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SUBSIDIARITY/PROPORTIONALITY EVALUATION

Unit for Subsidiarity monitoring

Document number	COM(2007) 558
Title	<i>Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions:</i> Action plan on Adult learning - It is always a good time to learn
Date of adoption by Commission	27.9.2007
Drafting of opinion of COR	EDUC Rapporteur Ms Mary Shields (IE/UEN-AE) <i>Member of Cork City Council</i>
Related articles in the Treaties	Articles 149-150 TEC
Detailed subsidiarity check	NO

1. Legal basis

The Action Plan on Adult learning – *It is always a good time to learn* is a follow-up of the Commission's Communication on Adult learning: *It is never too late to learn*.¹ By implementing five European level key areas identified by the Communication (improving the adult learning sector's governance structure, quality, efficiency and accountability of delivery systems for learning activities, learning support and the recognition of learning outcomes), this Action Plan aims to help remove the barriers that prevent adults from engaging in learning activities, to improve the quality and efficiency of the adult learning sector, to speed up the process of validation and recognition of qualifications, to ensure sufficient investment and to monitor the sector. The Action Plan focuses on those who are disadvantaged because of their low literacy skills, inadequate work skills and/or skills for successful integration into society.

¹ COM(2006)614 final.

.../...

The core of the actions contemplated have **articles 149-150 of the EC Treaty on education and vocational training** as their legal base. These articles provide for Community measures supporting and supplementing the actions of the Member States. The second paragraph of both articles prescribe in detail the types of action that the EC is entitled to take in the field of education and vocational training. It should however be noted that both articles **exclude EC measures aiming to harmonise the laws and regulations of the Member States** (e.g. setting common education or training curricula etc).

The Commission also mentions that adult learning would be a useful tool assisting the integration of migrants in society and the labour market. It is not clear, which migrants the Commission refers to: migrant workers under EC law or immigrants from third countries. If the intention of the Commission is to refer to the latter (third country nationals), then it has to be remembered that as EC law presently stands integration of immigrants is not an EC competence².

On the basis of the above analysis, education and vocational training are not an exclusive competence of the European Community and thus the principles of subsidiarity and proportionality apply.

2. Compliance with subsidiarity principle

Focusing in the above mentioned target groups, the Action Plan approaches the challenges to the adult learning sector on the one hand by identifying interconnected European level key elements for the debate and on the other hand by proposing concrete action through further analyses, research, development of standards and formulation of recommendations.

The CoR has been very positive towards lifelong learning, but has cautioned the Commission on the respect of the division of competences in the field of education and vocational training. In its opinion on **Efficiency and Equity in European Education and Training Systems and the European Qualifications Framework for Lifelong Learning** the CoR stated that "*responsibility for the reform of education and vocational training systems must remain in the hands of the competent authorities within the Member States.*"³ In the same opinion it added that "*importance should be given to the local and regional level as in many Member States local and regional authorities are vested with direct responsibilities and powers in the field of education and training, including the establishment of qualifications frameworks. They are responsible for the delivery of educational and training services which provide a structure for lifelong learning through [...] adult [...] services*".

In this regard and with deference to the extent of EC competence outlined above, the CoR has also previously agreed with the Commission that in the context of a community programme in the field of higher education and training "*there is a need for a Community action programme, subject to Article 149 of the Treaty which limits Community action in the education sector to supporting and supplementing the action of Member States and prohibits legislative harmonisation*"⁴.

² This is set to change under the Reform Treaty.

³ CoR Opinion CdR 335/2006, point 1.1.

⁴ CoR Opinion CdR 327/2002, point 1.5.

The CoR said in its opinion on "Efficiency and Equity in European Education and Training Systems and the European Qualifications Framework for Lifelong Learning" that it *appreciates the need for a specific European framework for learning qualifications complementing arrangements for professional qualifications, not least because a EQF for lifelong learning will make the transition between the different education and training paths more transparent and visible*⁵. In the same opinion the CoR *encouraged in this respect the promotion of exchanges of best practice and of cross-border networks between localities and regions in improving evaluation and promoting quality assurance*⁶.

Evaluation of compliance with the subsidiarity principle should be done against the criteria included in article of the 5 Protocol on the application of the principles of subsidiarity and proportionality, i.e. that the issue represents trans-national aspects, that action only on behalf of the Member States or lack of EC action would be contrary to the Treaty or would be detrimental to the interests of the Member States and that EC action would produce clear benefits by reasons of its scale or effects.

Although the Commission is not very forthcoming on explanations as regards the conformity of its proposals to the principle of subsidiarity (as it is obliged to do under the aforementioned protocol), it can be deduced from the Communication that adult learning could in some areas be an issue with trans-national aspects (e.g. European level orientations, European level exchange of good practice and cross border exchange of staff)⁷. This, however, would only be the case if EC action restricts itself to supporting or a supplementing Member State, local or regional action.

The Action Plan does not directly propose new actions to be taken at Member State, at regional or at local level. However, it does stress the need of incorporating developments in the adult learning sector into the ongoing process of modernisation in education and training. In view of the above therefore, the majority of the lines of action, which the Action Plan proposes, is to be welcomed by the CoR.

However, as regards two specific lines of action a word of caution is necessary:

- The Commission mentions that it will intend to develop standards for adult learning professionals. With regard to the allocation of competence as stipulated by articles 149 and 150 of the EC Treaty, these standards must not go as far as to harmonise the legislation on national and/ or local education and training systems.
- The Commission highlights the need for a common vocabulary and a common understanding in order to overcome the misunderstandings and the lack of comparable data in the adult learning sector. It consequently proposes to develop a consistent terminology between the Member States and the stakeholders involved. Here too measure should fall short of harmonisation. The Commission itself seems to be aware of this danger, since it is alluding that Member States will participate in such an initiative on a voluntary basis.

