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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

483RD PLENARY SESSION HELD ON 18 AND 19 SEPTEMBER 2012

Opinion of the European Economic and Social Committee on 'Smart and inclusive growth' (own-initiative opinion)

(2012/C 351/01)

Rapporteur: **Mr BARÀTH**

On 19 January 2012 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Smart and inclusive growth

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September 2012), the European Economic and Social Committee adopted the following opinion by 140 votes to 1 with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC feels that long-term, sustainable and smart growth is not possible without a process of catching up. It therefore feels that the triple objective of the Europe 2020 strategy, i.e. smart, sustainable and inclusive-cohesive growth, is generally appropriate; however, in order to achieve these objectives, a well-balanced macroeconomic policy mix and *structural reforms* together with more and better instruments are needed.

1.2 Intelligent implementation of the strategy has become all the more important in this *period of major challenges*. We need to build on the existing strategy, to fine-tune and adjust it to the new macro-economic situation. We need to strike a new balance between responsibility and solidarity.

1.3 In order to achieve the requisite change of emphasis the EU needs to show that it has the necessary *political* will and a specific vision of substantially closer integration. At the same time, it is vital to enrich the various forms of multilevel cooperation between Member States and the regions, and to achieve "more and better" Europe.

1.4 In the EESC's view, governance in support of *economic policy and development* must be further strengthened, with more abundant and diverse government funding, and support for faster structural reforms in the Member States.

1.5 The EESC feels that it can endorse the general approach and emphasis of the regulatory framework for implementation of the EU 2020 strategy, i.e. the Multiannual Financial Framework (MFF) and the Common Strategic Framework (CSF).

1.6 At the same time, the EESC emphasises that measures in support of stability, growth, employment and poverty reduction are not sufficient; it is essential to widen the range of existing instruments.

1.7 Responsibilities have to be clearly divided between the European Union and the Member States. In the interests of strengthening foundations for growth, implementation of measures such as a European banking *union* (European regulation, monitoring, bailouts and guarantees of bank deposits), together with the issuance of project bonds, should be accelerated. The role of the European Central Bank should be strengthened.

1.8 In the Committee's opinion, it is not enough just to define "frameworks" for development policies. By stepping up targeted investments, and implementing pan-European, cross-sectoral, multi-dimensional programmes at European level, the objectives can be achieved more quickly. Given that completion of structural reforms is currently the vital issue in many countries, development policies must support such reforms.

1.9 In order to combine smart and inclusive growth, one possibility is to increase employment as a goal and to encourage *networks* covering a wide range of activities. To this end, the Single Market needs to be consolidated in numerous areas.

1.10 However, cohesion policy must not remain purely focused on boosting the economy and competitiveness. All the funds and programmes should be more tailored to the social goals of the Europe 2020 strategy such as job creation, social services, combating poverty, education and training, etc.

1.11 The EESC feels that individual proposals for the 2014-2020 period, such as the planned development of macro-regional strategies, should be backed with the requisite instruments.

1.12 If extended to other common European objectives, and with the *involvement of private-sector funding too*, the Connecting Europe Facility could be a good example of closer integration.

1.13 Reconciling the EU 2020 strategy and cohesion policy requires a strategy and associated instruments which are European in scale while also taking the local and regional dimension into account. Work on drawing up a European Territorial Strategy must be accelerated.

1.14 In our opinion it is vital to ensure much broader involvement of experts and public opinion in preparing decisions. We therefore suggest defining a 12th *thematic objective* in the Common Strategic Framework, in order to strengthen "communication and social dialogue".

2. **Introduction**

2.1 Over the last few years - partly due to international changes, partly due to enlargement of the EU, the crisis and Europe's response to it - the EU has become more complex, with a greater tendency to *multi-speed integration*, and more divergent national interests.

2.2 The threat of social and political conflicts has grown, and political extremism is gathering momentum. We need to acknowledge that overcoming the economic, financial and social/solidarity crisis will remain Europe's main challenge, up to the middle of this decade. Unfortunately, in many Member States output has fallen significantly. A conflict has arisen between financial stability and growth. Without growth, efforts to achieve stability and solidarity are also in conflict.

2.3 The EU 2020 strategy was not designed with this situation in mind. The strategy took the crisis into account, but it did not anticipate that it would last so long or be so serious.

2.4 The EU needs both fiscal consolidation and an effective programme for growth. There are some grounds to hope that the drop in demand that is resulting from the indispensible fiscal consolidation can be offset in the long term if that consolidation is done in an intelligent and balanced way.

2.5 In the EESC's view, the multi-annual financial framework (MFF) proposed by the Commission for the 2014-2020 period represents a relatively acceptable compromise. If we can succeed in increasing the EU's *own resources* and making more efficient and effective use of them, while focusing them on objectives which are directly linked to the EU 2020 strategy and structural reforms, this will support economic development.

2.6 However, the proposal does not sufficiently address catching-up issues and social tensions. The (undoubtedly very significant) financial assistance provided to countries struggling to achieve budgetary stability has exhausted the capacity of donor countries.

2.7 Cohesion policy must not remain purely focused on boosting the economy and competitiveness. All the funds and programmes should be more tailored to the social goals of the Europe 2020 strategy such as job creation, social services, combating poverty, education and training, etc.

2.8 Relatively significant changes are taking place in the field of cohesion policy. The focus here has shifted to strengthening macro-and micro-economic conditions together with territorial convergence. However, in order to ensure the EU 2020 strategy is implemented in harmony with inclusive/cohesive growth, a paradigm shift is needed. *Cohesion policy funds are not donations or subsidies; they are part of European investment policy, and must be used efficiently*.

2.9 In order to achieve inclusive and sustainable growth, alongside traditional criteria, there is an vital and growing role for certain "soft" factors, e.g. the situation in terms of healthcare and demographics, as well as educational quality and trends; at the same time, there is more and more interest in a healthy environment. Recent documents pay very little attention to the possibility of providing the requisite Community support in this area.

2.10 The European Commission has published a proposal on opening the labour market with the aim of reversing negative trends. Subsidies could boost both supply and demand. It is particularly important to ensure the transferability of pension rights and to dismantle the various legal, administrative and fiscal barriers.

3. **General comments**

3.1 The expected dynamic development resulting from the EU 2020 strategy is not adequately reflected in simplification and increased efficiency of the institutional system, nor are adequate additional resources being made available to this end.

3.2 In difficult situations it is vital to make maximum use of intellectual resources. It makes sense to *strengthen* permanent and/or temporary analytical, advisory, monitoring and early warning bodies alongside legislative and executive bodies. For example, such bodies could look at the following issues:

— the implications of changes in the global balance of power,

— a new look at the interplay of competition, cooperation and solidarity, which are fundamental European principles,

— establishing governance geared to *development* and growth,

— putting in place the political and economic conditions (in terms of macro-economic balance, taxation, monetary policy, and macro-prudential measures) for an effective Economic Union,

— clarifying the current institutional system of *responsibilities*, which has already become somewhat opaque.

3.3 It is of fundamental importance to ensure that the European Union operates transparently and to strengthen participatory democracy. It would be useful to make much greater use of online forums, and in cases where face-to-face discussions are more effective, high level and broad ranging conferences could be organised and/or supported, in parallel with debates in national parliaments. It is recommended to strengthen EU communication, and inform the public of certain European negotiations; in a more limited number of cases, online monitoring or details of voting could be made accessible to all.

3.4 The three objectives of the EU 2020 strategy are extremely ambitious. However, as several EESC opinions have emphasised, there is a mismatch between the timeframe envisaged and the available resources, particularly in view of "historical" experience, which has been both negative as in the case of the first "Lisbon" strategy, and positive as in the case of the rapid and effective economic governance measures which have already been mentioned here.

3.5 From the point of view of procedures and implementation, the measures and legislative proposals envisaged in order to achieve EU 2020 objectives and make use of cohesion and structural funding only *broadly* reflect the lessons learned during the period up to 2013.

3.6 The principles and thematic proposals set out in the Common Strategic Framework (CSF) offer good prospects for progress towards "more" and "better" Europe. However, they are *not sufficient* to translate these prospects into reality. Some countries will have to change their approach to planning if we are to work out the details.

3.7 Over the past few decades, particularly in the field of research and development, and in major infrastructure projects (in the latter case inevitably given the intrinsic nature of the tasks) a broad European approach has emerged, which can be adapted at regional level. The EU's strategies, including the 11 thematic objectives, have shortcomings in terms of sectoral economic policies and multidimensional regional development programmes.

3.8 A future regional development strategy could define objectives and instruments to encourage macro-regional economic and social cooperation in areas such as:

— enhancing research and innovation infrastructure (research areas): linking up European centres of excellence and nurturing centres of competence, in order to invigorate Europe's development poles;

— investment in business research and innovation, product and service development etc., internationalisation of local production systems (clusters), and support for the development of European networks;

— transport systems in addition to the TEN-T infrastructure network (management of water resources, environmental protection, energy, information and communication systems, etc.);

— the institutional network, for the bottom-up development of macro-regional and transnational tiers of government, etc.

3.9 Over the past decade the potential offered by urban systems on the one hand, and on the other the accumulated tensions within them, have appeared in unmanageable concentrations.

3.10 Networking between individual European urban centres, hubs and concentrations of highly developed activities in line with the concept of excellence could be a good example of dynamic and cohesive, but sustainable development.

3.11 The vision of a connected Europe, as part of a macro-regional strategy, could add the thematic guidelines needed for political and institutional, economic and social integration to infrastructure elements, thus helping to achieve objectives more effectively at macro-regional level. This broader approach would still be compatible with proportionate and fair distribution of resources.

3.12 In a previous opinion, the EESC also recommended identifying a new European framework for integrated project concepts of "*special European interest*".

3.13 It is worth considering full implementation of a European Energy Community, given that with political support the EU could speak with one voice in international forums, at the same time as more effectively representing the strategic, economic, environmental and social aspects.

3.14 In the absence of conceptual progress at European level, legislative proposals and financial frameworks for the 2014-2020 period will once again push Member States in the direction of individual and often ineffective solutions.

3.15 The EESC could do justice to its role if, on the basis of its composition, it uses its expertise and a sophisticated methodology to express knowledge reflecting relations between economic interests, social values and the criteria determining the sustainability of growth.

4. **Other recommendations**

4.1 The EU 2020 strategy, the regulatory system supporting implementation of the cohesion funds in the post-2014 period, and the Common Strategic Framework are examples of an awareness of what integrated development *involves*.

4.2 However, the EESC feels that global competition requires not just awareness, but the planning and implementation of more specific, wider ranging programmes.

4.3 The overarching goal to be achieved through the smart and inclusive growth envisaged by the EU 2020 strategy is to boost the EU's production and reception capacity at *macro-economic* level, at the same time as ensuring constant and sustainable improvement in the quality of life for ordinary Europeans at microeconomic level, based on quantitative and qualitative employment growth.

4.4 In order to achieve effectiveness and efficiency, plans for the use of European funds must take into account that there are certain interconnected, interdependent activities which may be presented as specific multi-dimensional and integrated clusters.

4.4.1 Such objectives, which span multiple sectors, are of *macroeconomic* relevance and therefore influence the competitiveness of the European Union. In such cases, it is vital to focus on organisations participating in the development process or directly impacted by it and which are linked in terms of production or services.

4.4.2 Territorial (regional and local) networks of stakeholders in (or beneficiaries of) development processes, and the *system of relations* between them, must be taken into account in planning processes.

4.5 Analysis and planning of the two above systems of interaction, together with EU-level support, will make it possible to achieve the combined impact of *smart and inclusive growth*.

4.6 In the past decade, largely due to EU-financed infrastructure development, the European structure of such manufacturing processes has fundamentally changed, resulting in the *development of production tools and culture in backward regions, renewing education and vocational training, at the same time as boosting employment, income and consumption*.

4.7 Development of the spatial structure of the economy is determined by conditions which can be ensured at micro-economic level; these conditions are closely linked to the criterion of "sustainability" envisaged by the Strategy.

4.8 Factors such as the education, age and vocational training of employees, their general work culture, expansion of employment, and the quality of services are important here. The health of the local population, the quality of the environment, and course the business and physical infrastructure, as well as the level of logistical systems, are also important prerequisites.

4.9 Such coordinated development capable of bringing together macro- and microeconomic levels is a key factor in European competitiveness.

4.10 Provided funding is used efficiently and effectively, a change in its focus could be justified by the following arguments:

— firstly, it can be shown that at *macroeconomic* level investments from the EU budget deliver above average growth in the financial results and output of the EU economy, thanks to advanced technological transfers, a high percentage of investment imports, a skilled labour force, the benefits of a cheaper infrastructure, and investments benefiting from financial support and building on modern infrastructure;

— secondly: enlargement of the Single Market, free movement of services, more widespread activities and growth in the knowledge base are all factors which in themselves already contribute substantially to innovation activities and to catching up;

— thirdly: at *microeconomic* level, for the SME sector, Structural Fund financing often means markets, access to markets or development resources, while supporting labour market growth;

— finally, the potential beneficial impact of integration and catching up for the most disadvantaged social groups, excluded from the labour market in various ways, is considerable.

4.11 With regard to EU support for economic sectors (particularly in the form of non-repayable subsidies), it is generally agreed that small and medium-sized enterprises engaged in innovative activities and declining industrial regions affected by structural changes are the areas where funding is most needed. In relation to production networks, the concept of "entrepreneurship" may require the stepping up of support for SMEs in individual underdeveloped regions or cities, if growth which is both smart and inclusive or allowing areas to catch up is to be achieved.

4.12 In the case of well functioning innovation chains, clusters and local production systems, it would be worth considering whether to ensure greater flexibility both for large companies established in a particular region, and for suppliers, by providing them with various forms of combined financing.

4.13 *Healthcare* is one example of how a multidimensional strategy can be developed. Health sector networks range from health and environmental education to the various related manufacturing sectors, and include training, with the involvement of the environmental sector, the healthcare sector, medical tourism, biological research, equipment manufacture and the associated higher education activity, experimental and innovative industrial parks together with the small and medium enterprises operating within them; at the same time, all of these fields interact with such networks. The "grey" economy is playing an increasingly important role here.

4.14 The EESC has analysed the role of the social economy as a key factor in policies to achieve inclusive growth in several opinions.

4.15 The economic and financial interaction of activities capable of comprising networks of similar type to those mentioned as examples could have a major impact on structural reforms in Member State budgets, which in turn could change social attitudes and behaviour.

4.16 A macro-level approach to regional development could strengthen polycentric European territorial restructuring, thus consolidating both the requisite concentration of activities, and, by taking advantage of different local conditions, sharing tasks within a network, in line with the ideal of sustainability.

Brussels, 19 September 2012

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'A framework for advertising aimed at young people and children' (own-initiative opinion)

(2012/C 351/02)

Rapporteur: **Mr PEGADO LIZ**

On 14 July 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

A framework for advertising aimed at young people and children.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 130 votes to none, with 3 abstentions.

1. **Conclusions and recommendations**

1.1 The aim of this opinion is to contribute to the information and discussions on and potential development, at Community level, of legislative or other measures to protect children and young people from certain types of advertising that use children improperly or target them in a harmful way, or expose them by any means to messages that could harm their sound physical, mental or moral development.

1.2 At stake here is the protection of the basic rights of children in the EU, as set out in the United Nations Convention, in Article 24 of the European Charter of Fundamental Rights, and in Article 3(3) of the TEU. These rights have been well interpreted in the Commission's Communication *Towards an EU strategy on the rights of the child* (COM(2006) 367 final), in the *Multiannual Community programme on protecting children using the internet and other communication technologies* (COM(2008) 106 final) [1], and in the *EU Agenda for the Rights of the Child* (COM(2011) 60 final).

1.3 Advertising which wrongfully uses children for purposes unrelated to matters which directly concern them is an affront to human dignity and to their physical and mental integrity and should be banned.

1.4 Advertising aimed at children involves additional risks depending on the age-group involved, with harmful consequences for their physical, mental or moral health. Particularly damaging are incitements to over-consumption, leading to debt and the consumption of food or other products which are harmful or dangerous to their physical and mental health.

1.5 In more general terms, the particularly violent, racist, xenophobic, erotic or pornographic content of some advertising can have irreversible effects on children's physical, mental, moral and civic development, triggering outbursts of violence or sexual precociousness.

1.6 The EESC considers that these issues need to be analysed very thoroughly and placed within an EU framework, in keeping with the principles of subsidiarity and proportionality. This is not just a matter of safeguarding fundamental rights: it is also necessary because differing national regulations jeopardise the smooth operation of the internal market. The EESC therefore recommends that a universal minimum age for advertising specifically aimed at children be set at the European level.

1.7 The EESC considers that special emphasis must be placed on empowering, informing and educating children, from a very young age, about the proper use of information technologies and about how to interpret advertising messages. These subjects should be included in school curricula at all levels. Parents should also be equipped to help their children to interpret advertising messages.

1.8 The EESC believes that the public in general and, more particularly, families and teachers, should also receive information and training to help them protect children more effectively.

1.9 The EESC calls on advertisers and sponsors, using both self-regulation and co-regulation initiatives (not only those already adopted but also ones to be promoted) to adopt and apply the highest levels of protection of children's rights and to see that they are enforced.

1.10 The EESC considers that the Community legal framework does not meet current needs for protecting children's rights with regard to advertising messages, and specifically those conveyed by audiovisual media, on the internet and via social networks. It urges the Commission to give urgent thought to the need to adopt more restrictive, cross-cutting measures to effectively guarantee these rights.

[1] This proposal led to the adoption of Decision 2008/1351/EC, OJ L 348, 24.12.2008, p. 118.

1.11 The EESC calls on the European Parliament and national parliaments to resolutely continue their tradition of upholding the rights of children in this special field.

2. **Impact of advertising on children**

2.1 The EESC advocates a social market economy which is properly regulated so as to promote healthy and fair competition and a high level of consumer protection, with a view to completing an internal market as a means of improving Europeans' living and working conditions, while showing due regard for the values of human dignity, freedom, democracy, equality, the rule of law and respect for human rights.

2.2 In this context, the EESC acknowledges that advertising, in all its forms, plays a major role, which has been well summarised by the International Advertising Association (IAA), whose viewpoint highlights in particular its role in disseminating innovation, encouraging creativity and entertainment, providing incentives for competition, and extending choice. The EESC also recognises that advertising acts as an important source of information and clarification to consumers, which is the justification and basis for its regulation at the Community level.

2.3 In an opinion of this nature and with this goal in mind, it would make sense to dedicate a section to the influence of the media in general, especially television, the internet and social networks, which have become the most important vehicles for advertising messages to children and young people as both users and mere passive viewers. It would also be useful to study the way in which children's behaviour in relation to social media varies according to their age and social background, including the well-known phenomenon of children choosing "idols" and "social behaviour patterns" or "lifestyles" as definers of personality, which are exploited by advertising methods ([2]). Nevertheless, due to space constraints, these will have to be taken as read, with all aspects of this issue being well-known and agreed on, specifically as regards the role that the media referred to above play in informing, training, educating and entertaining young people and the time young people spend on them. Some of these aspects have been or are currently being addressed in other EESC opinions ([3]).

3. **Advertising that uses children as a vehicle for its commercial message in any form**

3.1 With regard to advertising that uses children, it is worth highlighting the aspects of human dignity and the rights of the child, expressly enshrined in a number of international conventions and by the European Union, in particular in provisions of the Charter of Fundamental Rights (Articles 1 and 2c) and especially Articles 24 and 32.

3.2 The EESC considers that Community-level harmonisation is needed to ensure a universal ban on advertising that makes undue and improper use of images of children in areas not directly linked to them.

4. **Advertising specifically aimed at children**

4.1 Up to a certain age, children do not filter advertising, especially when the message is overblown and the same advert is repeated again and again. Children tend to accept all messages as truthful and can thus be persuaded to become compulsive consumers. This effect becomes stronger the more disadvantaged a child's socio-economic background. The messages and warnings contained in advertising are not understood by children and cannot be considered to play any preventive or dissuasive role.

4.2 What is more, the perception of advertising varies from one age-group to another. Up to the age of five, children are incapable of understanding the difference between scheduled programmes and advertising; even after that age, they still do not recognise advertising's persuasive role. This skill only develops around the age of eight and even then, not in all children. However, this still does not mean that they are able to recognise messages as one-sided, emphasising the positive aspects of the product in question and ignoring the more negative ones.

4.3 When older children view advertising as a piece of entertainment, its impact is greater, and their greater ability to process advertising messages does not necessarily render them immune to advertising and its intentions because other, more sophisticated and equally effective, persuasion techniques can be used to influence their behaviour.

4.4 Developing children's cognitive and interpretational skills by means of media education programmes enables them to interact more effectively with advertising. However, greater media literacy and better understanding of advertising on the part of both parents and children are not enough to counter the harmful effects of advertising aimed at children. It is essential to prepare children for their future role as consumers by focusing on media literacy and empowerment from the earliest age. This does not, however, solve the immediate problem of the overblown, repeated nature of advertisements, nor can it reach all children, especially those from more disadvantaged socio-economic backgrounds and those most affected by the harmful effects of advertising.

([2]) Beyond the already extensive bibliography on this issue, which there is no need to detail here, special reference should be made, due to its importance, to the study produced by the European Parliament's Directorate-General for Internal Policies on *Advertising Rules and Their Effects under the New Audiovisual Media Services Directive* (April 2009).

([3]) See opinions OJ C 287, 22.09.1997, p. 11, OJ C 407, 28.12.1998, p. 193; OJ C 48, 21.02.2002, p. 27, OJ C 61, 14.03.2003, p. 32, OJ C 208, 03.09.2003, p. 52, OJ C 157, 28.06.2005, p. 136; OJ C 221, 08.09.2005, p. 87; OJ C 325, 30.12.2006, p. 65, OJ C 224, 30.08.2008, p. 61, OJ C 77, 31.03.2009, p. 8, OJ C 317, 23.12.2009, p. 43, OJ C 128, 18.05.2010, p. 69; OJ C 48, 15.02.2011, p. 138; OJ C 24, 28.01.2012, p. 154; OJ C 43, 15.02.2012, p. 34; opinions on the *Responsible use of social networks* (See page 31 of this Official Journal) and opinions on a *European Strategy for a Better Internet for Children* (See page 68 of this Official Journal).

4.5 Studies show that the mediating role of the family is important in mitigating the effects of advertising. Nevertheless, children, including very young children, increasingly have access to a television and internet in their bedroom, making this a solitary and unsupervised activity. Another factor that increases children's exposure to advertisements and marketing techniques is the growing presence of the internet in the daily habits of even the youngest children. As is rightly pointed out in the draft EP report currently being drawn up, the *internet is young people's companion, often more than the family, school and friends*. ([4]) Recent studies, such as *Kids online*, show that 38 % of children between the ages of 9 and 12 already have an online profile, and this figure rises to 78 % for 13-16 year olds. Many brands of toys and games have websites on which children can play and have fun online, but where they are also targeted by persuasion and brand loyalty strategies.

4.6 With regard in particular to **incitement to excessive consumption leading to over-indebtedness**, some marketing messages aimed at children can stimulate consumption habits marked by excess, creating artificial desires that do not match real needs and generating a false concept of "happiness". Statistics show that 54 % of adolescents feel pressurised to buy certain products purely because their friends have them; in other words, consumption ultimately becomes a factor for social inclusion.

4.7 There is a causal link between exposure to certain advertisements and pestering parents to buy things. Family conflict linked to exposure to advertising and demands to buy things occur in all families, but especially in those with the lowest socio-economic status, whose children spend most time in front of the television. Due to a lack of finances or a lesser ability to discuss matters, low-income families ultimately pay the highest price for advertising.

4.8 Consumerism stimulated by advertising also has the effect of drawing large numbers of children and young people to certain brands, which creates difficult situations for those who do not have access to the same products. One such situation is known as "brand bullying" in schools, which severely affects children who do not use certain brands; it can create behavioural problems or great personal unhappiness, sometimes driving them into situations of exclusion, violence and suffering that can in turn lead to crime in the form of petty theft or robbery.

4.9 As regards advertising that encourages the **consumption of unhealthy food or other products that are harmful or dangerous to physical and mental health**, we should emphasise the influence that children have on food-purchasing decisions, especially on the preference for ready-made dishes or fast food. The draw towards poor eating habits is a constant factor in advertising aimed at children. Obesity among children is already a huge problem. According to Consumers International, one in 10 children worldwide is overweight or obese; 22 million children below the age of five are now classified as overweight, and the main cause is the consumption of highly-processed products that are rich in sugars and fats.

4.10 The figures for the exposure of children to food-related advertising, especially in children's programmes, are high, and have been rising with children's growing use of television, the internet and social networks. Furthermore, the nature of adverts has changed, as they now contain more sophisticated product-marketing techniques which make them more persuasive ([5]).

4.11 Advertising can also have implications for eating disorders such as anorexia and bulimia. Children and adolescents are exposed to the body types and appearances of the young people featured in advertisements. The impact on young people, especially girls, of a slim body type promotes an ideal of beauty that encourages eating behaviour that can put lives at risk.

4.12 Indeed, the American Psychological Association considers that advertising aimed at children under the age of eight should be restricted (or banned altogether) given the inability of children of that age to process the persuasive intent of adverts. The aim of this ban would be to limit the damaging effects of advertising on the promotion of unhealthy eating habits, on conflict between parents and children over demands to buy products that are advertised, and on exposure to violence ([6]).

