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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

On enhanced co-operation between Public Employment Services (PES)

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

This legal proposal, an incentive measure pursuant of Article 149 TFEU, aims to strengthen cooperation between the Public Employment Services (PES) of the Member States. PES are responsible for implementing active labour market policies and providing employment services in the public interest. They are part of relevant ministries, public bodies or (non for profit) corporations falling under public law. The services offered by PES to workers and employers include labour market information, support for job search, counselling, vocational guidance, placement and support of occupational and geographic mobility. PES are also frequently in charge of unemployment and other social benefit systems. The efficiency of PES is an essential factor for successful employment policies.

Strengthening cooperation between PES in the EU has been recognised as a crucial element to achieve the employment targets of the Europe 2020 Strategy¹. The Commission has regularly advocated for the modernisation of PES service delivery, for partnerships between PES and other employment services, and for transforming PES into "transition management agencies" delivering a new combination of "active" and "passive" employment policies². The Council recently called for partnerships between public and private employment services, employers, social partners and youth representatives when delivering youth guarantee schemes³. PES are also directly addressed in the current European guidelines for the employment policies of the Member States, the 'employment guidelines'⁴.

Shrinking public budgets and the need for increased PES cost-effectiveness have prompted several Member States to undertake PES reforms in the shape of mergers with unemployment benefit providers, outsourcing of services to private providers, regionalisation and municipalisation of employment services, and enhancing service delivery through ICTs and self-service tools. At the same time, PES expenditure (excluding unemployment benefits) is constantly changing: a regular survey among PES⁵ revealed that between 2007 and 2010 expenditure increased, whilst in 2011 it mostly decreased. The latest budget projections show that the majority of PES anticipate higher expenditure in 2013 than in the previous year.

Due to national diversity in terms of PES business models, instruments, labour market conditions and legal context PES have different levels of effectiveness when delivering labour market programs. While Member States remain responsible for organising, staffing and running their PES, this legislative proposal establishes a European Network of Public Employment Services providing a platform for comparing their performance at European level, identifying good practices and fostering mutual learning in order to strengthen service capacity and efficiency. Experience has shown that Member States do not engage sufficiently in mutual learning and benchmarking activities by themselves.

¹ Communication from the Commission, Europe 2020, a strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final

² Communication from the Commission, An Agenda for new skills and jobs: A European contribution towards full employment, COM (2010) 682 final, Communication from the Commission "Towards a job-rich recovery", COM(2012) 173 final

³ EPSCO conclusions 28 February 2013

⁴ Council decision on guidelines for the employment policies of the Member States, 2010/707/EU, 21 October 2010

⁵ PES Crisis response questionnaire 2010-2013, European Job Mobility Laboratory

PES collaboration at EU level dates back to 1997 when the Commission set up an informal advisory group of PES in order to promote cooperation, exchange and mutual learning between its member organisations⁶ and to receive specialist feedback on policy initiatives in the employment field. Despite progress over the years the current co-operation model shows considerable limitations.

Participation of national PES in these activities remains voluntary, thus hampering the prospects of early identification of low performance by PES and potential structural labour market problems deriving from this. A reporting mechanism is also missing, meaning that policy designers at national and EU-level are not systematically informed about the results of the existing benchmarking and mutual learning practices.

Efforts to make PES more comparable by clustering them according to business models have not succeeded so far. The linkages between benchmarking and mutual learning activities are weak and inconsistent and the evidence-base for the activities of the existing Mutual Learning Programme is not scientifically robust. Participation in mutual learning is limited to a small group of PES and therefore the effects are not sufficiently widespread.

PES are required to adapt their organisation models, business strategies and processes to a rapidly changing if they are to become "learning organisations" and contribute to the work of the Employment Committee. In its recent document "PES Strategy EU 2020"⁷ – the PES Network identified five key areas for change to achieve the goals of the Europe 2020 strategy. i) connect with the demand side; ii) adopt a conductor role by cooperation/partnerships; iii) develop skills oriented operations; iv) pursue sustainable activation outcomes v) improve careers.

This legislative proposal aims to expand, reinforce and consolidate on-going initiatives for the benefit of all PES. A proposal for enhanced cooperation between PES constitutes a concerted action to modernise and empower them to successfully act in unison in the face of the current economic crisis.

