of training, and what it definitely fails to do is focus on every person's fundamental right to quality training adequate to their needs. Individuals and their skills are merely regarded as "human capital", and this fails to take account of the intrinsic value and the purpose of training. In contrast with the emphasis on economic viability, hardly any attention at all is paid to the need for the Guarantee to provide support, or to the involvement of the business sector in implementing it.

15. Under the proposal, the Member States are to draw up an action plan for implementation of the Recommendation within one year following its adoption. The *Bundesrat* regards this timeframe as unrealistic.
16. In point 4 of the Recommendation, it is suggested that, for the purpose of certifying existing skills, the Member States should put in place validation arrangements for low-skilled adults in line with the Council Recommendation on validation of non-formal and informal learning. In this connection, the *Bundesrat* reiterates its stance set out in its position statement of 12 October 2012, BR Document No 535/12 (Resolution) on the proposal for a Council Recommendation on validation of non-formal and informal learning, and would again point out that, given the strictly defined powers of the EU in the field of education, it rejects any European-level validation requirements concerning the recognition of qualifications.
17. In the proposal for a Recommendation, the Commission is called on to promote the use of competence frameworks for literacy, numeracy and digital skills and assessment tools. As already stated in point 12 of its position statement of 16 October 2015 (BR Document No 386/15 (Resolution)), the *Bundesrat* has doubts about the added value of such frameworks. The *Bundesrat* also has reservations about the Commission's wish to use the EU Digital Competence Framework for citizens as the basis for developing assessment tools for identifying skills gaps and designing tailored training. The *Bundesrat* would point out that the Framework is completely new and that its added value has not been proven, and it takes a critical view of assessment tools being developed on this basis.
18. With regard to the Member States being called on to identify priority target groups for the delivery of the Skills Guarantee at national level, the *Bundesrat* would point out that a hold-all provision is problematic and in this instance risks stigmatising certain groups.
19. The *Bundesrat* is sending this position statement directly to the Commission.