4.13 The Committee considers that these concerns, which are already covered by legislation in some Member States ([7]) and non-European countries, should be incorporated at EU level, setting a minimum age for advertising specifically aimed

([4]) Draft report on the protection of minors in the digital world, 2.4.2012 by the EP Committee on Culture and Education, Rapporteur: Sílvia Costa (PE486.198v01-00) in http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&mode=XML&language=EN&reference=PE486.198

([5]) In Australia, Kelly et al. (2007) highlight that on average per week, children between the ages of 5 and 12 watch 96 advertisements for food products, of which 63 had a high fat or sugar content (Kelly, B. P., Smith, B. J., King, L., Flood, V. M. & Bauman, A. (2007) *Television food advertising to children: the extent and nature of exposure*, Public Health Nutrition, Vol. 10, No. 11, pp. 1234-1240. Copyright Cambridge University Press). In the United States a study by Powell et al. (2007) suggests that 27,2 % of non-programmed television content concerns food, which represents an average of 23 advertisements per day (Powell LM, Szczypka G, Chaloupka FJ (2007) *Exposure to Food Advertising on Television Among US Children*, Archives of Pediatric and Adolescent Medicine 161, 553-560).

([6]) http://www.apa.org/pi/families/resources/advertising-children.pdf.

([7]) Currently, five Member States ban any advertising in children's programmes, four have adopted a partial ban or other type of restriction on children's programmes, at certain times of day or for certain types of product, and seven ban any sponsor's logos in children's programmes. See http://ec.europa.eu/comm/avpolicy/reg/tvwf/contact_comm/index_en.htm.

at children, as suggested in the report by the MEP Kyriacos Triantaphylides ([8]) and reaffirmed in the EP Resolution of 22 May 2012 ([9]).

5. **Advertising that affects children**

5.1 In terms of advertising that can **seriously affect the mental and moral development of children,** even when not specifically aimed at them, the most significant is **advertising that encourages violence or certain types of violent behaviour,** such as advertisements for toys or games that glorify violent behaviour.

5.2 Reliable studies show the damaging effects of exposure to violence in certain advertisements broadcast by audiovisual media, particularly when it promotes aggressive behaviour, greater receptiveness to violence and increased hostility. Mental health itself can be affected by this consumption of violent content, leading to anxiety, fear, sleep disturbance and hyperactivity.

5.3 Celebrities are increasingly used in advertisements for products that could damage health, such as alcohol or tobacco. Associating a lifestyle deemed to be attractive with such products stimulates the desire to use them and creates a positive perception of them.

5.4 Children's normal psychological and moral development is also affected by **advertising containing erotic or pornographic content that encourages perverse, perverted or excessive sexual behaviour.** A great deal of advertising is sexist and sexual in nature, and uses women as objects of desire, often in an inferior or subservient, not to say subjugated, position. Also, the excessive sexual charge or erotic, if not pornographic, content lead to the early sexualisation of children. Despite the fact that certain well-known brands have been forced to withdraw advertising that contributes to the hyper-sexualisation of children, and despite civil society's outrage at the abuse of images of minors' bodies in advertisements, there is no clear legal European-level definition of such situations.

5.5 Although this area is regulated in a number of Member States (albeit in highly different ways, which prevents the smooth operation of the internal market and cannot be justified by fundamental cultural reasons), the Committee considers that it is also worthy of consideration at Community level.

6. **The Community legal framework and its obvious shortcomings**

6.1 Given the current framework, it must be stated that national legal provisions and the procedures regarding children adopted by professionals in the field of advertising (meaning commercial communication in the broadest sense of the word) are anything but uniform in the different Member States.

6.2 For its part, the Community legal framework is unnecessarily complex and confusing, and in most cases is differently transposed and implemented in the Member States. The Commission itself recognises this in its Communication entitled *A coherent framework for building trust in the Digital Single Market for e-commerce and online services* ([10]), in its report on *Protecting children in the digital world* ([11]) and in the *European Strategy for a Better Internet for Children* ([12]). Most Member States have confined themselves to a minimalist transposition of the relevant Community directives, while others ([13]) apply stricter standards, which even ban advertising targeting minors ([14]).

6.3 Rightly, none of the provisions contained in Community legislation considers that in order to protect minors and human dignity, any "prior checks" should be carried out, in line with the fundamental principles of freedom of expression, as firmly established by the European Court of Human Rights with regard to the European Convention on the matter.

6.4 The fundamental error lies, however, in the Council Recommendation of 1998 on *Achieving a comparable and effective level of protection of minors and human dignity*, whose first stated concern is *the competitiveness of the European audiovisual and information services industry*. The recommendation treats action on audiovisual or "online" content that could be harmful to minors or human dignity as falling outside the legislative powers of the European Union ([15]) and ultimately views these aspects as a matter of "taste and decency" that does not fall within the scope of Community regulation ([16]).

6.5 In terms of what is universally mandatory, Member States are only required to ensure that television programmes (which should be understood to include commercial communications) do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence, unless preceded by an "acoustic warning" or accompanied by a "visual symbol", except where it is ensured, by selecting the "time of the broadcast" or by "any technical measure", that "minors in the area of transmission will not normally hear or see such broadcasts".

([8]) A7 – 0369/2011, 21.10.2011.
([9]) A7-0155/2012, especially points 24, 28 and 29 (Rapporteur: Maria Irigoyen Pérez).
([10]) COM(2011) 942 final, 11.1.2012.
([11]) COM(2011) 556 final, 13.9.2011.
([12]) COM(2012) 196 final, 2.5.2012.
([13]) See footnote 6.
([14]) In the case of Sweden, this led to the EU Court of Justice ruling of 9 July 1997 confirming its compatibility with EU law (Cases C-34 and C-35/95 Konsumentombudsmannen/De Agostini (Svenska) bForlag AB and TV-Shop i Sverige AB).
([15]) In its opinion in OJ C 221, 8.9.2005, p. 87, the EESC took a clear stance against this approach.
([16]) Cf. Directive 2005/29/EC of 11 May 2005, point 7 of the Preamble (OJ L 149, 11.6.2005).

6.6 Current legislation has abandoned the restrictions on inserting adverts, where this does not seriously impair the integrity of programmes, on the grounds that there are now "increased possibilities for viewers to avoid advertising". This legislation takes no account of the specific characteristics of the child, which it deems to be a passive viewer.

6.7 The only explicit Community-level prohibitions in place today apply to tobacco products, medicinal products and medical treatment available only on prescription, and to "surreptitious" or "subliminal" advertising. However, this ban does not extend to "product placement" (which nevertheless should "in principle, be prohibited") in cases "where the viewer is adequately informed of the existence of product placement". Moreover, there are "strict criteria" for the advertising of alcoholic beverages.

6.8 Only in this last regard is it stated that advertising should not specifically target minors. In all other aspects relating to harm to the physical, mental or moral development of minors (such as directly inciting children or indirectly inciting their parents to purchase goods or services that are advertised, taking advantage of their lack of experience or their credulity, or advertising "included in children's programmes, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars"), the rules in force merely offer general recommendations or make reference to "codes of conduct".

6.9 It should also be pointed out that although the Directive on unfair commercial practices contains a provision on unfair practices targeting "a clearly identifiable group of consumers who are particularly vulnerable" specifically because of "their age or credulity", it has not been interpreted as prohibiting the above practices and nor has it been transposed or implemented to this effect in the Member States ([17]).

6.10 Apart from these EU law provisions, other traditional instruments establish core principles that in turn underpin the latest developments in fundamental EU legislation (the Lisbon Treaty and the European Charter of Fundamental Rights).

6.11 At the same time, both internationally and in the different Member States, professionals in the field – and in particular, the EASA ([18]) – have developed a set of provisions for self-regulation of their commercial practices that clearly demonstrates their commitment to protecting children. This does not remove the need, stated in a number of international and Community bodies, to guarantee a high level of respect for children and their protection in order to ensure their physical, mental and moral development, with concern for their own interests, their wellbeing and the preservation of the family environment and ties.

7. **Advertising aimed at young people and children and completion of the internal market**

7.1 The market for advertising and marketing in Europe is highly competitive, is dependent on the whims of fashion and is particularly vulnerable to the effects of the economic and financial crises. Major differences in national regulations in the field of advertising can not only influence results, but can also form a barrier to its growth in the internal market and be a source of discrimination and less fair competition. In particular, advertising aimed at children and young people is booming, but the significant differences in national regulations and divergent requirements mean that advertising agencies do not operate on a level playing field; this leads to higher costs as a result of having to adapt their campaigns to meet different legal obligations and requirements. These differences also encourage agencies to adopt less scrupulous competitive practices, in an attempt to circumvent these problems and win market share. Legislative harmonisation that imposes similar conditions across Europe, completing the internal market in this area, could make a significant contribution to creating a more transparent market in which all advertising agencies are able to carry out their business on the basis of their skills and capabilities with the aim of meeting consumer demand effectively, rather than taking advantage of differences in national legislation, to the detriment of healthy and fair competition.

8. **Legal base for concerted Community-level action in the field of advertising aimed at children and young people**

8.1 To date, the Community directives that have regulated advertising at EU level have commonly taken as their legal base the treaty provisions concerning completion of the internal market, today Articles 26 and 114, albeit heavily modified. This is certainly a major concern, but should not be the sole concern. Other Community initiatives, whose aims more specifically target television broadcasting, instead took as their legal base the text that at the time applied to the right of establishment and to services, now corresponding, albeit with substantial changes, to the current Articles 49 et seq. and 56 et seq. Lastly, in more recent initiatives on child protection and child pornography, but still prior to the current Lisbon Treaty, the legal base used was taken from the provisions referring to cooperation in criminal matters.

([17]) Article 5(3) of Directive 2005/29/EC of 11 May 2005 (OJ L 149, 11.6.2005). Nevertheless, in its recent and welcome Communication, the Commission appears to be considering the possibility of tackling "the use of questionable or prohibited commercial communications", which it is hoped will include those condemned in this document (COM(2011) 942 final, 11.1.2012).

([18]) In this regard, it is worth highlighting the interest expressed by the Commission's DG INFSO in drawing up a European code of good practice (19.3.2012).

8.2 It is worth recalling that the current Lisbon Treaty enshrined substantial changes in all of these aspects and offers a range of new possibilities for Community action, which we must be able to interpret and implement. The most important innovation was the incorporation of the European Charter of Fundamental Rights into primary EU legislation, followed by the change to the legal nature of cooperation in criminal and civil matters and lastly, the changes made to a number of the Treaty's provisions, such as those concerning completion of the internal market, consumer protection and respect for human dignity. The Commission also recently based its proposed data protection regulation on the European Charter of Fundamental Rights and the abovementioned Lisbon Treaty provisions.

8.3 The issue of advertising that targets children and young people is, first and foremost, an issue of citizenship and the protection of fundamental rights; Articles 1, 3, 24, 33 and 38 of the Charter, as referred to above, provide a substantive legal base that amply justifies the need for Community action. To these we should definitely add Articles 2, 3(5) and 6 TEU and Articles 4, 9 and 10 TFEU.

8.4 In this field, in addition to the Member State governments, whether in the Council or in the area of enhanced cooperation (Article 20 TEU), national parliaments also have an important role to play under the terms of Article 12 TEU and are called on to shoulder this responsibility.

8.5 Completion of the internal market is also one of the most important goals in this field, hence the coverage of Article 3(3) TEU and Articles 26 and 114 et seq. TFEU. Furthermore, Articles 12 and 169 TFEU open up new possibilities for consumer protection. With regard to procedural aspects, Articles 67 et seq., especially Articles 81 and 82 TFEU, provide the bases for a civil and criminal framework that will help complement the legal framework for child and youth protection in this field.

8.6 Lastly, the Community-level approach to this matter adheres to the principles of subsidiarity and proportionality (Article 5(3) and (4) TEU), in that its goal for the cross-border dimension cannot be achieved to a sufficient degree by the Member States within their national systems alone. The objective of the initiative could therefore be better achieved by action at EU level, in accordance with the subsidiarity principle. Furthermore, the scope of the initiative should be confined to aspects which pose specific practical problems. It should not address aspects that can be more appropriately regulated by national legislation, thereby giving due regard to the principle of proportionality.

Brussels, 18 September 2012

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'Vulnerable groups' rights at the workplace — in particular issues of discrimination based on sexual orientation' (own-initiative opinion)

(2012/C 351/03)

Rapporteur: **Thomas JANSON**

On 19 January 2012, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Vulnerable groups' rights at the workplace — in particular issues of discrimination based on sexual orientation.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September 2012), the European Economic and Social Committee adopted the following opinion by 130 votes to 4 with 14 abstentions.

1. **Conclusions and recommendations**

1.1 Any discrimination against individuals based on their identification with a particular group is a threat both to human-rights-based democracy and to economic development in the EU. In the EESC's opinion, the EU has a responsibility to take a coordinated approach towards the objectives of work in this area ([1]).

1.2 Combating discrimination effectively requires proactive measures based on the participation of the various stakeholders, with representatives of disadvantaged groups working together with the social partners.

1.3 In this opinion, the EESC notes that, with regard to discrimination based on sexual orientation, more needs to be done to reduce the risk of encountering discrimination. This includes increasing funding for research on discrimination in employment, and also developing a road map for achieving the goal of non-discrimination on the basis of sexual orientation.

1.4 It is clear that the economic and social crisis has serious consequences for vulnerable groups in the labour market. The cutbacks currently being made to social welfare systems within the EU are raising unemployment, and also risk increasing xenophobia, homophobia and other discriminatory and offensive statements and actions. The EESC feels that it is important for the EU and the Member States to be more effective and more open in evaluating the risks to vulnerable groups presented by the current cutbacks and to take action to reduce those risks.

1.5 The EESC notes that there are considerable differences within the EU with regard to the treatment of LGBT ([2]) people, and has serious concerns about the discrimination they face. This discrimination presents a threat the EU's fundamental values and to freedom of movement.

1.6 The EESC urges the Commission to develop a road map for combating discrimination against LGBT people, and highlights the importance of incorporating an LGBT perspective in all policy areas.

1.7 The EESC stresses that it is important for civil society and governments to work together to combat stereotypes and raise awareness of LGBT people's rights. Discrimination on the grounds of sexual orientation and gender identity must be actively included in discussions and negotiations between the social partners. In this context, the EESC would highlight the networking opportunities that can promote equal opportunities and openness in the workplace.

1.8 The EESC stresses that awareness of what the EU's legislation and rules have to say about discrimination in the workplace is important not only for individuals but also for employers and trade unions. Almost 45 % of EU citizens are unaware that there are laws against discrimination on the grounds of sexual orientation, and the EESC feels that targeted information campaigns are needed to tackle this problem.

1.9 The EESC acknowledges the specific issues facing many transgender people, and considers that these specific problems need to be dealt with in a separate report.

([1]) Article 21 of the Charter of Fundamental Rights of the European Union states: "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited."

([2]) Lesbian, gay, bisexual and transgender.

2. **Why combat discrimination?**

2.1 The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. Article 19 of the Treaty on the Functioning of the European Union gives the Union the authority to "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation". Combating and countering discrimination of all kinds is absolutely vital to the legitimacy of the European Union. Article 21 of the Charter of Fundamental Rights of the European Union prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

2.2 A number of directives have been adopted pursuing the treaty's objectives, such as Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, and Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Protection against sexual and racial discrimination is much more extensive than protection against discrimination based on religion or belief, age, disability or sexual orientation – a fact that may influence people's decisions about working, studying or travelling in another EU country.

2.3 Equal treatment is primarily about promoting human rights, but also about making the most of all the EU's resources. Discrimination is a waste of resources, and leads to social exclusion for the groups affected. The deep economic and social crisis currently affecting the EU, with many countries having cut back their welfare systems and reduced wages, is making things worse for the most vulnerable groups. The EU's various anti-discrimination directives are therefore essential to protect groups at risk of discrimination and to promote their integration in the labour market. The Member States have a real responsibility to ensure that the intentions of the anti-discrimination directives are put into practice.

2.4 The EESC has published a range of opinions giving its views on the various forms of discrimination. It welcomed the Commission's proposal for a Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2000/43/EC) ([3]). It also supported the idea of proposing a separate directive relating solely to employment and occupation, prohibiting discrimination based on religion, disability, age or sexual orientation, and took the view that it was also important for all inhabitants of the Member States to enjoy a minimum level of protection and rights of legal redress against discrimination. The Committee called for more effort to be put into researching and developing economic arguments for non-discrimination, and regretted the fact that the Directive made no mention of discriminatory instructions or pressure to discriminate on the specified grounds.

2.5 The framework directive covers both direct and indirect discrimination. Indirect discrimination occurs where people could, in practice, be disadvantaged by an apparently non-discriminatory provision or an apparently neutral criterion or practice ([4]).

2.6 The EESC has also issued an opinion on the *Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation* ([5]), which has not yet been adopted. The Committee welcomed the proposal for a directive on the basis that it would lead to consistent standards across the EU of protection against discrimination on all grounds listed in Article 13 of the Treaty establishing the European Community (now Article 19 of the Treaty on the Functioning of the European Union). It regretted, however, that the directive failed adequately to address the issue of multiple discrimination and called upon the Commission to come forward with a recommendation on this issue. The EESC urges the Council to take a decision on this matter to bolster vulnerable people's rights.

2.7 In its various opinions on discrimination issues (for example relating to age, third-country nationals and Roma), the EESC has *inter alia* made the following points ([6]):

— it is important for efforts to combat discrimination to be integrated into all spheres of activity and incorporated into both the EU budget and national budgets;

— there is a need for indicators to gain information about the situation;

— the implementation of non-discrimination should be connected with the Europe 2020 strategy;

— appropriate and effective enforcement and monitoring mechanisms should be identified at both European and national level;

([3]) OJ C 77, 31.3.2009, p. 102.

([4]) Council Directive 2007/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

([5]) OJ C 182, 4.8.2009, p. 19.

([6]) OJ C 318, 29.10.2011, p. 69; OJ C 354, 28.12.2010, p. 1; OJ C 347, 18.12.2010, p. 19; OJ C 376, 22.12.2011, p. 81; OJ C 182, 4.8.2009, p. 19; OJ C 77, 31.3.2009, p. 102; OJ C 10, 15.1.2008, p. 72; OJ C 110, 30.4.2004, p. 26; OJ C 318, 23.12.2006, p. 128; OJ C 77, 31.3.2009, p. 115; OJ C 318, 29.10.2011, p. 50; OJ C 204, 9.8.2008, p. 95; OJ C 256, 27.10.2007, p. 93.

— there is a need for more and better jobs in order to safeguard and improve the economic independence of vulnerable groups;

— it is important for responsibility for families and households to be shared fairly between the sexes, and for social security entitlements to be individualised;

— institutional structures need to be developed, for example to set up a European Disability Committee;

— there is a risk that the economic and social crisis will increase intolerance, xenophobia, racism and homophobia throughout Europe;

— integration is a complex, long-term social process, with many dimensions and many stakeholders involved, particularly at local level.

2.8 Neither the EESC nor the Commission has dealt with discrimination on the basis of sexual orientation specifically and in detail, and there is no road map for reducing the risk of discrimination against LGBT people. This opinion will focus on discrimination based on sexual orientation because the EESC feels that there is a need for policy development work in this field. At the same time, it is important to note that there are a number of other vulnerable groups that are not covered by the listed forms of discrimination but find it difficult to access or remain in the labour market. All policy development therefore needs to ensure general access.

3. **Situation for LGBT people on the labour market**

3.1 *Issues with implementation of legislation* ([7])

3.1.1 The Fundamental Rights Agency published two reports in 2009 ([8]) analysing the situation for LGBT people; some of the agency's conclusions are set out below. One initial conclusion is that there is a hierarchy of grounds for discrimination, with protection against discrimination on grounds of sex, race and ethnic origin being stronger than protection against other forms of discrimination. However, Member States are increasingly tending to give all discrimination grounds the same level of protection.

3.1.2 According to the FRA, 18 of the EU's Member States have gone beyond the minimum requirements in implementing the Employment Equality Directive with regard to discrimination based on sexual orientation. The majority of Member States have therefore introduced legislation providing protection against discrimination based on sexual orientation outside the area of employment. Around 20 Member States have an authority responsible for addressing discrimination based on sexual orientation.

3.1.3 The FRA's reports also discuss freedom of movement for LGBT people, which is an important element of the single labour market in the EU. In this connection, it is worth noting that family law is a national legislative competence, which means that different Member States have different rules regarding same-sex couples. Countries also have different traditions in terms, for example, of attitudes towards same-sex marriage and partnerships, but this means, among other things, that problems may arise when people exercise their rights with regard to the free movement of persons.

3.1.4 The FRA notes that same-sex couples encounter significant barriers in exercising their rights in terms of freedom of movement, whether they are married, in a registered partnership or in a long-term stable relationship. The agency points out that, in many circumstances, this constitutes direct discrimination and that Member States' obligations under the Free Movement Directive ([9]) should be clarified.

3.2 *Court of Justice of the European Union*

3.2.1 The Court of Justice has heard two cases relating to discrimination based on sexual orientation: *Römer* and *Maruko*. In the *Römer* case, the court held that the Employment Equality Directive precluded a pensioner who had entered into a registered life partnership receiving a supplementary retirement pension lower than that granted to a married pensioner, and that there was direct discrimination on the ground of sexual orientation because, under national law, the people concerned were in a legal and factual situation comparable to that of a married person as regards pensions.

3.2.2 In the *Maruko* case, the court likewise held that the directive precluded legislation under which, after the death of his life partner, the surviving partner did not receive a survivor's benefit equivalent to that granted to a surviving spouse. However, it also held that it was for the national court to determine whether a surviving life partner was in a situation comparable to that of a spouse. In addition, it noted that there were significant discrepancies within the EU and that there was a general lack of equivalence between marriage and other forms of legally recognised relationship.

3.3 *Issues with discrimination in the workplace*

3.3.1 *Difficulty of being open about sexual orientation in the workplace*: Studies show that LGBT people are often "invisible" on the labour market, most often due to fear of victimisation. In many cases they also avoid socialising with colleagues to avoid being "outed". Above all, people were found to be

([7]) This section is based on reports from the Fundamental Rights Agency (FRA) and the European Trade Union Confederation (ETUC).

([8]) *Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Legal Analysis* and *Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II - The Social Situation.*

([9]) Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

afraid of informing superiors in the workplace of their sexual orientation. Openness is significantly below average in certain sectors, such as the military and the church.

3.3.2 *Specific problems make work difficult*: LGBT people on the labour market are in a different position from other vulnerable groups because openness about their sexual orientation impacts their working life. It is common for LGBT people to develop strategies to avoid exposing their sexual orientation, such as changing the subject or leaving a conversation in the workplace. Studies show that these constant efforts to negotiate the workplace have an impact on health and productivity. The discrimination to which lesbian, gay, bisexual and transgender people are exposed in the EU leads to shame-based emotional exclusion, which has consequences both for the individual and for labour-market participation. In the EESC's view, the EU's various institutions need to work actively to combat the exclusion this entails.

3.3.3 *Problems accessing labour market rights*: When people are the targets of discrimination on the basis of their sexual orientation, it is important for them to have access to complaint mechanisms and to a national authority that handles complaints regarding such discrimination. Many Member States simply do not have any such authority.

3.3.4 *Unwillingness to make complaints*: The number of documented cases of discrimination on the grounds of sexual orientation is remarkably low. This is probably due to LGBT people being unwilling to come out publicly, and possibly to a lack of awareness of their rights. There is also a risk that they could lose their job if they complain. In some cases it is important for people who make complaints to be protected by society to counteract the negative consequences of complaining.

3.3.5 *Lack of knowledge*: A Eurobarometer survey showed that there were shortcomings in people's awareness of anti-discrimination legislation. Almost half (45 %) of EU citizens are unaware that there are laws against discrimination on the grounds of sexual orientation when appointing a new employee. An ETUC study also showed that there was a lack of awareness among trade unions regarding LGBT policies and activities. This lack of awareness of employment rights is reflected in a general lack of information and data about the situation and experiences of people with different sexual orientations. Studies found that levels of awareness regarding sexual orientation and gender identity in the workplace are very low. This general lack of awareness makes it very difficult for people with different sexual orientations to discuss gender identity or discrimination based on sexual orientation with employers and trade unions. There is therefore a case for working to raise awareness, particularly where it is currently low, to improve knowledge of EU citizens' rights.

3.3.6 *Legal protection and other measures to reduce discrimination*: In some countries, the introduction of legal protection and better support for equal rights at national level has helped to increase public awareness more generally, which has also had a positive impact on trade unions and employers. The FRA's study makes little mention of employers' responsibility, which highlights the important of the responsibility of management. Diversity management and an open culture have a positive impact on workplaces with regard to LGBT people. Diversity management may not necessarily prevent discrimination, but it is an important first step within an organisation.

3.3.7 *Extent of discrimination*: A number of studies have been carried out to map the extent of discrimination against LGBT people in the workplace. They have concluded that up to half of this group are not open about their sexuality at work, and that between a third and half of those who are open encounter direct discrimination or insulting comments and prejudice in the workplace.