A European network of PES established on solid legal ground would be able to increase comprehensively coordinated activities among PES and provide the network with legitimacy to act. A formalised structure is the pre-condition to increase the network's potential to contribute to the development of innovative, evidence-based policy implementation measures in line with the Europe 2020 objectives. It will also facilitate the implementation of labour market projects financed by the European Social Fund (ESF). The proposed initiative could contribute to improved cost-efficiency.

The PES Network established under this Decision will carry out initiatives in the nature of incentive measures designed to improve cooperation between Member States in the employment field. These come in addition to the co-operation of PES within EURES on basis on Article 45 and 46 of the Treaty.

⁶ The group comprises the PES of the EU Member States, Norway, Iceland and Liechtenstein (EEA)
⁷ Public Employment Services' Contribution to EU 2020, PES 2020 Strategy Output Paper, 2012

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

In accordance with the greater emphasis placed on evidence-based policy development, this proposal is founded on a number of evaluation studies and stakeholder consultations.

Of particular relevance were: Studies on PES business models⁸, on PES performance measurement systems and geographical labour mobility⁹, on the role of the PES related to 'flexicurity'¹⁰, on the role of PES related to anticipating skill needs of the labour force and equipping people for new jobs¹¹. The results of the PES mutual learning programme¹² and the results of the PES crisis response questionnaire 2009-2013¹³ have been taken into account as well as results of the current PES benchmarking project¹⁴, co-financed by the Commission.

The future of the PES benchmarking initiative was discussed several times in 2012 and 2013 with the current advisory group of PES. A consultation of the group on major elements of this proposal took place in March and May 2013; the members were invited to comment on potential objectives, initiatives and policy options of this proposal.

In January 2013 the group issued a discussion note "Towards an integrated European Public Employment Services bench-learning initiative". The informal meeting of Employment, and Social Ministers ("informal EPSCO") and the Employment Committee (EMCO) discussed this PES note. The informal EPSCO acknowledged that greater and more focused cooperation between the PES would lead to an improved sharing of best practice and asked for a detailed proposal on a 'bench learning' initiative.¹⁵

The above-mentioned consultations and studies confirm that there is general agreement among stakeholders on the need for enhanced co-operation among PES. All PES should become active players within the network. Equally, there was broad support for extending the scope of the benchmarking mechanism and for better linking the benchmarking and mutual learning activities.

PES have also been involved in a timely and transparent manner in the run up to the announcement of this Decision in the CWP 2013-14 and the more in-depth preparations of this text herewith presented. Their views have been gathered both in written form and through open consultation meetings and have been considered in relation to key aspects of direct concern to them i.e.: initiatives/activities of the network; governance structure of the network; role of the Commission; cooperation with other employment service providers and cooperation with the Council in particular the Employment Committee (EMCO).

Given that the legislative proposal will mostly have indirect impacts and that the main technical elements of the benchmarking and mutual learning initiative will be defined in a

⁸ Study on PES business models, European Job Mobility Laboratory 2012

⁹ PES performance measurement systems and geographical labour mobility, Ecorys 2012

¹⁰ The role of the Public Employment Services related to 'Flexicurity' in the European Labour Markets, Danish Technological Institute, 2009

¹¹ Anticipating skill needs of the labour force and equipping people for new jobs - Which role for Public Employment Services in early identification of skill needs and labour up-skilling? Danish Technological Institute, 2010

¹² 'PES to PES Dialogue' is the European Commission's mutual learning support programme for public employment services, more information is available on:
<http://ec.europa.eu/social/main.jsp?catId=964&langId=en>

¹³ PES Crisis response questionnaire 2010-2013, European Job Mobility Laboratory

¹⁴ The PES Benchmarking project is a voluntary PES project, co-financed by PROGRESS, more information is available on <http://www.pes-benchmarking.eu/english/about.asp?IdPageLv=1>

¹⁵ Informal meeting of EPSCO Ministers, Dublin, 7-8 February 2013.

Delegated act, an impact assessment was considered not to be proportionate. Equally, no budgetary impacts are to be expected.

3. LEGAL ELEMENTS OF THE PROPOSAL

The right to act derives from Article 149 of the Treaty on the Functioning of the European Union which states that "the European Parliament and the Council,, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.".

Union action is also justified on the ground that the legislative proposal on enhanced cooperation between PES will contribute to the objectives of the treaty, notably promoting full employment (Art. 3 TEU).

The entire proposal on enhanced cooperation between PES is an incentive measure in the sense of Article 149. In light of the nature of the incentive measure proposed the choice of the legal instrument – a Decision of the European Parliament and of the Council – is the most appropriate.