⁵ CoR Opinion CdR 335/2006, point2.1.

⁶ CoR Opinion CdR 335/2006, point 1.7.

⁷ COM(2007)558 point 3.1.

Key point:

In accordance with the Articles 149-150, the policy and operational objectives of the proposed Action Plan **can be better achieved at EU level**, provided that action remains limited to supporting and supplementing the action of Member States respecting the responsibility of the Member States for the content of teaching and the organisation of education and training systems and their cultural and linguistic diversity⁸.

More in particular, it should be stressed that while achieving transnational comparability of education and vocational training systems requires EU intervention, the overall responsibility of these systems and more in particular the quality of such systems can be adequately ensured through national and regional measures⁹.

3. Compliance with the proportionality principle

According to the Protocol on the application of the principles of subsidiarity and proportionality the Commission should not only justify the relevance of its proposals with the regard to the principle of subsidiarity¹⁰ but also *"take duly into account the need for any burden, whether financial or administrative, falling upon the Community, national governments, local authorities, economic operators and citizens, to be minimised and proportionate to the objective to be achieved"*¹¹. The Commission does not provide this type of impact assessment in the context of the proposed Action Plan.

Key point

In its opinion on "Efficiency and Equity in European Education and Training Systems and the European Qualifications Framework for Lifelong Learning" the CoR drew the Commission's attention to the need to carry out a systematic analysis of the impact of its legislative proposals at local and regional level, in particular for fields such as education and vocational training, for which the regional and local authorities are responsible in several Member States¹².

Despite the rather general nature of the proposals/principles put forward in the Action Plan, some of them will certainly result in an extra administrative and financial burden for regional and local authorities. This is true for all new assessment exercises necessary for development of the national

⁸ See also the Report on the second CoR test of the subsidiarity monitoring network/DI CdR 2/2007 p.19.

⁹ See also the Report on the second CoR test of the subsidiarity monitoring network/DI CdR 2/2007 p.21.

¹⁰ Article 4, Protocol on the application of the principles of subsidiarity and proportionality.

¹¹ Article 9, Protocol on the application of the principles of subsidiarity and proportionality.

¹² CoR Opinion CdR 335/2006, point 2.2.

policies. It is also true e.g. for the cross border exchange of staff that will certainly result in additional financial burden in salaries and training costs.

It should be stressed that - even in the case that financial implications for development of the national policies and practices to improve the quality of vocational education and training would be justified with regard to the objectives pursued - this quantified information should be transparent and visible.

The Commission does not propose any new financial models in this Action Plan. Concerning the implementation of the proposed actions the Commission makes only the reference to the use of European Social Fund and the Lifelong Learning Programme¹³. It should be reminded that according to the additionality principle these Community support programmes are always complimentary to national and/ or regional funds. It should therefore be stressed that the provision of Community funds is not devoid of administrative or financial implications for the Member States and their LRA's.

Key point:

The CoR could regret that the Commission has not presented any analysis concerning the administrative and financial burden related to the local and regional authorities that these policy orientations represent¹⁴.

4. Procedure for preparing the Action Plan

The Commission organised an extensive external consultation when preparing this Action Plan¹⁵. The Commission states in this Action Plan that *"the contribution of the adult learning sector to achieving the Lisbon goals and to life-wide and lifelong learning could be improved by the creation of more efficient systems, in which all relevant stakeholders are involved. The results to be achieved by this Action Plan also depend on the efficiency of those systems"*¹⁶ In addition the Commission states that *"Partnership at European, national, regional and local levels is required to improve the efficiency of the adult learning sector, to widen and facilitate access and to facilitate proper funding"*¹⁷.

However, with regret it can be noted that local and regional authorities have not been efficiently or systematically included in these consultations. More generally, these various consultations emanating from the Commission do not explicitly mention issues related to local and regional authorities or the application of the principles of subsidiarity and proportionality.

13 COM(2007)558, point 3.

14 Article 9, Protocol on the application of the principles of subsidiarity and proportionality.

15 COM(2007)558, point 1.1.

16 COM(2007)558, point 2.

17 COM(2007)558, point 2.

The CoR has pointed out several times¹⁸ and lately in its opinion on "Efficiency and Equity in European Education and Training Systems and the European Qualifications Framework for Lifelong Learning" *that in many European countries the regional and local level has key responsibilities in the field of adult education and it has a direct interest in the development of workforce skills. It therefore **calls for** the local and regional level to be involved more closely in actions concerning the education of adults at EU level¹⁹.*

Key point:

According to **article 7 of the Protocol** on subsidiarity and proportionality, "*Community measure should leave as much scope for national decision as possible, while also respecting well established national arrangement and the organisation and working of the Member States' legal systems*".

The CoR *could welcome* that the Commission recognizes in principle that partnership at European, national, regional and local levels play a major role in implementing policies related to adult learning. Nevertheless, it could regret that the Communication makes no reference to the role of local and regional authorities in tackling the challenges involved in the adult learning sector.

Furthermore, given that many local and regional authorities within the EU are responsible for the organisation of education and for educational and vocational training qualifications, they should be given due involvement in the national consultation process on linking the European level orientations to national and regional systems.

18 For example the reference can be made to the Opinions CdR 258/2004 and CdR 31/2006.

19 CoR Opinion CdR 335/2006, point 1.32.