3.3.8 A number of projects have been undertaken within the EU involving employers, trade unions and the voluntary sector; the Commission provided financial support for these projects, which boosted their legitimacy. In France, employers and trade unions in one sector have concluded an agreement on equal rights for same-sex families. The Swedish trade union confederation Vision provides training on LGBT issues with the aim of raising awareness about discrimination in the workplace. Experience has shown that it is perfectly possible to work together to change the situation on the labour market for people with a different sexual orientation. The Committee notes with regret that activities of this kind are a rarity and it therefore calls on the European Commission to popularise best practice and on the social partners to be much more active in combating discrimination against LGBT people in the workplace.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'The contribution of migrant entrepreneurs to the EU economy' (own-initiative opinion)

(2012/C 351/04)

Rapporteur: **Ms KING**

On 19 January 2012, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The contribution of migrant entrepreneurs to the EU economy.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September 2012), the European Economic and Social Committee adopted the following opinion by 135 votes to 2 with 10 abstentions.

1. **Summary and recommendations**

1.1 The contribution of migrant entrepreneurial activities in Europe has been increasing over the last decade. They contribute to economic growth and employment, often by rejuvenating neglected crafts and trades, and increasingly participate in the provision of value-added goods and services. They also form an important bridge to global markets and are important for the integration of migrants into employment, creating employment for themselves but also increasingly for immigrants and the native population ([1]).

1.2 The EU has publicly recognised the key contribution that migrant entrepreneurs can make to sustainable growth and employment. However, it is important that this recognition should not be considered in isolation or separately from the immediate priorities of EU policy makers. Indeed, a vibrant, sustainable and growth-orientated migrant entrepreneur sector should be part of the Growth and Jobs Strategy, the Small Business Act, Europe 2020 and the new COSME as these have already placed the importance of high growth, value-added SMEs at the heart of an EU Economy orientated towards sustainable growth.

1.3 Migrant entrepreneurs also enhance social opportunities for migrants, create more social leadership, are role models in society, especially for young people, increase self confidence and promote social cohesion by revitalising streets and neighbourhoods.

1.4 The Committee welcomes the Commission's communication ([2]) recognising "The important role of migrants as entrepreneurs" and stating that "their creativity and innovation capacity should also be reinforced". The EESC also welcomes the statement that the "promotion of transnational entrepreneurship through a more dynamic strategy will favour entrepreneurs operating in both EU Member States and in partner countries. Such enterprises can create employment in the countries of origin and bring benefits in terms of both integration of migrants and increased trade between countries".

1.5 With increasing unemployment making the creation of quality jobs a critical priority for the EU, it is now even more important that EU policy makers recognise the important asset that migrant-owned businesses represent for the EU economy, both locally but also increasingly in international markets where there remains a demand for goods and services originating from the EU. This fits with the Commission's strategy aimed at helping small and medium-sized enterprises to expand their business outside the EU, as international activities reinforce growth, enhance competitiveness and support the long term sustainability of companies within the EU.

1.6 The Committee recommends that if the "creativity and innovation capacity" of migrant entrepreneurs are to be reinforced, specific measures must be taken at EU, Member State and local level. This is to eradicate discrimination and create equal conditions for all so that they can contribute to inclusive growth and quality jobs.

1.6.1 At EU level policy-makers should:

— Recognise the potential of migrant entrepreneurship for more economic growth within the EU 2020 strategy.

— Recognise the potential of migrant entrepreneurship as a creator of jobs by including it in the European Employment Strategy. Currently this strategy only focuses on paid employment as a means to the integration of migrants.

([1]) Rath, J., Eurofound (2011), "Promoting ethnic entrepreneurship in European cities", Publications Office of the European Union, Luxembourg.

([2]) "European Agenda for the Integration of Third-Country Nationals" – COM(2011) 455 final and SEC(2011) 957 final.

— Recognise migrant entrepreneurship in the European integration policy for migrants.

— Define and collect reliable and harmonised statistics on the economic and social contribution of migrant entrepreneurs throughout the EU, in conjunction with Eurostat and Member States. This can help the EU frame better immigration policies.

— Continue to facilitate public support for entrepreneurs to ensure that innovation, entrepreneurship and business growth are not adversely affected because a viable business is unable to access appropriate finance.

— Introduce a framework to raise awareness, and encourage the sharing, of good practice in programmes that build the capacity and sustainability of migrant entrepreneurs.

— Develop strategic relationships with those countries of origin that now proactively seek to directly engage their EU Diaspora communities in enterprise activities in both the country of origin and the EU.

— Use trade agreements, where appropriate, as a mechanism for the encouragement of joint venture enterprise activity between EU-based migrant entrepreneurs and their countries of origin. This will support the EU strategy to help small- and medium-sized enterprises to expand their business outside the EU.

1.6.2 EU Member States should:

— Recognise and promote migrant entrepreneurship as part of wider integration policies.

— Review the regulatory and structural framework for setting up businesses in general, by reducing unnecessary administrative requirements that can be barriers to starting a business.

— Minimise the risk of illegal immigration and in particular illegal employment by implementing Directive 2009/52/EC ([3]) of the European Parliament and of the Council dated 18 June 2009. Article 14 of this directive requires Member States to "ensure that effective and adequate inspections are carried out on their territory".

— Help increase long term employment rates by providing more support for existing migrant businesses, especially those run by women and young people, so that these businesses become more sustainable.

— Boost awareness and strengthen the capacities of intermediary organisations, such as trade associations, chambers of commerce and cooperatives, so that they can support these businesses in meeting legal requirements such as labour and tax regulations.

1.6.3 Local authorities and civil society, including the social partners, should:

— Continue programmes that increase the human and social capital of migrant entrepreneurs by providing various services, such as advice and information, training, networking and mentoring.

— Create or enhance opportunities for migrant entrepreneurs, by improving access for their organisations to mainstream organisations.

— Increase the sustainability of migrant businesses. More attention should be given to existing migrant enterprises, especially those in high-value sectors, instead of solely focusing on start-ups.

— Access to credit is a very important issue for entrepreneurship, therefore more programmes should be put in place to increase the financial capital of migrant entrepreneurs, by:

  — making them aware of funding sources

  — providing them with specific training

  — increasing the knowledge, expertise and understanding of credit institutions of this specific group of corporate clients.

2. **General comments**

2.1 Europe is facing important demographic changes: population decline evident in several regions, the transition to a much older population, and low birth rates. However, the overall population in the EU increased by around 2 million people each year between 2004 and 2008, largely due to net migration. Migrants have contributed to the economic growth of receiving countries in many ways, bringing new skills and talents with them, helping to reduce labour shortages, and as entrepreneurs, creating new firms and businesses.

2.2 Migrants' contribution to the economy through the direct creation of new businesses is an aspect that has received limited attention. This opinion will expand on the existing knowledge of migrant entrepreneurship and make recommendations to foster and recognise the success of migrant enterprises and further enhance their contribution to economic growth.

([3]) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF.

2.3 Comparing entrepreneurship and employment creation by migrants across EU countries is challenging, due to the different data sources available for different countries and the lack of an internationally-agreed definition of a migrant entrepreneur.

2.4 This paper is largely based on the presentations given at the EESC Permanent Study Group on Immigration and Integration hearing on migrant entrepreneurs' contribution to the EU economy on 24 November 2011 ([4]).

2.5 A migrant entrepreneur is defined as a business owner born outside the EU "who seeks to generate value through the creation or expansion of economic activity" ([5]). The entrepreneur can be self-employed, i.e. employing only themselves, or employ staff ([6]).

2.6 This opinion concentrates on self-employed entrepreneurs using labour force survey data to allow comparisons between Member States and between migrant entrepreneurs and native entrepreneurs. In addition, the analysis concentrates on non-agricultural entrepreneurs, as this is the norm applied to research on entrepreneurship.

3. **Characteristics of migrant entrepreneurs**

3.1 *Migrants are more entrepreneurial*

3.1.1 The EU Labour Force survey ([7]) shows that the trend of migrant entrepreneurship varies across the EU, with the share of migrant entrepreneurs in total employment being 1.5 to 2.9 percentage points higher than natives in the United Kingdom, France, Belgium, Denmark and Sweden. However there is a lower share of migrant entrepreneurs when compared with natives in Portugal, Spain, Italy, Greece, Ireland, Germany and Austria.

3.1.2 Regionally there is a higher overall rate of self-employment (native and migrant) in southern Europe and central and eastern Europe. However, in central and eastern Europe, migrants tend to have a higher self-employment propensity than the natives, while the opposite is true in southern Europe.

3.1.3 This over-representation of migrants in self-employment in Poland, the Slovak Republic, the Czech Republic and Hungary is partly due to relatively flexible visa regulations for migrant entrepreneurs and the employment situation in these countries. Southern European countries' lower rates of migrant entrepreneurship may be a consequence of the fact that migrants in these countries may not have had time to build the necessary human, physical and social capital to start a business as they might not be fluent in the native language, or may have difficulties getting their qualifications recognised.

3.1.4 Data on the number of new entrepreneurs in a given year also suggests that migrants tend to be more entrepreneurial than natives. During the period 1998-2008, the average annual number of new migrant entrepreneurs doubled in Germany (to over 100 000 per year) and in the United Kingdom (to almost 90 000 per year). In Spain and in Italy the average annual numbers increased by 6 times (to over 75 000 per year), and 8 times (to 46 000) respectively. In France there has been a small increase (to 35 000) over the same period ([8]).

3.1.5 In addition, migrants are more entrepreneurial in relative terms with respect to their population than natives. For example in the UK, while migrants represent 8 % of the UK population, they own around 12 % of all UK SMEs.

3.1.6 This finding is consistent with a recent US study that reveals that the immigrant share of small business owners is 18 %, compared with their proportion of the overall population of 13 %, and of the labour force of 16 % ([9]).

3.2 *Sustainability of migrant businesses*

3.2.1 While transitions into entrepreneurship from one year to another are higher among migrants, transitions out are also higher. This lower survival rate can indicate that self-employment is a mechanism to move into wage employment or it can indicate a higher failure rate of migrant firms. For example, in France, only 40 % of the firms owned by foreign nationals were still operating five years after their creation compared with 54 % for French nationals ([10]). The OECD study ([11]) found that even after controlling for qualifications, experience and other factors, migrant businesses are 27 % less likely to survive relative to native businesses.

3.3 *High Value Sectors*

3.3.1 The range of activities that migrant entrepreneurs undertake in their host countries is as wide as that of natives. This transformation, from businesses that cater mainly to populations from their ethnic enclaves, is due partly to the increasing educational attainment of many migrants, as well as shifts in the economic structures of post-industrial societies.

([4]) http://www.eesc.europa.eu/?i=portal.en.events-and-activities-migrant-entrepreneurs-contribution-present.
([5]) OECD's established definition of entrepreneur, OECD, 2008.
([6]) Rath, J., Eurofound (2011), "Promoting ethnic entrepreneurship in European cities", Publications Office of the European Union, Luxembourg.
([7]) http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database.
([8]) Stats link: http://dx.doi.org/10.1787/888932442104.
([9]) http://www.fiscalpolicy.org/immigrant-small-business-owners-FPI-20120614.pdf.
([10]) Breem, Y. (2009), "Les entreprises créées en 2002 par des ressortissants des pays tiers: de plus grandes difficultés à survivre", Infos Migrations, No. 13, Département des statistiques, des études et de la documentation (DSED), Ministère de l'Immigration, de l'Intégration, de l'Identité nationale et du Développement solidaire.
([11]) Open for Business: Migrant Entrepreneurship in OECD Countries, 2010.

3.3.2 In Europe, although a high proportion of foreign-born entrepreneurs work in sectors more traditionally associated with migrant businesses (i.e. wholesale and retail trade), many work outside the traditional ethnic business sectors, with almost 18 % of migrant entrepreneurs in the construction sector; around 8 % in the professional, scientific and technical sector; around 6 % in manufacturing and another 6 % in human health and social work.

3.4 *Profile*

3.4.1 The general profile of migrant and native entrepreneurs is similar in that they tend to be *skilled* and *male*, with more than three out of four being *over the age of 35*. Migrant and native entrepreneurs are on average older than wage and salary workers. This result might be explained by the need to accumulate enough social and physical capital, as well as experience, before being able to start a business.

3.4.2 Migrant entrepreneurs have a *higher average educational level* than their native counterparts with around 30 %-40 % of migrant entrepreneurs having a tertiary education.

3.4.3 Almost two-thirds of migrant entrepreneurs have been in the receiving country *for more than ten years* compared with just above 50 % for migrant wage earners.

3.4.4 Migrants from different regions of origin have different propensities to become entrepreneurs, with Asian migrants having the highest propensity and Latin-American and African migrants the lowest. Differences in education and wealth may explain an important part of the differences in entrepreneurship behaviour between migrant groups. An additional explanation is that some origin countries traditionally have a higher share of entrepreneurs in their economies, and individuals that migrate from such countries are more likely to establish a business in the recipient country.

3.4.4.1 It should be noted that the migrant experience by region of origin isn't homogeneous. For example, figures from the UK indicate that if the employment rates of its Pakistani migrant community matched those of their Indian counterparts, the proportion of male and female workers in this group would rise by 24 % and 136 % respectively, an increase of some 96 000 people in work.

4. **The EU context**

4.1 The Stockholm Programme sets the agenda for the European Union's actions in the area of Justice and Home Affairs for the period 2010-2014; one of the aspects is the successful integration of migrants to enhance democratic values and social cohesion, and to promote intercultural dialogue at all levels.

4.2 With a budget of EUR 825 million for the period 2007-13, the European Integration Fund supports national and EU initiatives that facilitate the integration of non-EU immigrants into European societies and includes projects in the field of migrant entrepreneurship and entrepreneurship education for migrants ([12]).

4.3 The Commission communication ([13]) "European Agenda for the Integration of Third-Country Nationals" acknowledges the important role of migrant entrepreneurs, but their potential to contribute to sustainable growth and jobs is absent from flagship European initiatives such as the EU 2020 Strategy.

4.4 The EU Employment package focuses on paid employment as a means to integrate migrants. However, it excludes the role of migrant entrepreneurs, who can contribute to the creation of quality, sustainable jobs and facilitate the economic and social inclusion of migrant and native citizens.

4.5 EU policy makers should actively and consistently include migrant entrepreneurship as part of the EU strategies. In addition, the role of migrant entrepreneurs in the integration strategy for migrants should also be recognised and supported.

5. **Contribution of migrant entrepreneurs**

5.1 *Labour Market*

5.1.1 The EU Labour Force Survey (1998 – 2008) highlights the positive contribution of migrant entrepreneurs to employment, even though most entrepreneurs (native and migrant) employ only themselves.

5.1.2 They create on average between 1.4 and 2.1 additional jobs. However, the comparisons with native entrepreneurs suggest that migrant entrepreneurs create relatively fewer jobs. The exceptions to this general observation are the Czech Republic, Hungary, the Slovak Republic and the United Kingdom, where migrant entrepreneurs seem to create more jobs than native entrepreneurs.

5.1.3 This contribution to overall employment has been increasing over time. From 1998 to 2008, the number of individuals employed by migrant entrepreneurs increased in Spain, Italy, Austria, Germany, and the Netherlands, while in the United Kingdom and France, the contribution to employment has been consistently high. For example, in both 2007 and 2008, migrant entrepreneurs annually employed more than 750 000 individuals in Germany, around half a million in the United Kingdom and Spain, almost 400 000 in France and around 300 000 in Italy.

([12]) http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/integration-fund/index_en.htm.
([13]) COM(2011) 455 final and SEC(2011) 957 final.

5.1.4 In relative terms, this contribution to employment is equivalent to between 1.5-3 % of the total employed labour force. The countries where migrants contribute the most to overall employment are Luxembourg (8.5 %) and Ireland (4.9 %). While data limitations do not allow us to establish whether migrants employ mostly other migrants or not, some studies have shown that migrants employ natives as well as other migrants.

5.2 *Economy*

5.2.1 Migrant entrepreneurs' contributions are not limited to job creation, they also contribute to the overall economic growth of the receiving country. It is very difficult to gather true empirical evidence as regards the actual contribution to the EU economy, however, there is data from the UK which shows that their contribution is estimated at GBP 25 billion to the UK economy per year - 6 % of the total SME Gross Value Added (GBP 430 billion in 2007) ([14]).

5.2.2 This compares with a US study that shows small businesses in which immigrants make up half or more of the owners contribute an estimated USD 776 billion per year – 13 % of total small businesses (USD 6 trillion in 2007).

5.2.3 Another indication is data from France which shows that in 2009, immigrants in France received EUR 47.9 billion from the French state (welfare, housing, education, etc.), but they contributed EUR 60.3bn. In other words, immigrants contributed a net EUR 12.4bn to public finances ([15]).

5.2.4 The EESC believes that the EU contribution could be higher if migrant entrepreneurs working in the informal economy could be given the support needed to make the transition to the formal economy.

5.3 *Trade*

5.3.1 There is also evidence that migrant entrepreneurs help create trade opportunities for the receiving country by lowering trade-related transaction costs with their countries of origin, using their contact networks and knowledge about the markets in their countries of origin. For example in Sweden, 22 % of foreign-owned businesses target their goods and services, at least partially, towards the international market, compared with 15 % of native-owned businesses ([16]). It has also been shown that a 10 % increase in the migrant stock in Sweden has been associated with a 6 % increase in exports and a 9 % increase in imports on average ([17]). This finding suggests that migrants can play an important role as facilitators of foreign trade by reducing implicit trade barriers with their countries of origin.

5.3.2 Another example is the UK. Migrant entrepreneurs provide direct access to a growing Diaspora community, with an estimated disposable income in excess of EUR 30 million, as well as opening up new business opportunities in global markets such as India, China and countries in Africa, the Caribbean and Latin America.

5.4 It should be noted that migrant entrepreneurship is not only about job creation and the economy. It can enhance social opportunities for migrants, create more social leadership, increase self confidence and promote social cohesion among citizens by revitalising streets and neighbourhoods.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([14]) http://www.bis.gov.uk/assets/biscore/enterprise/docs/b/11-515-bigger-better-business-helping-small-firms.

([15]) http://www.europeanvoice.com/article/imported/time-to-value-migrants-contribution/74527.aspx.

([16]) Swedish Agency for Economic and Regional Growth (2007).

([17]) Hatzigeorgiou in OECD (2010).

Opinion of the European Economic and Social Committee on 'Eradicating domestic violence against women' (own-initiative opinion)

(2012/C 351/05)

Rapporteur: **Mr SOARES**

On 24 May 2012, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw-up an own-initiative opinion on

Eradicating domestic violence against women.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 138 votes to 3 with 7 abstentions.

1. Conclusions and recommendations

1.1 The EESC already issued an opinion on *Domestic violence against women* [1] in 2006, highlighting civil society's concern about this matter. The recommendations set out at that time continue to hold true and are, therefore, not repeated in this opinion.

1.2 In its capacity as representative of organised civil society, and being aware that gender-based violence - including domestic violence - is a matter which concerns us all, the EESC reaffirms its commitment to combat this scourge in every way possible, weighing up a number of options, including that of holding a biennial debate on the issue.

1.3 The EESC recommends that European institutions and EU Member States:

1.3.1 **Human rights:** tackle domestic gender-based violence as an aspect of human rights, which would enable a holistic, multi-sectoral approach to be adopted to the problem;

1.3.2 **Security and risk patterns:** adopt measures to change security and risk patterns, strengthening the conviction that violence against women in the domestic environment is not an individual's private problem to be seen in isolation from society as a whole, but a matter of public order and safety;

1.3.3 **Prevention:** develop a domestic violence prevention policy by creating places where women can go for multidisciplinary support, with specialised staff and resources and through inter-ministerial action plans to engage men and young people in the elimination of domestic violence;

1.3.4 **Protection policies:** guarantee women who have been victims of violence priority access to housing, economic support, training and decent jobs, where the principle of "equal pay for equal work" applies;

1.3.5 **Standardisation of statistical criteria:** pursue efforts to standardise the criteria for registering gender-based violence, so that the data collected are comparable;

1.3.6 **Education:** ensure that education helps to change people's mentalities, which means, among other things, implementing genuine mixed-sex programmes, putting a stop to sexist language in schoolbooks and providing teachers with initial and continuous training which covers the problem of gender-based violence, including domestic violence;

1.3.7 **Media:** ensure effective implementation of the **Audiovisual Media Services Directive** [2], with a view to eliminating the negative portrayal of women in the media, in particular in advertising;

1.3.8 **Health:** reinforce the belief that domestic violence against women is a health-risk variable;

1.3.9 **Joint responsibility:** consolidate and support measures promoting joint responsibility for men and women in looking after children, older parents and family members with special needs;

1.3.10 **Civil society organisations:** Provide support for organisations which work with women who have been victims of domestic violence and which promote awareness-raising campaigns and training to combat gender-based violence;

1.3.11 **European Year of Combating Gender-based Violence:** dedicate a European year to the fight against gender-based violence;

1.3.12 **Convention on preventing and combating violence against women and domestic violence**; The EESC calls on the European Union and all Member States to sign, ratify and implement this convention, which was adopted by the Council of Europe in 2011.

[1] CESE 416/2006, OJ C 110, 9.5.2006, p. 89–94.

[2] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010.

2. **Introduction**

2.1 Violence against any individual is an attack on their dignity, on their physical and psychological integrity and human rights and on the principles of a democratic society.

2.2 Since States have an obligation to respect, protect and promote their citizens' rights, they should invest substantial public resources in specialist services and staff able to fulfil this obligation.

2.3 Public violence is condemned in society and society supports government measures taken to clamp down on and punish those perpetrating such violence.

2.4 However, there is another – more silent – form of violence, perpetrated in people's homes and affecting the victims in a possibly more brutal manner: domestic violence.

All members of a family may be occasional or constant victims of various types of violence which can lead to their death.

2.5 While all of these types of violence warrant attention, concern and action on the part of the authorities, the fact is that the group most systematically affected by this are women – domestic violence is one of the main causes of female mortality. This opinion is therefore focusing on domestic violence against women.

2.6 The European Union defines violence against women as being: "*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*" ([3]).

2.7 Despite efforts over the last few decades by public authorities and various sections of society, organised or not, this form of violence is still viewed as a private problem when, in truth, it is a problem for society as a whole.

2.8 Domestic violence is a crime that must be sanctioned by law. The EESC acknowledges the efforts made by different countries in the EU to impose tougher measures on perpetrators. Nevertheless it is also important to identify the underlying causes of this phenomenon and the strategies needed to eradicate it, including a better understanding of the phenomenon by men.

2.9 Furthermore, the economic crisis is seriously harming social policies in many EU countries. Basic public services such as health, education and social support are being cut back at a time when families – particularly women – need them most. Special help-lines for women are being shut down, as are shelters for battered women; the budgets of national gender equality departments are being slashed and prevention and awareness-raising campaigns in the media are being cut back too.

2.10 The persistence of gender stereotypes and a patriarchal society, in addition to the economic inequalities and discrimination against women in jobs, wages and access to other economic resources, together with a lack of economic independence, limit women's capacity to act and make them more vulnerable to domestic violence.

2.11 The current economic crisis and the policies that have been pursued supposedly to counter it, together with the process of liberalising economies and privatising the public sector, not only reinforce the gender-based division of labour but also increase inequalities, exacerbating the conditions which give rise to violence.

2.12 The World Health Organization (WHO) ([4]) has recognised the damaging effect of globalisation on social structures. Anarchic globalisation may give rise to worse forms of violence against women, including trafficking of human beings.

2.13 Women belonging to minority groups, female migrants, women in poverty living in rural or remote communities, women serving a prison sentence, women in institutions, women with mental and physical disabilities and elderly women are more at risk of experiencing violence.

2.14 This own-initiative opinion will seek to take stock of domestic violence against women in Europe, provide an overview of the measures taken to date and spark greater awareness of this problem in society.

2.15 As the voice of organised civil society, the EESC is willing to set up, in conjunction with organisations concerned with this type of violence, a forum for discussing proposals to eradicate such violence and to share examples of good practice that could lead to effective prevention measures.

3. **The Council of Europe Convention – an instrument to be ratified and complied with**

3.1 In 2011, the Council of Europe adopted a convention on preventing and combating violence against women and domestic violence ([5]). This is the first legally binding international instrument which creates a global legal framework aimed at preventing violence, protecting victims and convicting the perpetrators. Its aim is to alert people to the fact that there should be greater equality between men and women, because violence against women is rooted deeply in gender inequality and perpetuated by a culture that is patriarchal and indifferent to this situation.

([3]) http://www.consilium.europa.eu/uedocs/cmsUpload/16173cor.en08.pdf.

([4]) WHO Multi-Country Study on Women's Health and Domestic Violence Against Women: Initial Results on Prevalence, Health Outcomes and Women's Responses (Geneva, WHO, 2005).

([5]) Council of Europe Convention adopted in Istanbul, Turkey, on 11 May 2011 (www.coe.int/conventionviolence).

3.2 The convention takes into account all types of violence (physical, psychological, sexual harassment, forced marriage, female genital mutilation, harassment, sterilisation and forced abortion), irrespective of the victim's age, ethnic or national origin, religion, social origin, immigrant status or sexual orientation.

3.3 To date, this convention has only been ratified by one ([6]) of the 20 countries that have signed it ([7]), some with reservations (Germany, Serbia and Malta). The EESC calls on the European Union and all of its Member States to sign, ratify and implement the Istanbul Convention as soon as possible.