Increased cooperation by incentivising the PES to work together on specific initiatives complies with the subsidiarity principle in so far as it seeks to provide support to Member States to modernise their Public Employment Services within the context of the current economic crisis and with a view to reaching the Europe 2020 employment target.

Overall, in the area of PES coordination there is an added value in Union's interventions compared to Member States acting alone. Public Employment Services have a mandate to pursue national interests and priorities; they normally do not interact in an EU-wide context. The benchmarking and mutual learning activities on EU level add value to similar smaller scale level activities of possibly only a few national PES volunteering to shape EU wide cooperation.

The proposal conforms with the proportionality principle since it is proposed in the form of an incentive measures for Public Employment Services and its duration is limited to the time span of the Europe 2020 strategy as agreed by the Council.

4. BUDGETARY IMPLICATION

The Commission's proposal for a Multi-Annual Financial Framework includes a proposal of a EUR 958, 19 million on a European Union Programme for Social Change and Innovation (PSCI) for the period 2014-2020. Funding for the enhanced cooperation between PES will come from the PSCI/PROGRESS/Employment section. An indicative annual amount of 4 Mio EUR is foreseen for the above described incentive measure. Around 3 Mio EUR are foreseen for the benchmarking and mutual learning activities; several calls for tenders might be published. Up to 1 Mio EUR is likely to be used for network meetings and scientific studies on PES issues.

The legislative proposal is budget-neutral and does not require additional staff resources. The COM staff – 2 ½ FTE - currently working in DG EMPL on PES issues will become the PES

5. DELEGATED ACTS

The legislative proposal includes a provision to grant the Commission the power to adopt delegated acts. This will mainly concern a delegated act for putting in place the general framework for the implementation of the benchmarking and mutual learning initiatives.

The choice of using the legal instrument of delegated acts is justified as this will complement the basic act with more detailed non-essential elements, in this case the general framework for the implementation of the benchmarking and mutual learning initiatives.

The general framework will include the technical elements of the benchmarking systems such as the methodology, the basic quantitative and qualitative indicators to assess the outputs, outcomes, impact and costs of the different PES business models, processes, performances and tools as well as other criteria for identification of best practices. It will define the monthly and/or annual data delivery requirements for the PES, the learning instruments of the integrated mutual learning programme such as workshops, peer reviews, technical assistance, study visits and the terms for participation in the benchmarking and mutual learning activities.

It is planned to externalise the data collection and analysis of the benchmarking exercise. The PES will be associated to this process in order to ensure ownership of the benchmarking results.

Subject to agreement by the PES it is anticipated that major parts of the current voluntary PES benchmarking projects can be used. There are time series available for several indicators measuring the transitions of jobseekers into employment such as transition to employment from unemployment, transition to employment before unemployment lasts long, transition from training measures to employment. Access to vacancies and match with suitable candidates as well as satisfaction of jobseekers and employers with the provided services are also measured with several indicators.

Additional indicators and context variables will need to be defined in order to assess the interdependence between business models and processes against results.

The general framework will define most elements of the benchmarking and mutual learning activities. Technical details that may change over time will be included in the annual work programme of the PES network.

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 149 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁶,

Having regard to the opinion of the Committee of the Regions¹⁷,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 17 June 2010 the European Council¹⁸ endorsed the Commission proposal for a Europe 2020 Strategy for jobs and smart, sustainable and inclusive growth¹⁹. The European Council advocated full mobilisation of the appropriate EU instruments and policies to support achievement of the common objectives and invited the Member States to step up coordinated action. The Public Employment Services (PES) have a central role in achieving the Europe 2020 target of 75 % employment rate for women and men aged 20 to 64 by 2020.
- (2) Article 45 of the Treaty secures the freedom of movement for workers within the Union while Article 46 sets out the measures to bring about this freedom, in particular by ensuring close cooperation between the PES. The PES Network established under this Decision, however, covers besides general aspects of geographical mobility a wide range of objectives and initiatives in the nature of incentive measures designed to improve cooperation between Member States in the employment field. Art 149 of the Treaty is therefore the appropriate legal base for this Decision.
- (3) In accordance with Article 148(4) of the Treaty on the Functioning of the European Union, the Council adopted guidelines for employment policies on 21 October 2010. These integrated guidelines give orientations to the Member States on defining their national reform programmes and on implementing reforms. The employment guidelines form the basis for country-specific recommendations that the Council

¹⁶ OJ C , , p. .

¹⁷ OJ C , , p. .

¹⁸ Nr: EUCO 13/10 dated 17/6/2010.

¹⁹ Communication from the Commission Europe 2020 – A strategy for smart, sustainable and inclusive growth, COM (2010) 2020 of 3 March 2010.

addresses to the Member States under Article 148(4) of the TFEU. In recent years these have included specific recommendations on the functioning and capacity of PES and the effectiveness of active labour market policies in Member States.

- (4) These recommendations would benefit from being further supported by an enhanced evidence-base, feedback on success of policy implementation and co-operation between the PES of Member States. To this end, the PES Network to be established under this Decision should carry out concrete initiatives such as common evidence-based benchmarking systems, corresponding mutual learning activities, mutual assistance between the network members and the implementation of strategic actions for the modernisation of PES.. The specific knowledge of the network and its individual members should also be used to provide, upon request of the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) and the Employment Committee (EMCO), evidence for the development of employment policies.
- (5) The informal meeting of EPSCO ministers acknowledged that greater and more focused cooperation between the PES would lead to an improved sharing of best practice and asked for a detailed proposal on a 'bench learning' initiative.²⁰
- (6) The PES Network established under this Decision should work in close co-operation with EMCO based on Article 150 TFEU and contribute to its work as a provider for factual evidence and reports on policy implementation. Contributions from the PES Network to the Council will be channelled through EMCO. In particular, the combined knowledge of the PES Network on delivery aspects of employment policies and the comparative analysis of PES can serve policy decision makers at both national and Union level in the assessment and design of employment policies.
- (7) The PES network should contribute to the implementation of policy initiatives in the employment field such as the Council Recommendation on Establishing a Youth Guarantee²¹. The network may also support initiatives aimed at facilitating the transition from education and training to work, including through enhanced transparency of skills and qualifications.
- (8) The PES Network should reinforce co-operation between its members, develop joint initiatives aimed at exchanges of information and best practices in all areas covered by PES, comparative analysis and advice as well as promotion of innovative approaches in the delivery of employment services. By establishing this network an inclusive, evidence-based and performance-oriented comparison of all PES leading to the identification of best practices will be possible. With these results members of the network should be able to shape the design and delivery of employment services within their specific responsibilities. The initiatives carried out by the Network should improve PES effectiveness and allow for more efficient public spending.
- (9) In order to put in place a general framework for the implementation of the benchmarking and mutual learning initiatives, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of defining the technical elements of the benchmarking systems and mutual learning activities. This should include the methodology, the basic quantitative and qualitative indicators to assess PES performance, the learning instruments of the integrated mutual learning programme and the terms for participation in these initiatives. . It is of particular importance that

²⁰ Informal meeting of EPSCO Ministers, Dublin, 7-8 February 2013.

²¹ Council Recommendation on establishing a Youth Guarantee (7123/13)

the Commission carry out appropriate consultations during its preparatory work, including at expert level, in particular PES experts. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (10) Due to the variety of PES models, tasks and forms of service delivery it is up to each Member State to nominate from the senior management of its Public Employment Services one member for the Board of the PES Network. Where applicable the member should represent in the Board the other Public Employment Services from the Member State. The appointed members should have the capacity to take decisions on behalf of their sending organisations. In order to ensure an involvement of all PES in the workings of the Network, activities should be open to all levels of participation.
- (11) The PES Network should build on the experience of and replace an existing informal advisory group of EU/EEA PES that the Commission has supported since 1997. The views of this group have been taken into account in the drafting of this Decision.
- (12) The key areas for action identified by this informal expert group in its paper “PES Strategy 2020”²² should serve as an orientation for putting into practice the envisaged concept for modernisation and strengthening of PES.
- (13) The PES Network should provide mutual assistance to the benefit of its members and help support each other in the modernisation of organisational structures and service delivery by enhancing co-operation, in particular transfer of knowledge, study visits, and staff exchanges.
- (14) The PES Network and its initiatives should be funded through the PROGRESS/employment section of the 'Programme for Social Change and Innovation' within the appropriations set by the budgetary authority.
- (15) For projects developed by the network or identified in the mutual learning activities and then implemented in the individual PES, Member States have access to funding from the European Social Fund (ESF), the Regional Development Fund (ERDF) and Horizon 2020.
- (16) The Commission will take the necessary administrative steps to set up the network.