4. **General comments**

4.1 45 % of women in the EU say they have suffered gender-based violence at some point. Between 40 % and 45 % say they have suffered sexual harassment at work. It is estimated that in Europe, seven women die every day as a result of gender-based violence ([8]).

4.2 This phenomenon, moreover, has a major economic impact: it is estimated that violence against women in the 47 member states of the Council of Europe has an annual cost of at least EUR 32 billion.

4.3 A survey carried out by Euro barometer in 2010 showed that the public (98 % of those surveyed) is largely aware of this phenomenon and that it is prevalent in society (one in four people said that they knew a woman who was a victim of domestic violence and one in five said they knew a perpetrator of domestic violence).

4.4 As early as 1980, the second World Conference on the Status of Women established that violence against women was the crime glossed over the most in the world. Thirteen years later, the World Conference on Human Rights in Vienna recognised that women's rights were human rights. Member States of the European Union undertook to comply with the fundamental objectives of the 1995 Peking Action Programme.

4.5 In the final declaration of the second European Summit of Women in Power (Cadiz, March 2010) ([9]), 25 ministers and numerous political leaders from throughout the European Union recognised that there was still much to be done before gender-based equality was achieved and that violence against women was a persistent problem and a serious violation of human rights. It stated that sexist stereotypes continued to generate discrimination and warned that the younger generations were copying sexist behaviour.

4.6 The European institutions have issued a variety of documents containing analyses and proposals for action, some of which are set out below:

4.6.1 European Council:

— Council conclusions on The Eradication of Violence Against Women in the European Union (8 March 2010) which calls on the European Commission and Member States to pursue efforts to combat violence against women and to promote measures to finance these efforts.

4.6.2 European Parliament:

— Resolution on priorities and outline of a new EU policy framework to fight violence against women (2011).

— In September 2011, the European Parliament supported the granting of European Protection Orders for victims of gender-based violence, sexual harassment, abduction and attempted murder. This measure was an important step forward in building a European area for the protection of women.

4.6.3 European Commission:

— Women's Charter (2009), Action Plan for the Application of the Stockholm Programme (2010), 2010-2015 Strategy for Gender Equality.

— Various studies on violence against women to increase knowledge about this problem.

— Adoption of a package of measures on 18 May 2011, aimed at strengthening the rights of crime victims (horizontal directive establishing minimum standards for crime victims' rights, support and protection; Regulation on the mutual recognition of protection measures in civil matters.

— Funding of specific programs such as Daphne III, as well as European organisations combating violence against women (European Women's Lobby).

4.7 On the other hand, Member States – although not on a widespread basis – have been producing legislation aimed at criminalising domestic violence, taking more drastic measures against perpetrators, making domestic violence a public crime, etc.

4.8 Despite the fact that there are still insufficient reliable and comparable statistical data on domestic crime at both national and European level, the figures available are alarming enough for there to be no doubt as to the magnitude of the problem ([10]).

([6]) Turkey.

([7]) Albania, Austria, Spain, Finland, France, Germany, Greece, Iceland, Luxembourg, Former Yugoslav Republic of Macedonia, Malta, Montenegro, Norway, Portugal, the United Kingdom, Serbia, Slovakia, Slovenia, Sweden and Ukraine.

([8]) Barometer 2011, "National Action Plan on Violence against Women in the EU", European Women's Lobby, August 2011 (www.womenlobby.org).

([9]) http://www.reteparioppportunita.it/Rete_Pari_Opportunita/UserFiles/news/summit_women-declaration-final-en.pdf.

([10]) See the report entitled "Combating honour crimes in Europe", submitted on 8 March 2012, World Women's Day, by the Surgir Foundation (not-for-profit institute based in Switzerland).

4.9 Despite the figures and more rigorous legislation, there is still a widely held view that we are living in an egalitarian society, and this view could undermine the debate not only on domestic violence but also on other types of violence and inequalities between women and men in terms of pay differences, promotions at work, etc.

4.10 One type of violence that is often overlooked, because it is invisible to the outside world, is psychological violence. It is time to break the silence on this issue and acknowledge that psychological violence is a breach of human rights, which should be incorporated into legislation on gender-based violence.

4.11 Women who survive psychological violence are often severely traumatised and need holistic, multidisciplinary support in a secure environment for recovery. Having been forced to live in total social isolation, without being able to provide tangible proof of violence against them, they fear that no one will believe them. Their recovery is dependent on care providers believing what they have to say.

4.12 Domestic violence affects not only its direct victims but also those who witness it or who are aware of it. This holds particularly true of children, whose emotional fragility makes them especially vulnerable, with the effects potentially haunting them for the rest of their lives.

4.13 Although domestic crimes are not confined to attacks on women, the question is why other crimes committed in the home environment, such as paedophilia (90 % of cases being perpetrated by family members), are deemed to be loathsome, and yet in domestic violence cases, we still try to look into the reasons which lead the perpetrator to commit such crimes.

5. **Specific comments and proposals for action**

5.1 It is important to answer the fundamental question as to why these crimes are, in many cases, deemed to be socially excusable and why very often the reason for the violence is placed at the door of the woman who has been attacked. The cultural and social reasons frequently given for such crimes, in addition to being wrong, merely help maintain the status quo.

5.2 The idea that domestic violence is rooted in antiquated cultures and traditions is based on the incorrect presumption that culture is a static set of beliefs and practices. On the contrary, culture is being shaped and reshaped constantly. Precisely because culture is heterogeneous, incorporating competing values, it has the capacity to evolve.

5.3 Culture is intimately linked to the exercise of power: standards and values acquire authority when those parties defending them hold power or positions of influence.

5.4 Women are also protagonists here, influencing the culture in which they live. Their participation in society and in culture is vital for transforming mentalities, practices and customs which are pernicious to their image and their circumstances.

5.5 Hence the importance of discussing the under-representation of women at different levels of power: as long as this question is not properly resolved and women are not adequately represented economically, socially and politically, in keeping with their number and their skills, the problem of violent acts committed against women will be difficult to solve or solved far too slowly. Although public policies to counter gender-based violence have an important role to play, the traditional image of women's role in society will only change when women have access to power on an equal footing with men.

5.6 The gender-identification models that have for centuries established passivity, submission and obedience as female virtues and aggression, strength and action as male virtues have constructed a type of personal relationship that has for centuries placed women in a position of inferiority and dependence.

5.7 Relationships based on identity-giving models that require one partner to submit to the other are no longer acceptable and men and women should question their stance on such models. This questioning should be underpinned by the affirmation of values such as freedom, independence and personal fulfilment.

5.8 In many cases of femicide ([11]), a large proportion of the victims had already reported acts of violence or threats. This demonstrates the importance of preventive work. In too many cases precautionary measures which would protect victims from their aggressors are not taken.

5.9 Preventive work can and should include, *inter alia*:

— providing therapy for aggressors or potential aggressors. The aim is not to secure apologies or excuses for the act of violence or to expose the victim to situations beyond their control but to work on the causes and attempt to rehabilitate the aggressor, which would benefit everyone.

— launching inter-ministerial action plans for the early detection and prevention of domestic violence through a referral and information system working within the education, social and health services;

([11]) According to the United Nation's definition, "femicide" is the killing of a woman simply because she is a woman. "Femicide" constitutes continuous violence against women within and outside the family, culminating in her death. Investigations into "femicide", carried out in various countries, demonstrate that these crimes occur most frequently in people's close, private circles – in their close relationships.

— engaging men and boys in the elimination of violence against women and girls;

— engaging youth through an education campaign for a holistic approach of prevention and early intervention and giving more training to professionals working closely with young people.

— monitoring cases of couples separated for reasons of domestic violence, with a view to protecting women at risk of harassment and stalking, which often culminate in death.

5.10 Departments specialised in protecting the victims of domestic violence need to have staff with specialised training and enough resources to ensure that measures adopted can be properly implemented; without adequate resources, such measures will not be effective.

5.11 It is very important to create places with multidisciplinary support where women can be heard, understood and believed. Psychological, cultural and religious factors and local customs ingrained in society over centuries, all interact in the phenomenon of domestic violence. There is no one single cause and it cannot be tackled with policy or penal measures alone. Coordinated multidisciplinary support which prevents women being exposed to repeated violence is a fundamental element in combating this phenomenon. Particular attention should be paid to women with disabilities and immigrant women, who are even more vulnerable. This type of support should also always include indirect victims of violence, especially children.

5.12 It is necessary to change the pattern of security which is associated too closely with organised crime, terrorism, attacks on people and goods, and drug trafficking in people's minds, and almost never associated with the dangers that many women risk in their own homes or at their places of work. If we were to incorporate more humanist criteria in the concept of security, attaching priority to prevention, many lives would be saved. New technologies can offer increased protection, such as that provided by electronic bracelets which prevent attackers at large in society to go anywhere near their victims when a restraining order has been placed on them.

5.13 Statistics on domestic violence do not properly describe the phenomenon because they are not able to take into account the real scale of the problem. For this reason it is urgent to standardise the criteria for registering domestic violence so that data can be comparable across Europe.

5.14 Governments should raise the profile of and support (also financially) the work of civil society organisations (women's organisations, human rights organisations, trade unions, etc.), without falling into the trap of controlling them or reducing their autonomy.

5.15 One area of particular importance is education. This can both perpetuate models and discriminatory practices, as well as bring about a transformation of mentalities and individual and collective attitudes. Schools should promote non-sexist and mixed-sex education based on equal rights and opportunities, endeavouring to ensure full personal development that has no connection with stereotypes and gender-determined roles and which rejects any type of discrimination victimising women. Schools can play a part in breaking down stereotyped images of male and female roles as commonly portrayed in the media. Schools can provide an excellent observatory for gender-based violence.

5.16 So that schools can play this valuable role, it is essential that teachers' initial and continuous training incorporate gender-based violence, including domestic violence. There should be constant periodical reviews of curricula and schoolbooks to eliminate all sexist language once and for all.

5.17 Another area of key importance is health. Placing women and teenagers at the centre of health strategies can strengthen the belief that violence against women at home is a risk variable and not an isolated problem.

5.18 Periodic, systematic reviews of registration and notification procedures should be carried out, thereby making sure that professionals are not burdened with excessive red tape and systems which are neither flexible nor sustainable. These procedures should provide an opportunity to register health problems as a risk variable (for example, in family planning and pregnancy consultations), as well as clearly differentiating between urban and rural needs.

5.19 In all sectors relating to the problem of gender-based violence, steps must be taken to ensure that a) awareness-raising campaigns and training are effective and adapted to actual circumstances, with the necessary means and resources available and b) regular mapping exercises are carried out to guarantee that any information provided is correct.

5.20 As regards awareness-raising campaigns and training, it is important to differentiate between awareness-raising (directed at all staff working in an organisation), training (given to everyone in contact with victims, with a view to helping detect the problem) and specific training (which everyone helping the victims should receive). Particular attention should be paid to the training of police officers and judges, given their role in dealing with complaints and prosecuting aggressors. Their approach can help transform a traumatic experience

into renewed hope. There is also a need for penitentiary institutions to develop in-prison programmes for female survivors and male perpetrators of gender violence, as well as to make prison staff from all EU Member States more aware of this issue.

5.21 Lastly, by tackling the problem of domestic violence against women as a human rights issue, governments' responsibility for preventing, eradicating and punishing this type of violence is highlighted, as is their duty to report on how to meet these obligations.

5.22 Linking gender-based violence to human rights gives access to an important set of mechanisms for holding countries responsible at international and regional level, from human rights treaties and international criminal courts to the European regional human rights system (European Court of Human Rights – a Council of Europe instrument).

5.23 Tackling violence against women as a human rights question leads us to a holistic, multi-sectoral response, which adds a human rights dimension to the work carried out in all sectors. It forces us to consolidate and speed up initiatives in all spheres for preventing and eradicating violence against women, including in the courts, health, local and regional development policies and humanitarian aid, amongst other areas.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'Civil society's role in combating corruption in the southern Mediterranean countries' (own-initiative opinion)

(2012/C 351/06)

Rapporteur: **Juan MORENO PRECIADO**

On 19 January 2012 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

Civil society's role in combating corruption in the southern Mediterranean countries.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 149 votes to 1 with 3 abstentions.

1. **Conclusions and recommendations**

1.1 Corruption is a world-wide problem which causes people serious harm. In the countries of the southern Mediterranean it was one of the triggers of the recent rebellions known as the Arab Spring, and civil society, as the real driving force, has called for corruption to be condemned.

1.2 Combating corruption is one of the greatest challenges in many countries, and it also serves as a measure of the transparency and quality of new governance in legislative and government institutions and in public services.

1.3 Legislation and bodies established in certain countries to fight corruption must be extended and consolidated. The existence of independent, representative civil and social organisations is vital for public accountability of governance systems.

1.4 Democratic political change is resulting in encouraging reforms that need to be more far-reaching. In addition to institutional reforms, corruption needs to be combated in public services such as transport and public works, education, health, prisons, etc. Resources must not be used solely for security to the detriment of the fight against corruption.

1.5 The ENP commits the EU to graduating its relations with neighbouring countries according to whether democratic principles are effectively respected. The EESC calls on the EU to ensure that the Action Plans adopt this approach. The EU and its Member States must set an ethical example in fighting corruption both domestically and in their relations with partner countries.

1.6 The EESC calls on the EU to commit in particular to requiring its partners to respect ideological and religious diversity, the freedom of the press, judicial independence, equal opportunities for men and women and freedom of association.

1.7 The EESC calls for compliance with the ENP's priorities regarding cooperation on migration issues as well as: asylum; visa policies; and measures to combat organised crime, drug and arms trafficking, money-laundering and financial and economic crimes. The Action Plans must support judicial and prison reform and police and judicial cooperation.

1.8 Similarly, genuine compliance by the Euro-Mediterranean countries with the ILO core conventions defining "decent work" is a priority for the EESC.

1.9 The EESC undertakes to continue to support civil society organisations in the southern Mediterranean, and feels it is necessary for partner countries' governments, with the support of the EU, to implement training programmes to encourage the creation and consolidation of civil and social organisations. In particular, support is needed to foster social dialogue between employers and workers and, similarly, promote the role of women in the economic and business world.

2. **Corruption: a barrier to development and justice**

2.1 This opinion focuses on the southern Mediterranean countries, but it should be pointed out that political and administrative corruption extends to all continents (including the countries of the EU), as various prestigious organisations and agencies can testify and as is reported daily in the media.

2.2 The EESC can and must help civil society organisations in the southern Mediterranean in their current consolidation phase, providing support and solidarity. The European Union, too, through bilateral association mechanisms and ENP

and Union for the Mediterranean instruments, must play an effective part in ensuring that the democratic principles laid down in the 1995 Barcelona Declaration are implemented in practice.

2.3 The social partners and civil society organisations of the Mediterranean region have a decisive role to play in ensuring that transparency and good governance practices take root in this new democratic era.

2.4 Corruption, in the sense of unlawful, precarious or abusive practice in local, regional or national governance, has developed in the various countries, particularly those with the highest poverty rates, but has become more acute in dictatorships.

2.4.1 Accumulation of economic privileges by governing elites, nepotism, bribery, appropriation of state property and the siphoning-off of some of this into private accounts or investments are some of the abuses which for decades were features of the political management of the recently deposed dictators and other leaders still in power.

Alongside systemic corruption, which is that mainly addressed in this opinion, corrupt practices have grown up in southern Mediterranean countries in certain private sectors and groups of individuals. Some of them are fall within the context of ordinary crime, such as the mafia networks based on corruption and violence that aim to establish a parallel society outside any institutional framework.

2.4.2 Corruption is very widespread throughout the world, as shown by the Transparency International (TI) ([1]) annual report, which gives 183 countries a score between 0 (highly corrupt) and 10 (highly transparent): over two thirds of these countries scored under 5. The countries of North Africa are located in the middle-to-bottom or bottom section of the list.

2.5 The effectiveness of the anti-corruption laws in certain countries has been blocked by those countries' practices of bribery and political control. It is generally too early to be able to assess the impact of the recent political changes, although it is already apparent in certain cases.

2.6 The problem of political corruption extends to different areas – both public and private – of the countries' life, affecting people's quality of life and engendering loss of rights, discrimination against communities and loss of resources through bribery or denial of legitimate access to employment, information or representation.

2.7 Moreover, the public sector suffers from lack of transparency regarding public funds on the part of political parties and administrations, opaque business accounts, barriers to the media's monitoring work and bribery of judicial or administrative officials.

2.7.1 Judicial administrations' lack of resources (and the misuse or siphoning-off thereof) has been highlighted by the United Nations Office on Drugs and Crime (UNODC) as a negative factor hindering the establishment of even minimum conditions of dignity in prisons, and contributing to a rise in crime.

3. **Corruption: a widespread problem in southern Mediterranean countries**

3.1 In southern Mediterranean countries corruption has become the norm, and certain corrupt acts are carried out almost openly with no fear of prosecution. Corruption affects the whole of society, including the economic and social sectors, and has gained ground, taking root in customs and common practices.

3.2 The perception of corruption among the people of the southern Mediterranean countries is very high, according to studies carried out by a number of NGOs, in particular.

3.2.1 Three types of corruption are identified, according to the degree of condemnation by society:

a) corruption involving acts condemned by all;

b) corruption involving acts condemned by only part of the population; and

c) corruption involving practices extensively tolerated by the population.

3.2.2 Public officials and politicians are among the most corrupt groups in society.

3.2.3 The health sector is one in which people resort to corruption most frequently. Often people are faced with the choice of paying bribes or not receiving the healthcare they need, despite the fact that they dealing with a public service.

3.2.4 In the justice sector, which is vital for society and the economy, corruption affects both the people of the country concerned and foreign investors. Many countries' corrupt justice systems hinder foreign direct investment.

3.2.5 Public administrations are a hotbed of corruption. Ways are found of enabling people to obtain jobs in the public administration who do not have the skills required to pass the competitive examinations.

([1]) 2011 Corruption Perceptions Index, published in 2011.

3.3 *Other forms of corruption*

3.3.1 Occasional corruption aimed at obtaining a specific service: resort to corruption by a service user (whether natural person or legal entity), who is forced to pay in order to be allowed access to a service. "Petty corruption", which is sometimes tolerated, is also highly detrimental to society.

3.3.2 Mass corruption: corruption which is not formal. Those who practise it know that gifts and certain favours can facilitate contact and access to a service.

3.3.3 "Institutionalised" corruption: ongoing corruption which is ingrained and known to almost everybody. Users are aware of what is going on and know in advance the price they will have to pay for access to a service.

3.3.4 Negotiated corruption: this occurs in certain judicial and economic fields – in public procurement, for instance, or in the informal settlement of tax matters.

3.3.5 Corruption by "*fait accompli*". Entrepreneurs are often the victims of this kind of corruption. When they get to a certain stage in the implementation of their project, they are forced to pay to be able to continue with the project. Foreign investors also come up against this kind of corruption, where they have to pay or, in some cases, take on a high-ranking official as local "partner" in order to be able to continue with their business.

3.3.6 The business community sees corruption as one of the greatest obstacles to developing a business in the southern Mediterranean. There are a number of countries where, despite very high public demand, very few businesses tender for public contracts. Most businesses are of the opinion that the award of contracts is a foregone conclusion.

3.3.7 Service-for-service corruption: corruption that does not involve cash but where a service or privilege is obtained.

3.3.8 Hierarchical corruption: certain services have a pyramid-shaped corruption structure. Each level of the hierarchical pyramid, starting with the lowest, takes its "cut", and the amount increases at each level of the hierarchy up to the top of the pyramid. In general, with this kind of service, appointment to posts can be sold for an amount depending on the estimated value of the "cut".

3.3.9 Planned, medium and long-term corruption: a form of "corruption engineering". In a given country a person may be appointed to a high or very high-level post to establish a personal wealth-acquisition plan based on corruption. This is achieved by diverting public resources for the sole benefit of an individual or group.

3.3.10 Political party corruption: in many countries votes are bought at election time. For many people, particularly in poor areas, electoral campaigns are a time for making money.

3.3.11 When talking about corruption people tend to focus exclusively on the public sector, but corruption is present in the private sector as well. For example, in clinics, certain favours are performed by staff in return for a payment which depends on their level of responsibility. Corruption is to be found in recruitment in private businesses.

3.4 Society in the southern Mediterranean is not inactive in fighting corruption:

— there is an awareness that corruption is not a "necessary evil" and that there are countries and systems in the world which operate without it;

— associations are starting to form, not just to bring corruption to light but to explain its economic and social impact to the public;

— several countries have taken the route of adopting new legislation to combat corruption;

— people are becoming aware of the need to establish the rule of law, including the fight against corruption and privileges;

— a number of elected representatives, including minority representatives, are coming onto the scene and putting the fight against corruption on the political agenda;

— people guilty of corruption have been sentenced in a number of high-profile cases;

— anti-corruption bodies have been set up in various countries.

4. **Corruption, a trigger for civil rebellion and a challenge for the Arab democratisation process**

4.1 The Conference of the States Parties to the United Nations Convention against Corruption (Marrakech, 24-28 October 2011) stated that the Arab Spring's call for greater democracy was "an emphatic rejection of corruption and a cry for integrity".

4.2 The democratisation movement has not yet reached all the Arab countries, nor has it been consolidated in the countries where authoritarian governments were overthrown. However, the rapid introduction of political pluralism has given the lie to the western cliché that the Arab peoples do not want democracy or are not yet ready to implement it. Civil society is at work in almost all the countries, taking part in the transition processes and calling for change to be implemented.

4.3 Despite the size and diversity of the Arab world, a common language and political and cultural heritage have facilitated the spread throughout the region of the democracy movement which started in Tunisia in late 2010, immediately followed by Egypt.

4.4 These processes of change have not all taken the same form or have the same effect. Several countries have held pluralist elections for the first time and formed governments on the basis of the will of the people, bringing about far-reaching political change. In other countries, peaceful protests have brought about major political reforms, although without changing the regime. In Syria, the dictatorial regime continues its violent repression of the opposition, with numerous casualties.

4.5 Similarly, civil society organisations, which were the main instigators of the protests, are trying to reorganise themselves and take advantage of the new prospects and promises of change.

4.5.1 For example, in Libya, where the political system has changed completely, organisations have emerged such as the Free Libyan Workers' Federation, an independent trade union federation replacing the official trade union structure of the Gaddafi regime. Similarly, in Egypt, the trade union monopoly of the ETUF has been broken with the creation of new confederations such as the EFITU and the EDLC.

4.6 Before the emergence of the democracy movements, the EESC noted that in the MPCs freedom of association was not guaranteed and a flourishing civil society was being held back by political and administrative hurdles.

4.6.1 It must be ensured that the past contradictions between the ratification of international agreements signed by governments and national laws which in practice restrict or obstruct them are eliminated.

5. **The role of the social partners and of civil society as a whole in the democratisation processes and systems for fighting corruption**

5.1 The Final Declaration of the Euromed Summit of Economic and Social Councils and Similar Institutions (Istanbul, 16-18 November 2011) stresses the need *to promote and consolidate the democratic transition process in the countries of the southern Mediterranean through (…) government institution building, the creation of independent judiciaries, shoring up of media freedoms and sustained efforts to fight corruption.*

5.2 We must see an end to the barriers to formation of associations and, above all, the corrupt practice of making people close to the government heads of associations with the aim of watering down their representative role.

5.3 It is essential to foster collective bargaining in the framework of social dialogue between employers and workers.

Actual implementation has yet to be consolidated, over and above mere (albeit important) ratification of the ILO conventions on decent work, which should be part of governments' commitments and government consultation of workers' and employers' organisations.

5.4 Consultative institutions such as those which already exist in a number of countries are essential to serve as channels for joint proposals from independent representative associations.

5.5 Institutional channels to fight corruption have been set up in several countries, such as Morocco's Central Corruption Prevention Authority. This body was set up in 2007 and civil society is involved in it. Organisations of consumers, service users, farmers, employers, women, trade unions and other sectors and groups concerned should also have a part to play in bodies monitoring health, prices, water management, immigration, social services, etc.

5.6 In general terms, social and civil players (trade unions, employers, associations, NGOs) play a key role, particularly when it comes to independent organisations, which in many cases are still in their infancy.

5.7 In the fight against corruption the role of the social partners [2] also differs according to the country. Their involvement takes different forms in the southern Euromed countries.

5.8 In certain countries, training and awareness-raising programmes have been developed. There is therefore still a need to promote and support large-scale programmes to reinforce the fight against corruption.

Brussels, 19 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

[2] In the context of the Social Dialogue Forum, there is an agreement in principle for a campaign entitled Social partners opposing corruption and supporting good governance.

Opinion of the European Economic and Social Committee on the 'Responsible use of social networks and the prevention of related problems' (own-initiative opinion)

(2012/C 351/07)

Rapporteur: **Bernardo HERNÁNDEZ BATALLER**

On 19 January 2012 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on the

Responsible use of social networks and the prevention of related problems.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 173 votes to 1 with 6 abstentions.

1. **Conclusions and recommendations**

1.1 Due to the personal and societal impact of social networks and their future development and consequences, the EU institutions need to prioritise the adoption of binding and non-binding supranational measures leading to self-regulation or, preferably, co-regulation, in line with the Digital Agenda, to foster responsible and intelligent use within a dynamic Digital Single Market and to prevent the problems associated with its inherent risks. The EESC believes the ideal situation would be to have "model laws" on which to base international regulation. However, until this becomes possible, we need to find an EU-level solution.