²²

Public Employment Services' Contribution to EU 2020, PES 2020 Strategy Output Paper, 2012.

HAVE ADOPTED THIS DECISION:

Article 1 ***Establishment***

An EU wide network of Public Employment Services (PES) - hereinafter referred to as 'the Network' - is established for the period expanding from 1 January 2014 to 31 December 2020. The Network will carry out initiatives as defined in Article 3.

The Network comprises:

- (a) the Public Employment Services as nominated by the Member States, and
- (b) the Commission.

Member States with regional autonomous Public Employment Services shall ensure adequate representation in the specific initiatives of the Network.

Article 2 ***Objectives***

Through this Network the incentive measure herewith foreseen shall contribute to:

- (a) the implementation of the Europe 2020 strategy for jobs and smart, sustainable and inclusive growth, and its headline targets especially those dealing with employment;
- (b) the better functioning of the labour markets in the EU;
- (c) the better integration of labour markets;
- (d) increased geographical and occupational mobility;
- (e) combatting of social exclusion and integration of persons excluded from the labour market.

Article 3 ***Initiatives of the Network***

1. The Network shall in particular:

- (a) Develop and implement European wide evidence-based benchmarking systems among public employment services based on the use of quantitative and qualitative indicators to assess PES performances and to gather evidence with a view to establishing an appropriate mutual learning vehicle. It shall also participate actively in the implementation of these activities by sharing data, knowledge and practices.
- (b) Provide mutual assistance, either in the form of peer-to-peer or group activities, through cooperation, exchanges of information, experience and staff between its members including support for the implementation of PES-related country-specific recommendations issued by the Council.
- (c) Adopt and implement a concept for modernising and strengthening PES in key areas.
- (d) Prepare reports in the employment field, at the request of either the Council, or the Commission or on its own initiative.
- (e) Contribute to the implementation of policy initiatives in the employment field.

- (f) The Network shall adopt and implement an annual programme that spells out its working methods, deliverables and additional details related to the implementation of the benchmarking systems.
- 2. The Network shall establish a reporting mechanism in relation to the initiatives 3.1.a and 3.1.b. In accordance with this provision network members shall report annually to the network.

Article 4 **Cooperation**

The Network shall cooperate with labour market stakeholders including other providers of employment services by involving them in relevant activities and meetings of the Network and by exchanging information and data.

Article 5 **Functioning of the Network**

- 1. The Network shall be governed by a Board for which each Member State shall nominate from the senior management of its Public Employment Services one member and one alternate member. The Commission shall appoint one member and one alternate member for the Board. Alternate members shall replace the members whenever necessary.
- 2. A Chair and two Vice-Chairs shall be appointed from among the PES members of the Board; the chair will represent the Network. The Vice-Chairs shall replace the chair whenever necessary
- 3. The Board shall adopt its Rules of Procedure by unanimous decision containing, inter alia, the decision-making arrangements of the Board, the provisions on the appointment and term of office of the Chair and Vice-Chairs of the network. The Board shall adopt by majority decision the annual work programme including the setting up of working groups and the language arrangements of the Network meetings, and the annual network report that should be published.
- 4. The Board will be assisted by a Secretariat provided by and based within the Commission. The Secretariat will prepare in cooperation with the Chair and Vice-chairs the Board meetings, the annual work programme and the annual report.

Article 6 **Financial Support for this incentive measure**

The global resources for the implementation of this Decision shall be established within the framework of the Programme for Social Change and Innovation, the annual appropriations of which shall be authorised by the budgetary authority within the limits of the Financial Framework.

Article 7 **Adoption of a general framework**

The Commission shall be empowered to adopt delegated acts in accordance with Article 8 concerning a general framework for the delivery of the benchmarking and mutual learning initiatives as defined in Article 3.1 including the methodology, the basic quantitative and qualitative indicators to assess PES performance, the learning instruments of the integrated

mutual learning programme and the terms for participation in these initiatives.

Article 8 ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 7 shall be conferred on the Commission for seven years of time from the date the Decision takes effect
3. The delegation of power referred to in Article 7 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 9 ***Review***

Four years after its entry into force, the Commission shall submit a report on the application of this Decision to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions. The report shall in particular assess to what extent the network has contributed to the achievement of the objectives set out in article 2 and whether it fulfilled its tasks.

Article 10 ***Addressees***

This Decision is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President