1.2 Should measures leading to self-regulation or co-regulation be adopted, they would have to be temporary and their application would have to be evaluated at regular intervals, and if they are not applied, binding measures should be adopted.

1.3 In practical terms, the EESC urges the Commission to incorporate awareness-raising and educational campaigns in the promotion of digital literacy, primarily for the most vulnerable groups, in order to prevent or mitigate the unwanted effects of using social networks inappropriately. There should also be specific courses on parental supervision and mediation to reinforce reporting points for illegal content online (hotlines) so that they can also address this inappropriate use of networks.

1.4 In order to enhance these initiatives, spreading good practice among providers in meeting their obligations has to be combined with advertisement control or the monitoring of users' very early access at a very young age, which together could help eradicate a negative perception of social networks and, at the same time, draw attention to their potential opportunities and synergies. There is also the issue of addiction to social networks; users should be made aware of this, and parents of young adolescents - who are the group most at risk - should be warned.

1.5 The right to privacy needs to be protected in the face of intrusions into people's private lives in the context of labour relations and the use of new technologies, especially social networks, with the social partners regulating the matter in the relevant agreements.

1.6 Finally, the EESC reiterates ([1]) that it looks forward to the publication of a Code of EU Online Rights that summarises existing digital user rights in the EU in a clear and accessible way and focuses on promoting the responsible use of networks, preventing related behavioural problems and eradicating practices that can be considered as unfair or harmful, especially with regard to hyper-contextualised advertising.

2. **Introduction**

2.1 This own-initiative opinion serves three objectives:

a) To build on earlier studies, Communications (*Communication on future networks and the internet* (SEC(2008) 2507)(SEC-(2008) 2516)) and opinions ([2]);

b) To showcase the self-regulation agreement on *Safer Social Networking Principles for the EU* (10 February 2009);

c) To suggest action to be taken within the framework of the *Digital Agenda for Europe* (COM(2010) 245 final/2).

([1]) OJ C 318, 29.10.2011, p. 9-18.
([2]) OJ C 128, 18.5.2010, p. 69-73.

2.2 The overall growth of the digital society, experienced in recent years, and the more specific ongoing growth of virtual communities have highlighted the need to adopt policies for promoting the responsible use of social networks, not to mention preventive policies and policies that provide protection against related risks and problems.

2.3 The ongoing development and spatial spread which have characterised social networks since their inception force us to continually redefine the concept and, as a result, how to approach it. Nevertheless, it is possible to agree on a number of basic and key characteristics in order to identify the relevant areas for action.

2.4 In this context, we can consider that social networks, as forms of voluntary social interaction in a complex situation, are fuelled by dynamic exchange in an open positive feedback system.

2.5 Consequently, the wide variety of social networks and their uses, not to mention their users and content, has resulted in an emerging and ongoing process that involves establishing precise rules about the way they function. This is why it would be useful to carry out periodic fieldwork on this issue and to find out more about users' membership of one or more specific networks, which would also provide guidance for technology-neutral rules which are needed in a process of flexibility that can adapt to this field.

2.6 Furthermore, the actions advocated in this opinion contribute to the EU objective of smart, sustainable and inclusive growth under the Europe 2020 Strategy (COM(2010) 2020). As a result, we need to incorporate within the concept of social networks, the knowledge society, crowd-sourcing, the promotion of more active and responsible users, and an efficient virtual market, or the collaborative spirit and social integration.

2.7 More specifically, not only do we need to improve infrastructure to ensure high-speed, safe and non-discriminatory access, which excludes nobody, by promoting responsible digital citizenship, but also to secure the effective exercise of rights for citizens in the digital environment (freedom of expression and information, protection of personal data and privacy, requirements for transparency and universal telephone and functional internet services and a minimum quality of service) (COM(2010) 245 final/2).

2.8 Privacy is a vital aspect of social network use. The EESC has already presented its views on the proposal for a General Data Protection Regulation, stating its unequivocal support for the *right to be forgotten* and the preservation of privacy by default, i.e. consent cannot be implied, it must always be given expressly or explicitly.

2.9 Default security and privacy standards must be established for internet search engines, in order to ensure that their profiles are not indexed and that very sensitive data is protected.

2.10 Furthermore, the market must be better managed in this sector, with respect both to the integration of providers and to compliance with concrete and binding measures concerning their practices, including those relating to advertisement control, use of available data or the generation of related business opportunities (e.g. risk insurance policies covering the rights of social network users).

2.11 Nevertheless, in a context of shared responsibility users must respect the instructions and guidelines put forward by the relevant institutions concerning the intelligent and responsible use of social networks ("*users' social responsibility*"). This makes it possible to optimise available resources and enhance the advantages offered in terms of information dissemination and transparency in a framework for cooperation that fosters learning and multicultural enrichment, and going far beyond the objectives of each network. However, legality is sometimes established on the basis of a mistaken assumption that users are informed and aware, when statistics show that in reality barely one in a thousand users read the conditions.

3. **Ongoing social network growth**

3.1 The development of social networks has accelerated in recent years, resulting in a spectacular rise in the number of users. In 2010, the total number of users worldwide was believed to have reached one billion (23 % higher than the year before), most of whom were young. *Country-by-country data on social network coefficients* can be consulted via the world maps of social networks created for this purpose.

3.2 The proportion of young social network users far outstrips users from other age groups. In Europe, according to Eurostat, 80 % of internet users aged 16 to 24 used the internet for this purpose in 2010, compared with 40 % aged 25 to 54, and under 20 % aged 55 to 74 (see the Commission's *Risk and Safety* survey). Further information on this issue is provided in an opinion that the EESC is currently drafting on advertising that targets children.

3.3 Social networks offer their users a wide variety of possibilities. A social network allows users to get in touch with friends and family who are far away, make new friends, exchange information, exchange multimedia information, develop working relationships, present projects, build social and professional acquaintanceships, and express or defend ideas and causes, etc. These possibilities have been increased to a great extent in areas such as image transmission, infographics and videos with the most recent social networks such as Instagram, Pinterest and Tumblr, whose user numbers have already exceeded those of YouTube, LinkedIn and Google +.

3.4 However, users value, above all, the importance of being able to share content immediately with many people, especially those they have not met through social networks (family, friends, acquaintances), even though they use social networks, at a secondary level, to get to know new people.

3.5 The context of a new relationship model enhances the positive aspects associated with the development of social networks, and in particular, its contribution to ([3]):

— ensuring and exercising freedom of expression in specific social and political contexts;

— creating and uniting online communities;

— getting (back) in touch with and communicating with friends and family;

— preventing the exposure of minors to dangerous situations and the possibility for them to ask for help through social networks;

— promoting goods and services and increasing online transactions;

— similarly, we should look at social networks from a new angle as facilitators of mobility.

3.6 The usefulness of social networks continues to grow as their application is extended to more and more areas in response to their users' reasons for belonging to them, which include family and social contacts; the exchange of business and entertainment information; hobbies and leisure time; friendships and relationships; access to knowledge and learning development; working and professional environments; civic participation and voluntary work; or discussions about opinions and ideas, etc.

3.7 We need to remember that "internet-based virtual community spaces present and perceive themselves as identical to the physical world where the rules of the game in that environment are not set by the user. When users register they accept contractual rules set by the service provider, although they may be presented to users as free of charge. Nevertheless, a transaction has taken place: we have provided our personal data. When we register on a social network, we do not usually check the legal information, we do not know how our data might be used, or how the environment is configured, who has access to our data and for what purpose" (*El Derecho Fundamental a la Protección de Datos: Guía del Ciudadano* ("A citizens' guide to the fundamental right to data protection"), Agencia Española de Protección de Datos (Spanish data protection agency), January 2011 (https://www.agpd.es/portalwebAGPD/index-ides-idphp.php)).

3.8 Nevertheless, social network users have the impression that these virtual spaces belong to them and that they are the ones who are creating and controlling the content and information being added. Since these social networks give their users the impression that they are playing an active role as well as a sense of freedom, users may fail to realise that others are deciding and controlling the rules of the game, and that, as a result, they are the ones who have real power over its support and entire content, and who therefore set the restrictions they deem fit (for instance on the users' age, which does not restrict access in practice).

3.9 At the same time, a commitment is being promoted to adopt a code of ethics to safeguard the values of using social networks appropriately for their designated objectives, either in the form of voluntary self-regulation or co-regulation on this issue, in order to control activities.

3.10 Nevertheless, this does not alter the fact that social network users expose themselves to various risks by using these networks. Some of these risks are common to internet use and shared with other applications. However, problems specifically associated with social networks, albeit present in all forms of internet use, are greatly accentuated in the case of these networks because of some of their features, such as the accumulation of data from millions of people; the predominance of young users with no previous training in the intelligent and responsible use of social networks, not to mention warnings regarding their risks (neither parents nor teachers are, as a rule, in a position to lay down rules for appropriate use based on their own knowledge and experience). To this we should add, ignorance of the risks and challenges entailed by such novel and overwhelming development as that of social networks, which places internet users in a situation that borders on the experimental.

3.11 Under these circumstances, societal anxiety is the response to this combination of fast-changing technology and social spaces that are new to minors and which their parents have never experienced. This is however also marked by sensationalism and myth-making, and is generating inappropriate policy responses (UNICEF report entitled *Child Safety Online)*.

3.12 The different associated risks are as follows: psychological trauma caused by insults communicated by means of such services; the sexual harassment of children and young people (cyberabuse, cyberbullying and grooming); psychological harassment in an organisational context perpetrated by superiors, colleagues and subordinates (mobbing); harassment at work due to employers impinging on their staff's private lives or the overuse of smart phones; the posting of photographs or videos of naked or semi-naked adolescents, either by themselves or by others (sexting); explicit advertisements for prostitution and "escort" services; the sexualisation of children via social networks, frequent breaches of privacy, reputation and personal dignity; attacks on the physical and mental wellbeing of site users; incitement to violence, racism and xenophobia; dissemination of totalitarian ideologies which are fascist in nature or advocate Nazism; and suicides by young people, allegedly as a result of certain intimate details being made public through these networks.

3.13 Legal professionals have pointed out that the general terms and conditions of use of many of these networks transfer the copyright of user-generated content from the user to the platform, which is something that most internet users do not realise.

([3]) OJ C 128, 18.5.2010, p. 69-73.

3.14 Risks associated with others using social networks for criminal or harmful activities, especially targeting minors are compounded by other risks generated by the users themselves, which can interfere with their ordinary personal, family, professional and social lives. There is also the risk associated with "online payments", which could encourage children to shop.

3.15 There is also the risk of creating a false identity through deception, self-deception or fantasy. Moreover, it makes it easy to fudge the line between intimacy, privacy and public life and encourages melodramatic and narcissistic behaviour, even where it does not distort reality (Enrique Echeburúa and Paz de Corral). Furthermore, excessive virtual communication has been seen to undermine the quality of human relations, replacing strong and direct relationships with much weaker and often uncertain ones. As a result, users may end up feeling isolated and may even use a virtual life as a substitute for real life.

3.16 This leads social network users to lower their guard and readily accept offers of friendship from strangers, with the result that within a matter of a few hours' conversation, they immediately give out sensitive, intimate and personal information such as their address, telephone number, their parents' names, i.e. the type of information used in questions designed to retrieve forgotten passwords. This can then open the way to finding out other confidential information regarding place of work, future projects and software use.

3.17 In conclusion, as pointed out in studies on this issue, social network users allow strangers into their group of friends on the mere basis of a good profile photo and are willing to reveal all sorts of personal information after a short online conversation. When you consider that most of these networks are built on the idea that these "friends" can have unrestricted access to each member's information and data, it is not difficult to see that one of the practical consequences of generally and indiscriminately accepting anyone you know - or do not know - as a friend, is that anything you share on a social network becomes, de facto, freely accessible.

3.18 This is why it is essential to focus on preventive information campaigns within the Safer Internet Programme to give advice about reading the various services' use and privacy policies before using them, thinking carefully before deciding to post information, using passwords, weighing what information we wish to reveal and controlling who has access to it, contact lists or the risks of infection by a computer virus and, in particular, on available sources of assistance if you have been a victim of irregular conduct of any type on a social network. Similarly, teacher training initiatives and educational materials have to be developed for early civic and digital education.

3.19 To this end, it is very important for the Commission's programmes to provide assistance for user associations and NGOs that are genuinely independent from the public and economic authorities, and which function democratically.

4. **Problems associated with the inappropriate use of social networks**

4.1 The World Health Organisation estimates that one in four people have a problem caused by excessive use of new technologies. Children and adolescents are the most vulnerable to this type of addiction since although they are the most accomplished users, they are also the most immature.

4.2 These addictions are also known as "non-toxic", "non-substance" or "non-chemical" addictions. Many experts believe that we should not use the word "addiction" in its strict sense when speaking about "new addictions", "social addictions", and "non-substance addictions". Others believe that it is just as appropriate to use this word as it is when speaking of addictions to work, shopping or sex, for example.

4.3 Excessive use of virtual social networks can lead to isolation, low output, indifference to other issues, behavioural problems and loss of income, not to mention sedentarism and obesity. In short, dependency and the fact that lifestyle is dictated by the habit are in line with the central nucleus of addiction. It is not the *type of behaviour* involved that characterises addiction to social networks but the *type of relationship* that the user has with it (Alonso-Fernández, 1996; Echeburúa and Corral, 2009).

4.4 These addictions have an impact on mental health involving episodes of anxiety, depression, obsessions, sleep disorders, personality changes, often resulting in mistreatment, brawls, traffic and work accidents, or self-harm.

4.5 To this we must add problems that have a direct impact on the users' physical health, i.e. physiological problems such as neck pain, tendinitis, carpal tunnel syndrome, eyesight problems, self-neglect, sleeplessness and altered eating habits.

4.6 Internet use -whether or not it is excessive- is associated with psychosocial variables such as psychological vulnerability, stress factors, and family and social support. Some risk factors are specific to the excessive use of social networks among young people.

4.7 Some warning signals (doing without sleep, neglecting important activities, receiving complaints from someone close about one's use of networks, constantly thinking about the network, repeatedly failing to ration online time, losing all sense of time, etc.) appear before the problem becomes an addiction. Listening to these warnings before it is too late can - in combination with the development of evaluation and diagnostic tools - help early detection and subsequent therapeutic treatment.

4.8 Furthermore, public resources and preventive actions are also needed for this purpose (information campaigns, education programmes, digital literacy, assistance services, traceability and notification of risks, etc.), focusing attention on the special needs of the most vulnerable groups.

4.9 Physical and psychological symptoms including mood swings, irritability, impatience, unhappiness, anxiety have been noted in situations where users are forced to go offline, cannot get something done, or when the connection is slow (Estévez, Bayón, De la Cruz and Fernández-Liria, 2009; García del Castillo, Terol, Nieto, Lledó, Sánchez, Martín-Aragón, et al., 2008; Yang, Choe, Balty and Lee, 2005).

4.10 Some personality traits or emotional states can increase psychological vulnerability to addictions: impulsiveness, dysphoria (abnormal state of mind experienced subjectively as discomfort and characterised by mood swings); incapacity to cope with unpleasant stimuli, both physical (pain, insomnia, fatigue) and psychological (aversions, worries, responsibilities); and exaggerated thrill-seeking (Estévez, Bayón, De la Cruz and Fernández-Liria, 2009; García del Castillo, Terol, Nieto, Lledó, Sánchez, Martín-Aragón, et al., 2008; Yang, Choe, Balty and Lee, 2005).

4.11 Sometimes, however, a personality problem underlies the addiction, e.g. excessive timidity, low self-esteem, body image dissatisfaction, or inappropriate approach to everyday difficulties. Prior problems (depression, ADHD, social phobia, and hostility) can also increase the risk of getting hooked on the internet (Estévez, Bayón, De la Cruz and Fernández-Liria, 2009; García del Castillo, Terol, Nieto, Lledó, Sánchez, Martín-Aragón, et al., 2008; Yang, Choe, Balty and Lee, 2005).

4.12 Parents and teachers play a key role in prevention strategies aimed at instilling healthy attitudes towards the use of social networks. It has also proved helpful to get help from "buddies" (more experienced and risk-aware friends who can help their peers or younger friends to identify and avoid risks), who would be seen as *online protectors*.

4.13 Finally, it is a matter of fostering – through appropriate use – the many opportunities offered by social networks, which often impact on very important issues such as our work or consumption (Salcedo Aznal Alejandro, *¿Sociedad de consumo o redes de consumidores? Esbozo para un análisis social del consumidor actual* ("Consumer society or consumer networks? Outline for a social study on today's consumers"), 2008), which are beyond the scope of this opinion. We should therefore undertake all necessary reforms to prevent – in application of labour law – unacceptable intrusions into people's private lives, through the use of new technologies (mobile phones, emails, social networks). To this end, the social partners should conclude agreements based on the principles of the Council of Europe's recommendation on this issue.

Brussels, 19 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'Towards an updated study of the cost of non-Europe' (own-initiative opinion)

(2012/C 351/08)

Rapporteur: **Mr DASSIS**

Co-rapporteur: **Mr JAHIER**

On 14 July 2011, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Towards an updated study of the cost of non-Europe

(own-initiative opinion).

The Subcommittee on the Cost of non-Europe, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 June 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September 2012), the European Economic and Social Committee adopted the following opinion by 154 votes to 5 with 7 abstentions.

1. **Summary**

1.1 Almost a quarter of a century on from the publication of the 1988 Cecchini report, the issue of the "cost of non-Europe" has re-emerged and appears a pertinent, useful perspective from which to take forward the debate on pursuing European integration. However, while the Cecchini report looked at the issue solely from the angle of the single market, it is now essential to go much further than that and discuss the costs of not completing economic and monetary union in Europe. These costs are already extremely high and could grow even more if nothing is done.

1.2 The problem becomes quite acute in a situation where – under pressure from the financial markets as well as new binding institutional rules – the Member States are compelled to step up their efforts to cut their debt. But how can this be done without jeopardising the growth which the financial markets are also calling for? The right way to proceed in order to avoid getting caught in an endless downward spiral and reducing a considerable part of the European population to poverty and destitution would be to pool a certain amount of expenditure at European level and to pursue more ambitious policies. This would enable the EU to create a virtuous circle of growth, construct an economic, industrial and technological identity that will hold fast in the context of globalisation and to defend our social model which has to a large extent made Europe what it is today.

1.3 There are doubtless several methodological and technological disadvantages to raising the issue of the costs of non-Europe in the way suggested in this opinion, but it will serve, most importantly, to allow logically indisputable arguments to be put forward for resolving the current crisis and pursuing and completing genuine economic and political union in Europe. Basically, an irrefutable case has to be made to convince public opinion in the various Member States to find solutions to problems by moving the needle on the subsidiarity gauge towards more and better Europe, at a time when certain political forces are trying to make it the scapegoat.

1.4 In this regard, parts of the EU 2020 strategy are extremely useful, and its aim of promoting genuine convergence particularly through common policies and objectives and closer coordination between Member States at all levels and in areas where the European approach is non-existent or embryonic is to be welcomed. Nevertheless, it could be asked whether the strategy is up to the challenge of achieving genuine economic and political union which can reinforce Europe's position in a globalised world and whether – as things stand – it will come to a happier end than the Lisbon Strategy.

1.5 We believe it is necessary to go further, bursting into the scheduled six-monthly discussions of both the EU-17 and EU-27 euro area leaders and pushing our leaders and citizens to wake up to the need for a Copernican revolution in relations between Member States, Europe and the world. Looking at the "costs of non-Europe" affecting us today and in danger of affecting us in the future is a very good way of advancing in that direction. We must use the evidence for economic, political and strategic benefits to thwart the eurosceptics and call public opinion to witness the fact that Europe is not the problem but must be seen as the solution.

1.6 This approach has the advantage of reducing costs, optimising expenditure and maximising opportunities and provides an appropriate response for meeting current challenges and finding a positive way out of the crisis which will benefit everyone.

1.7 In view of all these factors, a much broader analysis of the costs of non-Europe is needed than that proposed in the study commissioned by the Commission on *The cost of non-Europe: the untapped potential of the European single market*. We do not need yet another report (good though it is likely to be) to clutter the shelves of our libraries and be consulted from time to time by a few very specialised experts.

1.8 The EESC therefore calls on the Commission first to make an as exact an estimate as possible of the full set of costs of non-Europe outlined in this opinion and of their impact on employment and growth. As a second step, we propose that the EU 2020 strategy include calculated objectives for reducing these costs accompanied by a clear action plan and a systematic evaluation of its progress.

2. **General points**

2.1 The question of the cost of non-Europe has been raised by the EESC from different angles in several opinions issued in recent years [1]. The debate on non-Europe was revived by the European Parliament and the Commission in late 2010, and the Commission has also commissioned an ambitious study updating the work of the Cecchini report [2] [3].

2.2 The Parliament and the Commission must have opted for this subject and method largely because the Single Market Act II is in preparation, although their papers also stressed the need to address this specific subject and use the scientific evidence [4] the approach would produce. The relatively complex models used by the Cecchini report led at the time to an increase of between 4.5 % and 7 % of EU GDP (for the 12 Member States), with the projected creation of a further 2 to 5 million jobs in the unified area. However, these estimates were based on a methodology and basic hypotheses that are open to some criticism and challenges. Furthermore despite their success in communication terms, as far as we know these forecasts have never been reviewed in any way and thus their accuracy has never been evaluated *ex post* [5].

2.3 The EESC welcomes the return of the matter to centre stage, but is surprised that this is happening almost a quarter of a century after the publication of the Cecchini report. However, the way of addressing it – using the same old methodology and calculating once again the potential economic impact of removing barriers to trade in the single market – is at best restrictive and at worst simply inadequate for at least two related reasons.

2.4 The first is the danger of getting caught up in a debate on the costs of non-Europe that is purely technical (not to say technocratic), while – despite the existence of extremely complex tools that could be used – what may seem technical is often only an illusion in the social sciences.

2.5 The second – even more fundamental – reason is that current circumstances are completely different. In 1988, the debate focused essentially on the state of the common market, rebaptised the "single market". In this sense the Cecchini report was very useful, as it accurately pinpointed and calculated the obstacles and delays. In so doing, it provided grounds for a recovery plan and contributed to the drive which resulted notably in the Delors plan and its 1992 goal.

2.6 In 2012 it is no longer the single market which is the core of the issue. Not only has the building of the single market progressed considerably in the last quarter of a century but, above all, the context has developed substantially and now includes at least five new key factors which were not present in the late eighties: 1) globalisation is much more advanced, with the arrival on the international market of emerging countries such as Brazil, India and, above all, China, whereas Europe's competitors in the 1980s were primarily developed countries; 2) Europe is now made up of 27 countries whose levels of development, economic structures and social systems are more disparate than was the case in the 1980s; 3) European integration has evolved considerably, with various key institutions such as the euro and the ECB now in place; 4) an economic crisis worse than any since the 1930s is still ravaging Europe, having now become a sovereign debt crisis; and lastly 5) the imperative need for the EU Member States to cut their debts in the coming years.

[1] See, for example, the EESC Opinion on *Renewal of the Community Method (Guidelines)* of 21 October 2010 or the Opinion on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments: The EU Budget Review* of 16 June 2011.

[2] N.B. This aim of the report was to calculate the potential economic impact of removing barriers to intra-Community trade between the Member States at the time. The new study should use the same methodology and adapt it to the problems and challenges of the current situation.

[3] On 15 December the European Parliament (EP) decided to commission an exhaustive report on the cost of non-Europe. After a tender procedure the Commission awarded the study to a consortium led by the London School of Economics. This report should underpin the debates on the drafting of the Single Market Act II.

[4] As stated in the methodological memo of 21 February 2011 by the European Parliament's Directorate-General for Internal Policies of the Union: In principle, the justification for estimating these costs/benefits reflects the determination to make decisions based on *scientific evidence* concerning various concepts or principles (of good financial management, effectiveness or sustainability) in order to guarantee the policy's transparency and accountability vis-à-vis the general public (italics in the text).

[5] Apart from in an analysis by authors unknown carried out 20 years later, available on *www.oboulo.com*. This analysis states that expectations may not have been met but that the quality of the forecasts was generally satisfactory (see *The Cecchini Report – 20 years later*, 16.1.2009).

2.7 In view of these factors, we suggest that the debate be based on the costs of non-Europe in a very different way. The handicap beleaguering Europe now is not so much delays in building its internal market (which, by the way, benefits our competitors as well as Europeans), as the overriding need to establish a strong economic, industrial and technological identity in the context of multi-polar globalisation characterised by increasingly tough competition, from the emerging powers especially, during an unprecedented systemic crisis.

2.8 Discussion therefore needs to consider all the costs of non-Europe resulting from the failure to complete European integration. These costs extend far beyond those which might be occasioned by any remaining barriers to intra-Community trade. The EESC is aware of the difficulties of taking such a broad and political approach to the matter, but it is the only approach that we believe makes sense in the current situation ([6]).

3. **Europe and its achievements**

3.1 Sixty years ago, Europeans' dream of living in peace became reality with the creation of the first European community, the ECSC. The journey towards integration was slow but sure up until 1992. Over the last 20 years, EU enlargement to 27 Member States has undeniably signified a great step forward, but it is the only real progress achieved. The deepening of the EU announced as long ago as the early 1980s has been forgotten. The single currency, the internal market, the cohesion policies or the CAP are certainly major steps forward but incomplete and, above all, not enough to establish a genuine Union.

3.2 Once the subject matter of the debate has been decided, there is, of course, the matter of the debate itself. What does the cost mean? What does non-Europe mean? What, even, does "non" mean? Potentially, everything can be seen as Europe or non-Europe. It is objectively difficult to single out the instruments, policies and public goods concerned, to isolate their respective impact, to determine at what level they would be most effectively employed (European, national or local), to decide in what terms to express the costs and benefits and even over what timeframe they should be analysed (and the list of difficulties does not stop there). Given all these factors, reaching agreement on a rigorous methodological approach and moving beyond agreement on general matters is no easy matter. The European Parliament memo on the methodological aspects helpfully clarifies the issue and perfectly illustrates how complex it is.

3.3 However, whatever the approach, the definitions – even the broadest definitions – of the concept do not enable part of the essential public goods (such as peace or the free movement of persons), produced by European integration in a little over half a century, to be included in the debate.

3.4 Without wishing to attempt to calculate their contribution to Europeans' well-being or to rewrite history (what would have happened if European integration had not taken place in its current form?), it is worth pointing out – at a time when it is becoming more and more in vogue to talk about the costs of Europe – that the history of our continent has not always been such as we have experienced from 1945 to the present day. Peace, prosperity, fundamental rights (as enshrined in the EU Charter ([7])), free movement of persons and goods, the possibility of using the same currency across borders, price stability and other benefits which are part of our daily life are currently perceived by many of us (particularly the younger generations) to be absolutely normal, a kind of natural state: border controls between France and Germany would be seen as a tedious oddity while the spectre of a war between European countries resembles a bad-taste joke. Clearly, it would be difficult, if not impossible, to say what the situation would have been like today had we stayed within the bounds of national frameworks, but it does not seem unreasonable to state that European integration has at the least facilitated the emergence of these public goods and has made them very apparent and natural to everyone.

3.5 Does that mean they are now here for ever? This remains uncertain. The possibility of a civil war would have seemed just as absurd and unlikely in Yugoslavia in the eighties, but that did not prevent the extremely bloody wars after the country split up. The other successes, which took years to achieve, can be reversed: establishment of border controls or questioning the validity of the euro area are subjects which commentators, Eurosceptic and/or populist political parties and – increasingly often – traditional political movements have no hesitation in raising in various contexts.

3.6 Lastly, without going into the most extreme scenarios, the question of the cost of non-Europe will be inescapable if certain key institutions, such as the single currency, totally or

([6]) The Commission and Parliament are aware of the importance of these issues. While it acknowledges the potential scale of costs related to the external strands of its common policies, the European Parliament memo concludes that a study of this kind is likely to be highly complex and the results obtained too uncertain due to the fact that decisions are dependent on the international institutions and owing to shortcomings in multilateral governance (op. cit., p. 15). As regards the internal challenges, the memo proposes addressing the issue through the 2020 Strategy, listing the 12 areas where EU policies could be beneficial (op. cit., pp. 15-17).

([7]) The Charter of Fundamental Rights includes the fundamental rights for the citizens of the European Union and the economic and social rights provided for in the Council of Europe's European Social Charter and the Charter of Fundamental Social Rights of Workers.

partially fail. The UBS Bank has recently produced a study ([8]) which, despite many weaknesses in its methodology, evaluates the costs of leaving the euro at 40-50 % of GDP for a "weak" country in the first year alone. Even for a "strong" country (such as Germany), this cost would come to 20-25 % of GDP for the first year alone, or EUR 6 000 to 8 000 per inhabitant. This does not include the destabilising political effects, potential "currency wars" with successive competitive devaluations, a resurgence of protectionist policies nationally and the potentially disastrous impact on the expectations of economic operators. These could plunge Europe into an extended slump for several years. No-one can predict the potentially disastrous consequences of these events, but we can expect considerable endeavours to form major new geopolitical configurations, giving rise to new alliances which would be potentially destabilising for Europe as a unified political and economic bloc.

4. **No European Union without genuine economic union**

4.1 Contrary to the populist ideas being voiced in certain political quarters in numerous EU countries, in particular since the outbreak of the 2008-2009 crisis and its various manifestations since, current economic problems are not related to excesses by eurocrats in Brussels but to the fact that European integration is fundamentally incomplete. The stated aim of building a monetary *and economic* union has in practice never been achieved. The shameful disinterest displayed by Member States and the European institutions, constantly putting off the work necessary to achieve genuine economic integration and the processes necessary for legitimate and democratic decision-making in the Member States (some of which have gained considerable media attention), have ended up – in the face of an asymmetric external jolt of unprecedented violence – causing a spiralling lack of confidence in the markets. This state of affairs is costing all EU countries more and more in terms of competitiveness, growth and jobs, social cohesion and even democratic legitimacy in Europe.

4.2 The limits of establishing monetary union without real economic union have become apparent as they have led to divergence rather than convergence. Now, Europe no longer has the time to wait for things to come about naturally as history runs its course. The choice is either moving rapidly forward to complete genuine European economic union, including an effective mechanism allowing it to withstand asymmetric shocks, or bearing the potentially explosive costs of non-union in the future.

4.3 The current difficulties dogging the euro, which is essentially an incomplete currency, reflect this situation. The relative levels of public debt in the euro area as a whole, and even of most of the European countries considered to be under threat, are lower than those of other countries described as developed, such as the United States, the United Kingdom and Japan. However, whereas the dollar, the pound and the yen are seen as the currencies of true, mature powers, the euro suffers from its image as a currency whose sovereignty remains rather unclear ([9]), from a restrictive mandate conferred upon the European Central Bank and from the lack of any real economic governance at European level. For all these reasons, it is vital to achieve a genuine European economic union with rules – including rules that are binding – and clear responsibilities at every level. Only wide-ranging political reform, which would confer the political legitimacy needed on such a union, can make this a reality.

4.4 It is difficult to measure the full costs of this lack of confidence in the markets, which is, moreover, to a large extent responsible for the current recession. However, simply as a result of risk premiums levied on certain Member States in the current period, the cost of non-Europe for public budgets could be evaluated at between 0,4 % and 1,5 % of GDP in 2012 (i.e. between EUR 9 billion and EUR 36 billion) and up to 1,8 % and 2,4 % of GDP in 2013 and 2014 (i.e. EUR 42 billion and EUR 56 billion) respectively for the whole euro zone, with marked differences between countries, of course ([10]).

4.5 Successfully completed economic integration including, in particular, closer budgetary and fiscal integration subject to strict conditions and monitoring, would have been able to eliminate these risk premiums by putting mechanisms for pooling resources in place at European level (such as eurobonds or other instruments) instead of endless improvised, *ad hoc* emergency containment measures when the situation becomes untenable. The Member States and the EU must find the courage not to act reactively but to adopt coherent institutional reforms and a plan of action in order to find a global response to the current crisis that will set out a genuinely credible vision for the future.

4.6 Recently some steps have been taken in this direction. Regrettably they do not go far enough.

5. **The benefits expected by the European Union**

5.1 At the Brussels summit on 9 December 2011, reviving the discipline of the Maastricht stability pact, the parties undertook to slash the Member States' deficits by instituting now automatic penalties for infringements of the golden rule. Under pressure from the financial markets and new binding rules, the Member States will now be obliged to step up their efforts to cut their debt.

([8]) UBS Investment Research, *Euro Break-up – the consequences*, www.ubs.com/economics, September 2011.

([9]) Henry Kissinger's famous remark in the 1970s, "If I want to call Europe, who do I call?" is unfortunately still apposite.

([10]) Vause N., von Peter G. (2011), "Euro Area Sovereign Crisis Drives Global Markets", *BIS Quarterly Review*, December 2011, *http://www.bis.org/publ/qtrpdf/r_qt1112a.pdf#page=4*.

5.2 The basic question put to the political leaders of several European Member States faced with the situation of public debt is a case of trying to square the circle: how to reconcile the lack of confidence in the markets, as everyone is demanding, while – almost simultaneously – kick-starting growth? One way to solve this unsolvable equation is to abolish needless duplication between Member States by working together to achieve economies of scale and, at the same time, lay the foundations for future budgetary recovery at EU level. In this way, it would be possible to avoid or at least curb the depression-inducing effects of beggar-my-neighbour austerity measures, without crippling the public services provided while, at the same time, doing something about the problem of the wastage resulting from 27 – frequently uncoordinated – different policies in the same areas. Clearly, this idea is impossible to implement with a Community budget of only 1 % of GDP and totally incompatible with the suggestion of cutting budgetary expenses across the board, including at European level.

5.3 Total defence spending by the Member States came to nearly EUR 200 billion in 2010 but, in the view of many experts, national defence policies are still fragmented and generally ineffective ([11]). Despite many European- and national-level initiatives, appropriations for equipment and R&D defence programmes (almost 20 % of the total budget) are practically the only area of genuinely pooled expenditure and even then, EDA estimates put this at 22 % in 2010 ([12]). Studies on this point have posited a savings potential of 32 % or EUR 13 billion for these budget headings alone if expenditure were pooled ([13]).

5.4 This reasoning could apply to other sovereign areas of the Member States, such as the diplomatic service, customs, border guards, civil protection, combating fraud, etc. Cutting costs in all of these spheres, despite possible disagreement over the exact amount of these costs, is purely a question of political will.

5.5 The fiscal cost of non-Europe is a consequence that simply adds to the budgetary cost. No framework based on common European interests has been established for fiscal competition between the Member States. As a result, mobile bases liable to relocation are undertaxed, while others are overtaxed, resulting in lost tax revenue (and thus a cost) for Europe and the Member States. This situation also leads to imbalance, injustice and above all heavy social costs which are bitterly resented by the general public.

5.6 As regards the social domain, the discussion on the cost of non-Europe is not new. European integration cannot be based solely on the principle of free trade, with competition and consumer well-being taking precedence over everything else and causing downward social levelling. It should be pointed out that, despite frequent allegations of "European diktats", there, too, the problem is not enough Europe rather than too much. Over and above the feelings of injustice and extremely high social costs, particularly in the current context, the conclusions of several studies show that non-Europe in this domain also levies a high economic cost ([14]). Thus, empirical data show that a fair and effective social policy contributes to macro-economic stability, not only by diminishing the impact of cyclical phenomena and promoting more effective allocation of resources, but also by fostering the well-being of citizens more generally ([15]). What is more, good social policies tend to reduce adverse selection, internalise some external factors and upgrade the labour force and "social capital" in the broad meaning of the term. The European Social Charter aimed to introduce some basic rules in this area for all the Member States. It now seems necessary to go further and envisage a structured framework for the convergence of social policies in order to reduce gross disparities and to ensure that worsening social imbalances and the general increase in poverty do not end up becoming serious obstacles to significant, balanced and sustainable economic growth.

5.7 Fiscal and social competition, which is very poorly regulated in an economic area with few barriers to the movement of goods, services and capital also fosters other trends which are highly damaging in a globalised economy. The gradual collapse of industry in several European countries is an undeniable reality which is vigorously opposed by citizens and poses strategic problems for our countries as these developments are extensive, would be difficult to turn around in the short or medium term and will thus have serious ramifications ([16]). The growing inconsistencies caused by national guidelines having primacy in the area of industrial policy have resulted in unilateral solutions which are less than optimal and sometimes even counterproductive ([17]), at a time when the emerging countries are applying confidence-inspiring industrial policies based on a weak currency and active government

([11]) Heuninckx, B. (2008), "A Primer to Collaborative Defence Procurement in Europe: Troubles, Achievements and Prospects", *Public Procurement Law Review*, Volume 17, Issue 3.

([12]) This figure is lower than for 2009. EDA database, Defence-Data_EDA participating Member States 2010,18 January 2012.

([13]) See, for example, Dufour, N. et al. (2005), *Intra-Community Transfers of Defence Products,* Unisys.

([14]) Fouarge, D., *The Cost of non-Social Policy: Towards an Economic Framework of Quality Social Policies – and the Cost of not Having Them*, Report for the Employment and Social Affairs DG, 2003, Brussels.

([15]) With regard to the link between inequality and well-being, see also Wilkinson and Pickett (2009), "*The Spirit Level. Why Equal Societies Almost Always Do Better*". Allen Lane, London.

([16]) One example is the ECSC, whose demise is said to have accelerated the decline of the European steel industry and the considerable delay in implementing the Galileo project, which is bogged down in governance and financing difficulties due to lack of public ownership at European level.

([17]) With regard to rules and funding programmes for national energy policies, for example.

support ([18]). Rather than pooling or at least coordinating resources in order to meet these challenges, several major European countries are increasingly compelled, in the absence of a "European Energy Community" ([19]), to make bilateral agreements with third countries in areas as crucially important as energy and R&D ([20]). It is obvious that a European policy would undoubtedly be a much more effective solution.

5.8 The EU's R&D budget for the 2014 to 2020 period is 0.08 % of its GDP, which is 20 to 30 times lower than national budgets. One study concludes that every additional public euro invested in European-scale R&D subsequently brings in EUR 0,93 from the private sector ([21]). The Seventh Framework Programme for Community research (FP7, 2007-2013), which has EUR 50,5 billion in funding, shows that this is not just wishful thinking but that a common policy in the field is possible. The impact of the programme is huge: it is estimated that each euro spent by the framework programme results in time in an increase in industrial added value of between EUR 7 and EUR 14. In the long term, macro-economic studies carried out by DG Research predict that the Seventh Framework Programme will have enabled 900 000 jobs to be created by 2030, including 300 000 research jobs. In the same period, increased competitiveness will have resulted in an increase in EU exports of almost 1.6 % and a decrease in its imports of some 0.9 %.

5.9 Moreover, the common industrial policy must imperatively factor in environmental issues and be closely coordinated with EU energy policy. Managing energy issues nationally can give the illusion of making things easier in the short- or medium-term, but it can also prove very costly in the long term, leading to substantial dependence on hydrocarbon-producing countries and causing energy bills to soar. The answer could be to invest in development of energy infrastructure and dissemination of new energy sources with European-scale R&D ([22]). According to an Accenture study commissioned by DG Energy, use of renewable energies such as wind energy in the United Kingdom or solar energy in Spain, along with the interlinking of national networks, could cut European consumers' bills by some EUR 110 billion by 2020.

5.10 In the current crisis, the risk of long-term, potentially permanent unemployment is growing. That could prevent individuals from achieving self-fulfilment in the workplace and deny the European economy their potential. Such a situation conflicts with the goal of inclusive growth and calls for an intensive search for long-term solutions, which should, among other things, involve support for inclusive jobs from public funds, with the aim of maintaining working habits, and for retraining activities, with the aim of adapting people to the future needs of the job market.

Conclusion

"***It is no longer a time for vain words, but for a bold, constructive act.***"

These words, spoken by Robert Schuman on 9 May 1950, are now more relevant than ever. Decision-makers, please act. The public wants peace and dignity. Harness the huge potential of 500 million Europeans. You do not have the right to let them down.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([18]) Although the Lisbon Strategy provided for R&D expenditure of at least 3 % of GDP, the EU's expenditure is currently put at 1.84 %, as opposed to 3 % in the United States and 8 % in China.

([19]) Joint Declaration from "Our Europe" and from the European Economic and Social Committee on the European Energy Community objective, 21 February 2012.

([20]) One of the most recent examples to date is a series of agreements signed between Germany and China on 27 July 2011 on research and investment in green technologies, particularly electric vehicles and carbon capture and storage systems (Peel Q., Anderlini J., "China and Germany launch green initiative", *The Financial Times*, 28 July 2011).

([21]) Communication from the Commission: Building the ERA of knowledge for growth COM(2005) 118 final, 6 April 2005.

([22]) Syndex, *A low-carbon industrial policy as a strategy for emerging from the crisis in Europe*, report commissioned by the EESC, March 2012, Brussels.

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

483RD PLENARY SESSION HELD ON 18 AND 19 SEPTEMBER 2012

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — Tackling cross-border inheritance tax obstacles within the EU'

COM(2011) 864 final

(2012/C 351/09)

Rapporteur: **Mr FARRUGIA**

On 15 December 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee - Tackling cross-border inheritance tax obstacles within the EU

COM(2011) 864 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September 2012), the European Economic and Social Committee adopted the following opinion by 135 votes to 1 with 11 abstentions.

1. **Conclusions and recommendations**

1.1 EU citizens who inherit assets across national Member State borders are frequently faced with taxation in two or more different Member States (i.e. double or multiple taxation) and tax discrimination. These problems often impose undue hardship on citizens and hamper the achievement of the EU-2020 objectives. In an attempt to address these problems, the Commission presented a Communication in 2011 and an accompanying Recommendation.

1.2 The EESC is in favour of removing double/multiple and discriminatory taxation, and welcomes the approach adopted by the Commission which respects the tax sovereignty of individual Member States while calling for better interfacing of national tax systems.

1.3 It is however the opinion of the EESC that the Commission can be more effective in achieving the final aims of this exercise by:

— proposing and implementing practical mechanisms which, within a reasonable period of time, would ensure the efficient interfacing of national tax systems with respect to inheritance taxes, while encouraging Member States to institute and operate double/multiple taxation relief mechanisms in a more effective and flexible manner;

— using legislative mechanisms so as to effectively eliminate inheritance tax double/multiple taxation of EU citizens;

— going beyond cross-border taxation issues to look into the potentially distortionary effects arising from differences in the computation of the inheritance tax base by different national tax jurisdictions, by setting common principles applicable across the EU which are based on fair net asset valuations and which safeguard the business entity unit as a going concern;

— actively promoting more effective, efficient and citizen-friendly taxation systems, involving the least possible burden on taxpayers;

— studying the issues which impinge on EU citizens arising out of global cross-border inheritance taxes;

— studying the possibility of simplifying inheritance taxation in cross border situations through a system which imposes taxation once at a sole point of taxation determined by the location of the asset.

1.4 The EU Taxation Observatory, whose creation under the auspices of the Commission has been suggested in EESC opinions [1] dealing with multiple and discriminatory taxation, could serve as the instrument through which the above recommendations are implemented.

2. **Content and background of the proposal**

2.1 EU citizens who inherit foreign property are frequently faced with a tax bill from more than one Member State *(multiple taxation)*. Moreover, several Member States tax foreign inheritances more heavily than local inheritances *(tax discrimination)*. In such cases, citizens may face undue hardship on the event of inheritance. In particular, small businesses may face transfer difficulties on the death of their owners.

2.2 Legal remedies are available to protect citizens against tax discrimination. These, however, are often not effective because of prohibitive costs. No legal remedies are available to protect citizens against multiple taxation, due to the rights of several Member States to claim taxation [2].

2.3 This is taking place within the context that the number of EU citizens moving from one country to another within the European Union increased by 3 million to 12.3 million between 2005 and 2010, and cross-border real estate ownership in the EU increased by up to 50 % between 2002 and 2010 [3]. There is also a significantly increasing trend in cross-border portfolio investment. While citizens can be affected heavily by multiple or discriminatory inheritance taxation, EU Member States revenues from inheritances taxes account for less than 0.5 % of total tax receipts, with cross-border cases alone accounting for far less.

2.4 This situation is a serious obstacle to the freedom of movement of persons and capital within the Single Market, thereby hampering the achievement of the EU-2020 objectives. It is also in direct contrast with EU citizenship rights.

2.5 In an attempt to address these problems, the Communication and accompanying Recommendation issued by the Commission are intended to have the following effects:

— cross-border inheritance tax problems may be resolved without any harmonisation of Member States' inheritance tax rules;

— multiple taxation would be addressed through a more efficient interaction of national tax frameworks by a system of relief for tax paid in other countries to be applied by the different Member States that could claim taxing rights;

— in the case of immovable property, the Member State where the asset is located would have first taxing rights and tax relief should be granted by other Member States involved;

— in the case of movable assets connected with a permanent establishment in a Member State, that Member State would have first taxing rights and tax relief would be granted by other Member States in respect of tax burdens imposed in the first Member State;

— the country of the deceased would have taxing rights in preference to the country of the heir which should give credit for tax paid in the country of the deceased;

— tie breaker rules would determine to which country a deceased, or an heir, had closer links in cases where either had links with more than one country on the basis of his/her domicile, habitual residence and nationality;

— cases of tax discrimination are addressed in a Commission Staff Working Paper [4] aimed at informing citizens and Member States on desirable features of non-discriminatory inheritance taxation through examples from case law, thereby better enabling them to avail of legal remedies.

3. **General comments**

3.1 The EESC is in favour of addressing multiple and discriminatory taxation, so as to uphold citizens' rights and promote the Single Market. The EESC has stressed this through a number of its opinions and in particular recommends the removal of multiple and discriminatory taxation for citizens as well as the enhancement of administrative simplification in cross-border situations [5].

[1] Including EESC Opinion on a Common Consolidated Corporate Tax Base – OJ C 24, 28.1.2012, p. 63; EESC Opinion on Removing Cross Border Tax Obstacles for EU Citizens – OJ C 318, 29.10.2011, p. 95; EESC Opinion on Double Taxation in the Single Market – OJ C 181, 21.6.2012, p. 40.

[2] The Block case (C-67/08).

[3] Copenhagen Economics Study on Inheritance Taxes in EU Member States and Possible Mechanisms to Resolve problems of Double Inheritance Taxation in the EU, August 2010.

[4] SEC(2011) 1488.

[5] See footnote 1.

3.2 As a result, the EESC welcomes the Commission Communication on Cross Border Inheritance Tax Obstacles because the Communication:

— recognises the problems which impinge especially on citizens and small business, but have a very limited dimension in terms of national fiscal performance;

— suggests ways in which Member States would grant tax relief in cases of multiple taxation;

— provides information which could be useful towards the elimination of tax discrimination.

3.3 The EESC furthermore welcomes the approach adopted in the Communication which respects the tax sovereignty of individual Member States and advises them to seek better interfacing of national tax systems while removing discriminatory taxation within national tax frameworks.

4. **Specific comments**

4.1 It is however the opinion of the EESC that the Commission can be more effective in achieving the final aims of this exercise by:

— evoking and enforcing legislative mechanisms so as to effectively eliminate inheritance tax discrimination between EU citizens, without this being considered as a violation of national sovereignty in tax matters, but merely as a fundamental tenet of EU citizenship rights to own assets across national borders;

— proposing and implementing practical mechanisms which would ensure, within a reasonable period of time, the efficient interaction between national tax systems: the approach of merely providing recommendations for implementation by individual Members States may be viewed to be not sufficiently effective in practice – it is recognised that it is also desirable, as the Commission is proposing, for individual Member States to be encouraged, in an expeditious manner, to operate multiple taxation relief mechanisms in a more effective and flexible manner, while the Commission would observe developments over the next three years with a view of adopting a stronger stance through a Directive if so required;

— in the longer term and from a wider perspective which goes beyond cross-border taxation issues, extending the scope of its intervention on inheritance taxation to the potentially distortionary effects arising from differences in the way in which different national tax jurisdictions compute the inheritance tax base, in a manner which respects national tax sovereignty, especially in relation to the setting of tax rates, but being subject to common principles underlying the manner in which inheritance tax bases would be considered across all EU Member States, which would ideally be based on fair principles of net asset valuations and would safeguard the business entity unit as a going concern;

— studying the extent and implications of situations of multiple non-taxation through the use of sophisticated financial instruments, in respect of which the EESC looks forward to further consultations and initiatives by the Commission;

— actively promoting more effective, efficient and citizen-friendly taxation systems, which are responsive in a timely and sensible manner especially within the often long and complicated procedures involved in inheritance tax issues, and which involve the least possible burdens on the taxpayers;

— studying the extent to which EU citizens are being adversely affected by cross-border inheritance tax issues at a global level, the implications thereof and possible solutions thereto;

— studying the possibility of introducing a simpler inheritance taxation method whereby taxation would be imposed only once at a sole point of taxation which would be determined according to the location of the asset.

4.2 The Commission could furthermore consider that the undertaking of these functions would form part of the mandate of an EU Taxation Observatory, whose formation under the auspices of the Commission has been suggested in EESC opinions dealing with multiple and discriminatory taxation ([6]). The Observatory would contribute to the more effective resolution of inheritance tax obstacles on an ongoing basis through research and investigations and provide *fora* for consultation, collaboration and agreement between different national tax jurisdictions.

Brussels, 18 September 2012

The President
of the European Economic and Social Committee
Staffan NILSSON

([6]) See footnote 1.

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, to the European Parliament, to the Committee of the Regions, and to the European Economic and Social Committee — An action plan to improve access to finance for SMEs'

COM(2011) 870 final

(2012/C 351/10)

Rapporteur: **Ms DARMANIN**
Co-rapporteur: **Mr LANNOO**

On 7 December 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the Council, to the European Parliament, to the Committee of the Regions, and to the European Economic and Social Committee — An action plan to improve access to finance for SMEs

COM(2011) 870 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 174 votes, with 3 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC welcomes the EU action plan to improve access to finance for SMEs at a time when many European countries are facing an uncertain economic outlook. The EESC is of the opinion that Europe's economic recovery can only be achieved if SME policy is high on the agenda of European policy-makers. It therefore clearly supports the efforts of the European institutions to increase the resilience of the financial system in order to be an instrument at the disposal of the real economy.

1.2 The EESC notes that dedicated actions cannot be successful without clear involvement from the Member States. The EESC therefore invites them to implement the action plan and unlock all possible support mechanisms for SME finance by concentrating on the priorities of Europe 2020. The Member States should for instance develop guarantee funds and better use structural funds for financial instruments.

1.3 The EESC acknowledges that loan finance is and will remain one of the most widely used instruments for SME development. In this respect, the Committee fully supports regulatory and financial measures aiming at reinforcing debt finance and guarantee instruments for SME growth.

1.4 The Committee insists that the Basel III proposals must be properly implemented in Europe with the forthcoming CRD IV Directive, to avoid adverse effects on the financing of the real economy.

1.5 The EESC welcomes the Commission proposals on boosting venture capital in Europe. It is essential for the European VC market to be given decisive new impetus with a view to overcoming market deficiencies and regulatory barriers, rendering the VC segment more attractive to private investors.

1.6 European SMEs are varied and heterogeneous. Initiatives to improve access to finance must consist of a full portfolio of diverse and innovative measures to effectively reach this diverse group of actors taking into account their specific features. Social enterprises and the liberal professions, for instance, have different legal forms and models of operation from "traditional" businesses, which further complicates their access to finance since these forms or models are not always recognised or understood by financial actors.

1.7 Hybrid capital that presents an alternative to bank lending must be boosted as well. The emergence of new financial actors must be supported, as must that of new intermediaries providing both innovative financial solutions and business advice. Crowd funding is a good example to mention and participative banking could be another option to take into consideration.

1.8 The EESC stresses the need for the EIB group, in close cooperation with the European Commission, to play a key role in investing in SMEs, through a full range of general and targeted instruments. As regards the EIB loans for SMEs, EIB intermediaries are invited to increase their communication efforts to promote that financial scheme to the SME community in cooperation with SME organisations.

1.9 The EESC takes note of the proposal to simplify and make more transparent the next generation of financial instruments (*EU Debt Financial Instrument* and *EU Equity Financial Instrument*) under the forthcoming Multiannual Financial Framework Programme (MFF). The EESC is supportive of the proposals because of the high leveraging effect of these two schemes.

1.10 The EESC welcomes the Commission's decision to foster dialogue between different stakeholders in order to monitor market developments and make recommendations on how to improve access to finance for SMEs. The EESC hopes to be regularly invited to the "SME Finance Forum" to discuss and present concrete proposals on how to alleviate SMEs' financial problems.

1.11 The Committee is of the opinion that specific training for entrepreneurs, such as *investment readiness programmes*, should be stimulated.

1.12 The EESC stresses the fact that European programmes supporting SME finance that are implemented via European, national or regional intermediaries must be made easier for SMEs to access. Transparent, understandable and consistent procedures at all levels, are the keys to their success.

2. **Commission proposal**

2.1 The action plan outlines the main obstacles to stimulating finance for SMEs such as:

— access to loans;

— access to venture capital;

— access to capital markets.

2.2 Furthermore, the documents describe the measures taken between 2007 and 2012 to ensure financing reaches SMEs, these being:

— the Competitiveness and Innovation Programme (CIP);

— the EIB allocation for SME loans;

— Cohesion policy funds;

— the Risk Sharing instrument in FP7.

2.3 The Commission identifies a number of measures so as to facilitate financing for SMEs. These include:

— regulatory measures;

— financial measures to improve lending and venture capital across the EU;

— measures to improve the environment for SMEs.

3. **General observations and comments**

3.1 The European Central Bank (ECB), in close cooperation with the European Commission, regularly publishes the results of the "*Survey on the access to finance of small and medium-sized enterprises (SMEs) in the euro area*" ([1]). According to the results of the latest survey, euro area SMEs' external financing needs increased between October 2011 and March 2012. At the same time, the survey results show that access to bank loans continued to deteriorate but with differences between Member Sates ([2]). On balance, firms reported a worsening in the availability of bank loans. Moreover, the survey results point to somewhat higher rejection rates when applying for a loan. Meanwhile, the percentage of respondents reporting access to finance as their main problem remained broadly unchanged. In view of this situation, the EESC invites the Commission to ensure that alternatives ways to access to finance can be fully exploited.

3.2 The EESC emphasises that each survey needs to be closely followed up in order to respond rapidly by proposing specific policy measures. Information available at the SME Finance Forum, in the Member States and from SME organisations can complement this follow-up. This exercise should be carried out by the Commission with the involvement of the EESC and civil society.

3.3 The EESC supports the study the Commission is conducting to evaluate the definition of SMEs and especially asks for specific attention to be paid to micro and small enterprises. Given the diversity and size of SMEs ([3]) (family businesses, liberal professions and social business to name but a few), the EESC reminds the Commission that tailored financial support measures for them must be a priority. The Commission is therefore requested to take into consideration their different characteristics, paying special attention to micro enterprises, when preparing financial programmes to support their development. The Commission needs to avoid any discrimination as there is no "*one size fits all*" answer to their needs.

4. **Specific observations and comments on the regulatory measures**

4.1 *Venture Capital Regulation*

4.1.1 The EESC supports the introduction of a harmonised regime for cross-border operations by VC funds. The proposal is laudable as it is likely to alleviate market deficiencies thanks to the creation of a "European Passport" enabling EU venture

([1]) This survey round was conducted between 29 February and 29 March 2012, covering a sample of 7 511 firms in the euro area.
([2]) Ibid, see specific figures p. 14-15.
([3]) OJ C 318, 23.12.2009, p. 22, OJ C 376, 22.12.2011, p. 51.

funds to market their products and raise capital on a pan-European basis. The EESC made a number of comments in its previous opinion on venture capital ([4]) and asks the Commission to take them into consideration.

4.1.2 The EESC strongly supports the study that the Commission will carry out in 2012 on the relationship between prudential regulation and venture capital investments by banks and insurance companies. The study should assess whether these instruments are creating an oligopoly of large international banks or need to be changed in the medium or long term.

4.1.3 As the majority of SMEs are small businesses (less than 10 employees), the EESC invites the Commission to pay special attention to micro venture funds. These funds invest in enterprises whose projects are not attractive enough for the attention of traditional venture capitalists but are too big or risky to attract capital from traditional lending sources. Such funds strengthen a company's capital base and develop entrepreneurs' business skills using coaching methods throughout the investment period ([5]). Member States are invited to propose tools such as specific taxation measures that could stimulate the development of those funds in order to fill the financial gap.

4.2 *Tax reforms*

4.2.1 We welcome the Commission's proposals on taxation reforms for cross-border VC investments. The Committee invites the Commission and the Member States, at the same time, to propose clear measures to prevent tax avoidance and evasion.

4.2.2 As well as addressing the tax obstacles to cross-border transactions, the Commission should also ensure that Member States encourage tax reform in their own countries for SME financing schemes.

4.2.3 Good practices that exist in some Member States should be looked into and expanded across the EU and disseminated to SMEs ([6]). In a number of countries fiscal stimulus packages are already in place. An example of these could be Belgium/Flanders, which introduced a *win-win-loan* a few years ago, whereby individuals can lend money to SMEs and get a tax reduction in return. Another good example is the Dutch system known as the *Tante Agaath loan* ([7]).

4.2.4 Tax exemptions such as France's *ISF PME* law ([8]) can also be of real benefit to high-growth SMEs. The EESC is in favour of such schemes as long as the amount of exempt taxation is reasonable and would not impinge on contributions to other equally important sectors.

4.3 *State Aid Rules*

4.3.1 The EESC supports the envisaged State Aid Modernisation proposal to simplify current state aid rules for SMEs. It takes note that the Commission will review the General Block Exemption Regulation and a number of state aid guidelines, including on risk capital, to achieve Europe 2020 objectives. The EESC urges that these rules be improved, simplified and clarified. Our Committee invites the Commission to ensure that state aid is only used to target market failure.

4.4 *More visible SME markets and listed SMEs*

4.4.1 The EESC welcomes the fact that the MIFID directive proposes to develop homogeneous SME growth markets and make them attractive for investors thanks to the *SME growth market label*. However, the EESC suggests ([9]) laying down specific provisions and measures which will enable it to be implemented efficiently and effectively.

4.5 *Reporting burdens for listed SMEs*

4.5.1 The Commission and Member States are invited to reduce accounting rules and reporting burdens for listed SMEs in Europe. The Committee acknowledges the fact the Commission presented a proposal for a directive simplifying and amending the Accounting Directives and, at the same time, a proposal revising the Transparency Directive. The EESC reminds the Commission to take on board its two opinions issued early in 2012 ([10]) and feels that SMEs need to free up resources to invest in their businesses in order to deliver further growth.

4.6 *Basel III future implementation and its consequences for SME finance*

4.6.1 The EU needs to continue to be at the forefront in implementing the internationally agreed financial regulatory reforms. The EESC however notes that the various capital requirements implementing Basel III in the EU coming into force and currently being discussed (CRD IV/CRR) may cause various problems for SMEs ([11]).

([4]) OJ C 191, 29.06.2012, p. 72.
([5]) See for example Financités: *http://www.financites.fr/*
([6]) See EBAN report: *Tax Outlook 2010 Executive Summary - http://www.eban.org/resource-center/publications/eban-publications.*
([7]) Tante Agaath regeling (http://www.tanteagaath.nl/agaath_regeling.htm).
([8]) *http://pme.service-public.fr/actualites/breves/reduction-isf-pour-investissements-pme.html.*
([9]) OJ C 191, 29.06.2012, p. 80.
([10]) OJ C 143, 22.05.2012, p. 78, OJ C 181, 21.06.2012, p. 84.
([11]) OJ C 68, 6.3.2012, p. 39.

4.6.2 The EESC supports the efforts of the European institutions to increase the resilience of the financial system, in order to avoid future crises. However, more regulation of the financial markets therefore cannot be made at the expense of the financing of small and medium-sized enterprises. The EESC fully supports the "*Karas Report*" adopted by the European Parliament in May 2012 which is a further step in the right direction towards a sensible and workable implementation in the EU of the "Basel III" rules on capital requirements.

4.6.3 The EESC takes note that the Commission will consult the European Banking Authority (EBA) within 24 months after the entry into force of the new Directive (CRD IV) and that the EBA will report on lending to SMEs and natural persons. The Committee urges the Commission to be fully involved in the reassessment of the risk weight by expressing its opinion on the report to be sent to the Council and the European Parliament.

4.7 *Late Payment Directive*

4.7.1 The Commission envisages implementation of this Directive by 16 March 2013. The EESC presses Member States to act to ensure that SMEs can benefit more quickly from the system. It is also very important for the Commission to monitor the timely implementation of this Directive in all Member States. Furthermore, the Commission needs to follow-up very closely the way Member States implement Article 4(5), which gives them the possibility of lengthening the verification procedure to over 30 days, unless this would be grossly unfair to the creditor. The Commission should closely monitor Member States to prevent them from using this article to artificially delay payment, especially since delays in payments by public authorities have a significant impact on SMEs' cash flow and liquidity management.

4.7.2 In order to set an example, the EESC invites the European Institutions to pay their contractors on time and avoid imposing unnecessary administrative and financial burdens on them.

4.8 *European Social Entrepreneurship Funds*

4.8.1 The EESC welcomes the European Commission's proposal for a Regulation on European Social Entrepreneurship Funds and reminds the Commission that improving access to appropriate capital for social enterprise needs to be high on the agenda. The EESC expressed its opinion ([12]) on that issue early in 2012. One of the challenges is the need to measure and report on the social effects and impact on society of portfolio undertakings. The EESC recommends undertaking a joint study at EU level in order to develop criteria and indicators to tackle such issues. The Committee reminds the Commission that such funds can only be one tool of many much-needed financial instruments that still need to be developed.

([12]) OJ C 229, 31.07.2012, p. 55.

4.8.2. The EESC also invite Member States to improve the recognition of different forms of social enterprises. If they had greater recognition, these businesses would see a reduction in the risk weight for loans granted to them and would no longer be disadvantaged in this area, compared to traditional businesses.

5. **Specific observations and comments on EU financial measures for SMEs**

5.1. The Committee is fully aware that a large number of SMEs, particularly smaller ones, will continue to depend mainly on credits when it comes to external financing.

5.2 The EESC welcomes the sustained activity of EIB SME loans as one of the main SME lending instruments at EU level, and recognises the financial advantages passed on to the SMEs to decrease the borrowing cost through these intermediated loans. The EESC invites the EIB to continue their effective implementation and to report regularly on the results achieved. In order to reach the expected results, intermediary banks are requested to increase their communication efforts to better promote these loans to the SME community in close cooperation with SME organisations.

5.3 It is equally important to support the emergence of new forms of intermediary, which in many cases better suit the diversity of SMEs. Experiences from the cooperative and social banking sectors are valuable, since they offer tailored financial support often coupled with other support services.

5.4 The EESC invites the Commission to expand risk-sharing facilities for equity and quasi-equity investments, in close cooperation with the EIB group, and to support the issuance of pooled corporate bonds. As regards the quasi-equity market, the EESC particularly invites the Commission and EIB group to explore ways to improve mezzanine finance and look into new mezzanine products, such as a guarantee for mezzanine loans.

5.5 The EESC recommends that the European Commission continues the promotion of EU financial schemes with SME organisations in order to ensure higher visibility and rapid take-up for these instruments especially for Member States which are still lagging behind. Since effective financing of SMEs can be seen as one of the most important tools in the "Growth Pact", the subject should be properly addressed in the National Reform Programmes.

5.6 The Committee is of the opinion that specific attention should be paid to supporting SMEs through the equity and debt instruments provided for by the Programme for the Competitiveness of enterprises and SMEs (COSME) and the Horizon 2020 programme. The EESC strongly support to increase the maximum threshold stipulated by the loan guarantee facility (LGF) in COSME (EUR 150 000) as already stipulated in our former opinion on the Competitiveness Programme ([13]).

5.7 The EESC stresses the need to have cohesion policy regulations which do cater for a smooth and efficient implementation of SME programmes as the current framework is not conducive enough. The EESC regrets that the EU financial regulations are currently too heavy or too complex, thus creating problems for national intermediaries in charge of implementing them. There is indeed a clear need for better monitoring of the use of financial instruments under the Cohesion Policy ([14]).

5.8 It is also important to shift from project financing to more sustainable financing instruments to avoid public funding dependency. Here the Commission should provide guidance on good practice in combining and leveraging financial instruments from different sources during all stages of the SME lifecycle.

5.9 The EESC takes note of the proposal to facilitate access to finance for SMEs in the long term with new financial instruments (*EU Debt Financial Instrument* and *EU Equity Financial Instrument*) under the Multiannual Financial Framework (MFF) in the form of dedicated platforms. By pooling resources from various sources, the EESC estimates that financial instruments can provide a catalyst for investments for identified gaps in the market, achieve economies of scale and/or minimise the risk of failure in areas where it would be difficult for individual Member States to achieve the required critical mass. The EESC therefore invites the Commission to implement the new generation of financial instruments on the basis of lessons learned from existing instruments (*CIP financial instruments, RSFF*). It is important to establish appropriate rules, guidance and standardisation in accordance with market requirements and best practices, to avoid overlaps and simplify implementation modalities in order to promote efficiency and financial discipline. The EESC stresses the fact that adequate monitoring, reporting, auditing and good governance are of the utmost importance in order to ensure that EU resources are being used for the purpose intended.

6. **Specific observations and comments on measures to improve the environment for SMEs**

6.1 *Better information & communication for SMEs*

6.1.1 The EESC welcomes the proposal to bolster information to financial intermediaries and to encourage banks and financial institutions to provide their clients with all the necessary tools to help them find financing. Furthermore, the EESC considers it important to boost financial education for SMEs. Member States are strongly encouraged to participate in that exercise by setting up specific "*investment readiness*" programmes for SMEs in close cooperation with SME organisations.

6.1.2 One of the major problems for the vast majority of SMEs is that of access to specially tailored advice. The EESC supports the principle and the role of the Enterprise Europe Network (EEN) yet considers that its potential should be fully used ([15]). Consequently, the EESC suggests strengthening the financial advisory capacity of the EEN. It stresses, however, that SME organisations must be closely involved in this campaign as well and that it should be tailored to highlight the diversity of SMEs.

6.2 *Improve monitoring and data collection of the SME financing market*

6.2.1 The Committee notes that the Commission has already worked on this issue ((*SMEs' Access to finance surveys and SME Finance Index*). It welcomes the proposal from the Commission to work more closely with bank federations and to gather advice from other institutions (ECB, EBA). The EESC recommends involving SME organisations and institutions at Member State level too. The EESC regrets that the Action Plan does not refer to reinforce cooperation with international organisations such as the OECD to produce data and statistics ([16]) on access to finance.

6.3 *Qualitative rating*

6.3.1 Purely quantitative rating models are often not suited to the evaluation of SMEs because they are too rigid. Using qualitative factors in addition to the common quantitative analysis is more than welcomed. Banks could therefore consider balancing their scoring methods for assessing SMEs' credit-worthiness with adequate room being left for "relationship banking". This issue also needs to be addressed by exchanging best practices. The EESC regrets that some banks seem to be moving away from this idea rather than promoting it.

6.4 *Business Angels and other early stage actors*

6.4.1 The EESC believes for instance that it is important to develop the link between business angels and early stage VC funds with later stage venture funds in order to ensure a healthy innovation finance chain. Moreover, initiatives to support greater dialogue at regional level between business angels, VC funds and local entrepreneurs are strongly encouraged.

([13]) OJ C 181, 21.06.2012, p. 125.

([14]) Special Report No 2/2012 "Financial instruments for SMEs co-financed by the European Regional Development Fund" – Report from the European Court of Auditors - *http://eca.europa.eu/portal/pls/portal/docs/1/13766742.PDF*.

([15]) OJ C 376, 22.12.2011, p. 51, OJ C 181, 21.06.2012, p. 125.

([16]) See examples such as "*Financing SMEs and Entrepreneurs 2012: an OECD scoreboard*" (http://www.oecd-ilibrary.org/industry-and-services/financing-smes-and-entrepreneurship_9789264166769-en).

6.4.2 Innovative approaches to venture funding ought to be looked into and implemented. One such approach is crowd funding, in which citizens, and not banks or specialists, invest in SMEs through an online platform, instead of the stock exchange market.

6.4.3 Tailored forms of hybrid capital [17] containing elements of grants, equity and debt capital (such as profit sharing loans) should be strengthened, because they suit SMEs better both in the early stages and throughout their life cycle.

7. **Other recommendations to secure SME finance**

7.1 *Best practices in the banking sector*

7.1.1 Consideration should be given to developing a framework within which credit could be encouraged from lenders operating on the basis of a philosophy of risk- and profit sharing, since SMEs could certainly benefit from it. Phenomena such as participatory banking should be seriously considered by the Commission. The EESC would like the Commission to prepare a Green Paper as a basis for launching a debate on participatory banking at European level. Separate initiatives taken by countries such as the UK, France, Germany, Italy, Luxembourg and Malta are positive but may hinder further integration of the financial services industry within the EU. Furthermore, separate non-coordinated initiatives may not give the most efficient outcomes that this type of finance could achieve, such as risk sharing, profit sharing and a social approach to finance. The encouragement of micro-finance with specific investment policies referring to Islamic finance could also give rise to new entrepreneurial activities whilst helping to fight poverty in certain regions. In this context, a Commission communication envisaging, addressing and encouraging alternative financing methods should be developed to ensure that these are on a level playing field with financing methods such as conventional finance.

7.1.2 The EESC takes note that the Commission has analysed the work and the results obtained by credit mediators as well as problems faced by SMEs in their search for loan finance [18]. The EESC invites all Member States to create such a function in order to improve transparency in the lending process. The Committee notes that Article 145(4) of the Capital Requirements Directive (CRD III), and Article 418 (4) of the proposed Capital Requirement Regulation (CRD IV) include provisions that allow SMEs to ask banks to inform them of their rating and scores. It would be important to fully implement these provisions in practice.

7.1.3 With regard to competition in the banking sector, the EESC asks the Commission to study the situation and ensure that there is enough competition in the banking sector within and between the different Member States in the field of financial products for SMEs. For example, there is the problem of funding loss (see below); at the same time, overdraft rates for small enterprises remain at a very high level, even though ECB bank refinancing interest rates are at a historically low level. Big companies can use alternatives (such as straight loans), but small enterprises cannot use these products.

7.1.4 Funding loss: In many Member States, charges are levied on businesses by banks when they repay their loans ahead of schedule. Whenever a loan is paid back earlier than envisaged in the contract, the bank charges this so-called "funding loss" fee to compensate for the fact that the bank might have to re-invest the money at a lower interest rate than the one they would have got if the loan was not paid back earlier than expected.

7.1.5 The problem, however, is that these funding loss charges are often quite high. Moreover, these charges are often not very clearly explained in the contract, which also refers to future, as yet unknown interest rates. This makes it very difficult for a business to estimate the possible funding loss charge in the event of early repayment. In any case, most businesses are not even aware of the obligation to pay a funding loss charge.

7.1.6 It is therefore crucial for banks to provide clearer information on such charges before any loan agreement is signed. In addition, the amount of the funding loss charge should be limited and reasonable.

7.2 *Visibility and administration of European programmes for SMEs finance*

7.2.1 The EESC is in favour of creating a single multilingual online database of different sources of finance, integrating European, national and regional measures to facilitate SMEs access to finance. The Committee invites the Commission to disseminate widely the practical guide [19] that it drew up providing information on how to access EUR 50 billion of public finance in the 27 Member States.

[17] http://www.schwabfound.org/pdf/schwabfound/SocialInvestmentManual.pdf.

[18] http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1186&format=HTML&aged=0&language=EN&guiLanguage=en.

[19] Final Report, *Evaluation of Member State Policies to facilitate Access to Finance for SMEs*, – June 2012 http://ec.europa.eu/enterprise/policies/finance/guide-to-funding/indirect-funding/files/evaluation-of-national-financing-programmes-2012_en.pdf.

7.2.2 The EESC is of the opinion that, with regard to the "Horizon 2020" programme, a dedicated budget of 15 % of the overall programme and a single management structure are key to making the most of the innovation potential of SMEs. As regards the procedure, improvements must be made concerning financial and administrative issues. For instance, many SMEs participating in EU-funded research projects still face enormous VAT-related issues in their respective countries when participating in projects. Very often this is one of the main stumbling blocks to those actually participating from the start. Clear regulations relieving SMEs of these burdens should be implemented in all Member States. VAT should be recoverable in all circumstances in EU funded projects.

Brussels, 19 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Green Paper — Towards an integrated European market for card, internet and mobile payments'

COM(2011) 941 final

(2012/C 351/11)

Rapporteur: **Mr KROPAS**

On 11 January 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Green Paper - Towards an integrated European market for card, internet and mobile payments

COM(2011) 941 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 157 votes to one with five abstentions.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the Commission initiative to promote a secure, transparent and innovative payments environment throughout the EU. More efficient, modern and safer payment instruments are a precondition for expanding further benefits of the Single Market as well as strengthening the global competitiveness of the European economy.

1.2 The EESC appreciates the broad nature of the dialogue proposed by the Commission, which indeed encompasses main issues of the present and foreseeable landscape of payments in the EU. However, in order to have the full picture cash payments deserve further attention. Although gradually decreasing, cash remains the predominant means of payment in certain markets. Increasing national evidence shows that cash in principle is less efficient and significant resources could be saved if consumers switched to electronic payments. Certain Member States have made real progress in moving towards a cashless society. Nonetheless, the EESC believes that the true cost of cash is still not known to general public. Moreover, cash is considered to be a facilitator of the shadow economy. Therefore payment methods that help reduce shadow economy are less expensive and more secure and should be promoted by all stakeholders involved. The many benefits for all stakeholders concerned, but on the other hand as well the need for a reasonable cost for SME offering these payment methods to their customers should be considered in this context. Additional initiatives are needed in the Member States with the clear support of the Commission.

1.3 Card payments are the most popular non-cash payment instrument in the EU and worldwide. A growing consensus in the literature on economics considers non-cash payments to be more transparent in fiscal and economic terms and also cheaper for society as a whole, easy to use, safe and innovative. The EESC consequently supports the Commission's proposal to use such payments to reap the benefits of greater market integration. However, the Single Market opportunities are not yet fully exploited due to historical barriers and lack of standardisation and interoperability and to the discrepancies and shortcomings in the use of public information, which can be remedied through greater use in payments by payment cards, the Internet and mobile telephones. As a consequence, competition, innovation and efficiency have unrealised potential. The EESC calls for market initiatives to propose enforceable solutions as soon as possible, especially those at the same time favouring financial and digital inclusion.

1.4 The current legal uncertainty regarding interchange fee based business models hampers card, e- and mobile payments' growth and cash displacement. Clarity is of utmost importance for investment and innovations in payment systems. The EESC urges the Commission to stabilise the business environment for all operators. In line with SEPA objectives there should not be any differentiation of fees and other requirements both for domestic and cross-border transactions.

1.5 The access of information on the availability of funds on bank accounts requires careful consideration of many aspects including security, data protection, consumer rights, competition and compensation to account issuers. The EESC notes that entities seeking access should be regulated and supervised commensurate with their risk profile. The European legal framework should clearly reflect the obligations and responsibilities of the operators involved.

1.6 In many markets customers may not be ready to accept surcharging and therefore could shift to cash payments based on the impression that cash is free of charge. Even though consumers would be protected from abusive surcharging

by the Consumers Rights Directive as from 13 June 2014, it is not straightforward how this protection will be ensured in a highly agile online environment.

1.7 E-payments are appreciated by customers on domestic markets. However, Pan-European solutions, based on internet banking, are pending. This therefore complicates the up-rise of e-commerce. The EESC calls on the operators of such systems to work on interoperability issues in an open and transparent manner and address missing issues in e-commerce as soon as possible.

1.8 The EESC calls on the Commission to ensure that m-payments from the early phase of their development will respect the principles of open access to platforms, portability of applications, security as well as avoidance of duplicate costs for operators wishing to accept these payments.

1.9 The EESC acknowledges the progress reached by market participants in curbing fraud at physical terminals. Currently, on-line fraud poses the biggest threat. Additional security measures should be implemented, but not at the expense of customers' convenience. If proposed by public authorities, security measures should be technologically neutral to the extent possible.

1.10 The EESC welcomes the on-going efforts to strengthen the current Single European Payments Area (SEPA) governance and supports intentions to centralise the "ownership" of SEPA, for instance under the umbrella of the SEPA Council. However, the EESC urges the Commission and the European Central Bank to work on details as soon as possible as the current de facto vacuum hinders implementation.

2. **Background of the opinion**

2.1 Completion of SEPA is one of the Commissions priorities for achieving the Single Market. The achievements of standardisation and interoperability supported by a harmonised legal framework are already available to operators in the form of SEPA credit transfers and SEPA direct debits, which by 1 February 2014 will replace the legacy schemes in the Euro area.

2.2 The scope of SEPA, however, is wider and encompasses other pillars. One of them is devoted to card payments, the most important payment instrument in the European Union as well as worldwide. E-payments, i.e. payments made over internet for purchases, are another such pillar. Nowadays these payments represent a tiny fraction of all non-cash payments, but double-digit growth is expected. The European Payments Council (EPC), which is the coordination and decision-making body of the European banking industry with regard to payments, extended their cooperation activities towards e-payments and developed the SEPA e-Payment Framework. Recently the EPC became the subject of a request for information by the Commission's DG Competition.

2.3 M-payments are the most recent pillar. The EPC in cooperation with other operators took coordinated actions regarding m-payments by preparing technical documents on interoperability guidelines and several white papers. M-payments are still at an early stage of development, but expectations are very high regarding their future status. Whilst card payments, e- and m-payments are different in their maturity, scale and business models, there is a general understanding shared by the European institutions and market operators that additional progress is required in terms of integration, transparency and competitiveness. There is a risk that detriments witnessed in existing business models may be replicated in forthcoming m-payments environment.

2.4 Every citizen, business or public administrator is engaged in payments activities realised either through traditional means of payment (e.g. cash) or modern payment services (e.g. e-payments). According to statistics from the European Central Bank [1], the total number of non-cash payments in the EU increased by 4.4 % to 86.4 billion in 2010 compared with the previous year, of which card payments accounted for the largest share (39 % or 33.9 billion). The value of card payments reached EUR 1.8 trillion, rising by 6.7 % on a yearly basis, which is more than three times the 1.8 % growth in the euro area's real GDP. Whilst there are significant differences in terms of card usage from one country to another, the general trend is that card payments are one of the most dynamic non-cash payment instruments.

2.5 The fact-finding survey carried out by the European System of Central Banks [2] showed that inter-change fees are not set and applied in a harmonised way throughout the European Union. The choice, structure, and level of inter-change fees differ in many ways and depend on a number of options and dimensions. The interchange fee is the main component of merchant fees. The Commission as well as national competition authorities assessed the competition aspects of interchange fees and took a number of decisions, some of which were related to cross-border activity, while others were restricted to the national level.

2.6 With regard to fee transparency, regrettably, no official surveys have been carried out and no comprehensive national or country-comparative statistics have been published on the costs paid by consumers, such as various fees and charges directly related to different means of payments, despite the fact that this information is available for national supervisors, most of whom do not make any of it available.

[1] http://www.ecb.int/press/pr/date/2011/html/pr110912.en.html.
[2] http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf?4cce20956bed7b7e5f454a4ea77f7c9b.

2.7 Despite on-going private initiatives towards standardisation, fragmentation still persists in certain transaction domains: between card acquiring and card issuing payment service providers, between card and terminal as well as between terminal and card acquiring payment service providers. However, often driven by diverging commercial interests or without clear implementation time-tables at this stage, they have yielded limited concrete results.

2.8 The significant investments and efforts by all operators in order to migrate from magnetic stripe to EMV-chip technology had a positive impact on driving down card fraud in face-to-face environment. However, the recent trend shows that remote card transactions, although having a minor share of all card transactions, already poses the biggest fraud threat. This issue has drawn the attention of supervisors and overseers who in 2011, under the umbrella of the European Central Bank, joined forces within the "SecuRe Pay Forum" in order to enhance the security level and public trust in electronic payment services and instruments. In 2012 the forum will finalise a set of technology-neutral recommendations for the security of internet payments.

2.9 The Commission's Green Paper deals with a whole set of payment issues, which if successfully addressed would provide the basis for more integrated and secure payment services provided either in traditional bricks-and-mortar shops or in fast developing electronic environment. With more competition, more choice and transparency for consumers, more innovation and more payment security and customer trust Europe has an opportunity to be at the cutting edge of what "making a payment" could mean in the 21st century.

2.10 The Commission describes the vision of integrated market, identifies the gaps between the current situation and the vision as well as the barriers causing these gaps. The Commission defines five broad measures aimed at accelerating market integration and reflects about how implementation should be governed. The first set is the largest in terms of questions and covers market fragmentation, access and cross-borders issues. The remaining ones cover respectively transparent and cost-effective pricing, standardisation, interoperability and security issues. The governance guidance is to apply to existing SEPA schemes (SCT, SDD) as well as cards, e-payments and m-payments.

3. **Comments and observations**

3.1 The Community wide attitude regarding long-standing and future-oriented payments' issues - apart from SEPA credit transfers and SEPA direct debits - is still pending and is overarching for all operators in the Single Market. The EESC welcomes the Commission's Green Paper and expects proportionate follow-up actions in order to improve current shortfalls. The EESC calls that consumer interests on the availability of safe, efficient, convenient and rapid payments should be put at the centre of every payment transaction.

3.2 The Green Paper concentrates on electronic payments omitting, however, the still dominant role of cash which represents 80 % of payment transactions in Europe. The increased transparency of costs is equally relevant both for electronic payments and cash and should serve as primary reference when analysing non-cash payment means. The impression that cash is free is still common among the general public. Significant efficiency gains could be realised if payers changed their habits by using modern and less costly payments. Moreover, evidence suggests that the prevalence of cash payments has a positive correlation with the level of the shadow economy due to difficult traceability of cash payments. Therefore, the EESC encourages the additional initiatives taken by Member States with the clear support of the Commission in reconsidering the positioning of cash in modern economies.

3.3 In the EESC's view, additional measures aimed at increasing transparency, especially binding ones, should be considered carefully in order not to overload consumers with excessive information, which if provided at a wrong time (e. g. rush hours) and in complicated format could add confusion to shopping experience and disturb the check-out process for merchants.

3.4 International and several domestic card schemes base their business models on interchange fees that have been challenged to different extent by national competition authorities as well as by the Commission. The latter's decision of 2007 prohibiting MasterCard's cross-border interchange fee has been recently upheld by the General Court. The EESC notes that up to now interchange-based business models failed to keep up with SEPA vision, i.e. no difference of fees for cross-border and domestic transactions. Moreover, the self-regulating mechanism that ensured the decrease of interchange levels with the increasing volume of transactions as well as alternative pricing solutions applicable for low-value payments were missing. The EESC urges the Commission to stabilise the long-term business environment for all operators by also taking into account the lessons learned by other regions (e. g. Australia) that have adopted a regulation in this regard and by ensuring a level playing field between different card scheme business models.

3.5 The co-badging of different payment brands either on plastic card or on forthcoming mobile platforms should neither undermine the right of consumers to choose between brands nor restrict possible incentives for merchants. Co-badging is important for new schemes entering the market and consequently facilitates both choice and competition. In some cases one brand places additional mandatory requirements for transactions through its network even they are initiated by another brand. In the EESC's view it should be ensured that one brand should not be in a position to impose such processing requirements.

3.6 The EESC shares the view that the separation of scheme management functions from processing is a key element to create a competitive payments cards market as vertical silos may use cross-subsidising when competing with independent processors. Moreover, the current set-up is less favourable for the envisaged initiatives fostering the interoperability between processors. Therefore, the separation, ideally at corporate level, would enhance the integration and competition processes within a Single Market.

3.7 Under the current legal framework, payment and e-money institutions are not allowed to access payment systems designated under the Settlement Finality Directive. These essentially target large value and retail payments. Should the Commission plan any changes to the current framework, the EESC would urge it to consider the risk element the new participants (i.e. payment institutions and e-money institutions) could bring to the existing payment systems (infrastructures), bearing in mind for instance that they have no access to central bank funding.

3.8 The SEPA Cards Framework (SCF) as originally developed by the EPC should not restrict business models developed by other operators. Ideally, the SCF needs to be carefully reviewed within the new SEPA governance structure taking into account the input of all stakeholders.

3.9 The EESC is concerned that the entities that are neither regulated nor supervised seek access to the sensitive account information. Moreover, the obligations and responsibilities of the operators involved are not properly reflected in the European legal framework and may have unexpected consequences for consumers in case of data misuse or fraud. The access to information on the availability of funds on bank accounts should be carefully analysed taking into account such aspects as security, data protection, consumer rights, competition and compensation to account issuers.

3.10 Surcharging is the possibility for merchants to add a fee to the transaction value if a card is used. This option was recognised throughout the EU since the adoption of the Payment Services Directive, unless a Member State had explicitly prohibited it. The previous experience of surcharging applied in certain cases is not conclusive, at least in the short term. Early 2005 for instance, the Danes responded strongly to the imposition of fees on their domestic debit card scheme transactions, which dropped sharply while ATM cash withdrawals increased. Surveys conducted in other markets confirm this trend. Even though consumers would be protected from abusive surcharging by the Consumers Rights Directive as from 13 June 2014, it is not straightforward how this protection will be ensured in a highly agile online environment. The EESC takes a view that surcharging should not be encouraged as a Pan-European practice.

3.11 The card ecosystem is characterised by the lack of standardisation and interoperability. For instance, the terminal provider needs to go through up to seven certification processes in order to operate at EU level. The EESC calls on the private sector to join forces and produce concrete results, including in terms of implementation framework and ambitious deadlines. However, if market solutions are slow, the Commission should step forward with legislative proposals.

3.12 The availability of e-payment services is mainly restricted within national borders. The EESC calls on the operators of such systems to work on interoperability issues in an open and transparent manner and address missing issues in e-commerce as soon as possible. However, if the market does not deliver the expected results, the Commission should envisage regulatory requirements for the reachability of e-payment schemes at European level.

3.13 The EESC calls on the Commission to make sure that m-payments from the early phase of their development will respect principles of open access to platforms, portability of applications, security as well as avoidance of duplicate costs for operators wishing to accept these payments. Moreover, data protection authorities should support operators in their developing user-friendly solutions.

3.14 Security is key for public trust in payment instruments and should ideally be addressed in the designing phase. In the context of security it is crucial that any provider in the payment value chain is appropriately regulated and supervised. The EESC acknowledges the progress made by market participants in curbing fraud at physical terminals but notes that operators are exposed to fraud in on-line business. Security measures should not undermine customers' convenience and, if proposed by public authorities, should be technologically neutral to the extent possible. In this regard, the EESC welcomes the recommendations of the institutions participating in the SecuRe Pay Forum on the security of internet payments and ultimately their efforts to enhance the security level and public trust in electronic payment services. The correct implementation of these recommendations should be further monitored by the relevant authorities.

3.15 However, curbing fraud requires additional measures among relevant authorities of the Member States. In this regards the EESC welcomes the establishment of a new European Cybercrime Centre at Europol, which will be operational by 1 January 2013 and hopefully will become the competence centre in the EU's fight against fraudsters. This initiative was advocated by the EESC in its own-initiative opinion on combating fraud and counterfeiting of non-cash means of payments adopted on 23 October 2008 ([3]). The EESC notes that other measures defined in that opinion remain of high importance and should be considered as well.

([3]) OJ C 100, 30.4.2009, p.22.

3.16 Payments involve many stakeholders and their interests, though they may sometimes be diverging, should be taken into account when constructing the future payments landscape. The new SEPA governance should ensure openness, transparency and a level-playing field in this evolving and ambitious project. The EESC welcomes the on-going efforts by the Commission and the European Central Bank to centralise the "ownership" of SEPA, for instance under the umbrella of the SEPA Council. However, the EESC urges to speed up the process as the current de facto vacuum hinders its implementation.

Brussels, 19 September 2012

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation on the Statute for a European Foundation (FE)'

COM(2012) 35 final — 2012/0022 (APP)

(2012/C 351/12)

Rapporteur: **Ms HELLAM**

On 10 May 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council Regulation on the Statute for a European Foundation (FE)

COM(2012) 35 final — 2012/0022 (APP).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 132 votes to one, with eight abstentions.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) supports the proposal of the European Commission (EC) for a Council Regulation on a European Foundation Statute (EFS), which will allow for the creation of the European Foundation (Fundatio Europaea). The EESC had called for this Statute [1] with the aim of facilitating cross-border activities and cooperation of public benefit foundations in the European Union and thus contributing to the promotion of economic and social cohesion in the EU.

1.2 The EESC now recommends that the European Parliament and the Council adopt the proposal without delay. Indeed, more than ever before, foundations are tackling issues that span national borders, issues that require an efficient organisational form. Foundations at the European level that are active in the areas of science, research and societal issues need a legal form that is recognised in every EU Member State.

1.3 The foundation sector itself and its representative organisations and networks at national and EU levels have repeatedly called for an EFS as the most cost-effective solution for addressing cross-border barriers and thereby stimulating foundation activities across Europe.

1.4 The Fundatio Europaea (FE) will be optional and will not replace local and national legislations. It will, however, give the opportunity to foundations opting for the statute to work in each country of the EU without the need to create local structures, provided that the foundation will be recognised in the country of origin of its creation.

1.5 The EESC agrees that the proposed action fully complies with the subsidiarity principle. EU action is necessary to remove national barriers and current restrictions encountered by foundations when they operate in several Member States. The current situation shows that the problem is not adequately covered by national measures and the transnational character of the matter requires a European framework to ensure the development of foundations whose mission is to work on a European scale. To meet this objective, an action taken by a Member State on its own would not guarantee optimal results in respect of the principle of the single market.

1.6 The rationale of the proposal is to create an innovative legislative framework which will be additional to existing national laws, which will remain unchanged in their form and scope. Member States will retain the ability and choice to maintain and develop national forms of foundations.

1.7 The EESC agrees with the choice of the Regulation for the proposal. It is the most appropriate legal tool to ensure consistency in the Statute in all Member States and to increase trust, as it requires a direct and uniform application of rules. This is further strengthened by Articles 47 and 48 on the cooperation between supervisory authorities, and with tax authorities respectively.

1.8 The EESC agrees with the core features of the EC proposal on an EFS, which aims to strike a balance between easy access to the Statute in terms of formation, and trustworthiness in terms of transparency and accountability.

1.9 The proposal includes tax elements which do not create a new regime but put automatically FEs on an equal footing with national public-benefit entities. This section of the

[1] EESC opinion: OJ C 18, 19.1.2011, p. 30.

proposal must be reviewed carefully as it must not jeopardise the much needed adoption of the proposed Regulation.

2. **Gist of the proposal**

2.1 At Union level there is no possible way to harmonise the legal frameworks in which the public benefit purpose entities carry out their activities in the EU. Some estimated 50+ laws govern the formation and operations of foundations across the EU. Differences between civil and tax laws across the Member States make cross-border operations of those entities costly and cumbersome. In addition, legal, tax and administrative barriers hamper foundations' cross-border work. As a result, the cross-border channelling of funds and support to public benefit purposes remains largely underexploited.

2.2 To address these problems, the Commission tabled a proposal for a Regulation which sets a new European legal form intended to facilitate foundations' establishment and operation in the single market. This legal form will allow foundations to more efficiently channel private funds to public benefit purposes on a cross-border basis in the EU. This, in turn, should result in more funding being available for public benefit purpose activities and therefore, should have a positive impact on European citizens' public good and the EU economy as a whole.

2.3 The proposal lays down the main features of the FE, the methods of formation and the rules concerning organisation of the FE. Furthermore, the possibility of converting the FE back into a public benefit purpose entity or winding up is foreseen under certain conditions.

2.4 The regulation sets minimum supervisory powers of the supervisory authorities in each Member State, in order to enable them to effectively oversee the activities of the FEs registered in that Member State. It also provides for the automatic application to the FE and its donors of the same tax benefits as granted to domestic public benefit purpose entities.

3. **General comments**

3.1 The EESC has acknowledged in its previous opinion the significant contribution of foundations in numerous areas such as human rights, the protection of minorities, employment and social progress, protection of the environment and the European heritage, and the promotion of scientific and technological advances. They also play a key role in helping to achieve the goals of smart, sustainable and inclusive growth set by the Europe 2020 strategy.

3.2 Within the EU, people, goods, services and capital can generally move freely across borders, something that is not generally true for actions and resources devoted to public benefit purposes. This is the purpose of the creation of an FE, a new optional legal entity that stands alongside those legal forms already existing in EU countries.

3.3 The EESC considers that with the European Foundation Statute, foundations will benefit from more uniform conditions across the EU by using one legal tool and a governing structure which will be comparable in all Member States, and which will give greater legal certainty and fewer compliance costs.

3.4 The Statute will facilitate the pooling and scaling up of their expertise and resources. Having a recognisable European form for foundations will also stimulate cross-border initiatives and donations. Member States' economies are likely to see more funding become available for important fields such as research and education, social and health services, culture or the protection of the environment.

3.5 The EESC welcomes the fact that the EC proposal focuses only on public benefit foundations. It notes that the definition of public benefit purposes set out in Article 5 is based on a closed list of the most common purposes that can be found in the majority of Member States. This provides for increased legal certainty as to what is of public benefit, but may prove very cumbersome to update, as this could only be done by unanimity decision of the Council and consent of the European Parliament at the occasion of the first review of the Regulation seven years after its entry into force.

3.6 The EESC notes that the concept of "serving the public interest at large" could be refined in the Regulation and specify that the FE must have (an) identifiable public benefit purpose(s) and serves the public interest at large and/or a section of the public. The EESC would also recommend that the following elements be considered in determining whether a body provides or intends to provide public benefit:

a) how any

   (i) benefit gained or likely to be gained by any persons involved in the body or any other persons (other than as members of the public), and

   (ii) disbenefit incurred or likely to be incurred by the public, in consequence of the body exercising its functions

   compares with the benefit gained or likely to be gained by the public in that consequence, and

b) where benefit is, or is likely to be, provided to a section of the public only, whether any condition on obtaining that benefit (including any charge or fee) is unduly restrictive.

3.7 The EESC welcomes other core characteristics of the EFS as set out in the proposed Regulation, which it had recommended in a previous opinion, including:

a) the European dimension of the FE with activities in at least two Member States. This cross-border component should be required at the time of registration and during the lifetime of the FE,

b) the method of formation of the FE either ex-nihilo, by converting a national foundation into a European Foundation or by merging national foundations. The choice of forming an FE could be performed only by legal and natural persons who actually have or develop activities on a European scale, which provides each Member State with the assurance that the national foundation framework will retain its specificities,

c) the minimum amount of assets of the FE (EUR 25 000) with a view to increasing creditor protection without preventing smaller initiatives from starting,

d) a wide legal capacity including the right to hold movable and immovable property, to receive and hold gifts or subsidies of any kind, including shares and other negotiable instruments, from any lawful source, and

e) within the scope of the EF's public benefit objective, the ability for the FE to carry out economic activities directly or through another legal entity provided that any income or surpluses are used in pursuance of its public benefit purposes.

3.8 The EESC notes that the Regulation aims to facilitate the implementation of recent rulings of the European Court of Justice [2] giving the possibility to make transnational donations to FEs and treating the FE as a public benefit foundation under local tax law. The EESC believes that for tax purposes, the FE should be granted standard non-profit status in full respect of the competence and practice of the tax authorities of the Member State where the EF is tax-liable, to determine its tax treatment in accordance with applicable tax regulations at the national level. While the Member States cannot discriminate against FEs vis-à-vis national public benefit foundations, which is contrary to EU treaty and ECJ case law, they have the leeway to choose which tax regime applies. Member States should also specify what tax regime will apply to FEs, when several regimes for not-for profit organisations can be found in their jurisdiction.

[2] "Persche" (Case C-318/07), "Stauffer" (Case C-386/04), "Missionswerk" (Case C-25/10).

3.9 Finally, the proposed Regulation should fully take into account recommendations made by the foundation sector to ensure that the final instrument on the one hand has a genuine European dimension without undue references to national provisions, and, on the other hand, is both comprehensive and straightforward which will maximise its future use.

4. **Specific comments**

4.1 As outlined in the aforementioned EESC's opinion, the essential advantages and benefits of the EFS would be fourfold i.e. efficiency and simplification, accountability, economic benefits, and political and citizen benefits. The EESC believes that the proposed Regulation strikes a good balance between these elements, while some proposals could be refined as explained below.

4.2 The EESC wishes to take note of the translation of specific terms in the proposal, namely the concept of public benefit, which in some languages may be translated as public utility or general interest and refer to a very specific type of existing national legal form with an interconnected set of rights and requirements. In particular this could lead to some confusion as to which national public benefit entities would be entitled to convert to an FE, unless this is clearly specified by the Member States.

4.3 The EESC considers that it is up to the Member States to specify which public benefit entities and foundations could convert to an FE or merge to form an FE. This would exclude by definition unincorporated entities, such as trusts, but would cover foundations with public benefit aims which in some EU Member States house non-autonomous funds, as well as public benefit endowed funds.

4.4 The EESC believes that given their public benefit character and tax status, FEs set up in perpetuity should spend their annual income in a reasonable period of time (e.g. within a period of 4 years), while securing the possibility of allocating part of their resources (e.g. one third) to maintain the value of and/or to grow their endowment. The latter would not apply to FEs which are set up for a limited period or to a spend-down foundation.

4.5 The EESC wishes to point out that the EC proposal's requirements in terms of transparency, particularly as far as the issue of external audit is concerned, are more demanding for the FEs in relation to the size of their required assets than existing requirements for national foundations across the EU. This may be a deterrent to the future use of the FE. Audit requirements should be effective only above certain threshold(s) (e.g. EUR 150 000) and/or an average number of at least 50 employees. For FEs with assets less than the proposed EUR 150 000 threshold, an independent examiner could be used instead of an auditor. Indeed, current practices show that 8 Member States do not require external audits, while, where

they do, the thresholds may vary from over EUR 15 000 (Estonia) to over EUR 2,5 million (Poland) and employing over 50 staff ([3]). This proportionate approach as regards auditing does not discharge the FE from fulfilling other transparency and accountability provisions laid out in the Regulation regarding in particular regular (annual) public reporting.

4.6 While the FE should be able to pursue "related" economic activities, i.e. related to its public- benefit mission, the notion of unrelated economic activities may be more difficult to define. It might be clearer to allow the FE to undertake only indirect unrelated economic activities through another legal entity.

4.7 The EESC believes that the Regulation must set out provisions regarding the right of the FE's employees to be informed and consulted at the appropriate transnational level in situations where the FE has a significant number of employees in different Member States as follows:

a) as regards the social dimension, the Regulation would in general refer to the principles of the law of the place where employees carried out their work,

b) as regards the practical arrangements for the transnational information and consultation of employees, these should be determined primarily by means of an agreement between the parties in the FE,

c) in the absence of such an agreement the requirements set out in the Regulation in Article 38 for the purposes of informing and consulting employees should be applied, and

d) the final objective should be to maintain acquired rights, which are currently enjoyed by employees working in national-level foundations, while avoiding an excessively cumbersome system.

4.8 The EESC believes that the Regulation as it stands creates de facto some completely new provisions for volunteers, while there is no European status/legal definition of volunteers, or their rights and duties. In the absence of such fundamental elements, the EESC believes that information and consultation of volunteers of the FE should be conducted according to applicable national laws. As regards the practical arrangements for the transnational information and consultation of volunteers, these should be determined primarily by means of an agreement between the parties in the FE. Here the idea is to not circumvent existing laws on and status of volunteers, as well as to not make the use of the FE too complex and cumbersome by adding requirements which are not to be found in real situations. The EESC also believes that volunteers' rights to information and consultation cannot compare with employees'; this would create unprecedented rights and legal complexities.

4.9 The EESC welcomes that the proposed Regulation follows its initial recommendations to delegate the oversight of EFs to competent designated authorities in the Member States on the basis of the commonly agreed EFS standards regarding registration, reporting and supervision requirements set forth in the EFS Regulation. Where such authorities do not already exist, the EESC believes that company registration authorities could play such a role. The EESC considers that it should be left to the discretion of the Member States to designate one or more authorities according to needs and practices.

4.10 Should the EU legislators wish to retain tax elements in the final Regulation, the EESC advises that they take due account of the approach which foundation practitioners would recommend. This could entail for instance a combination of the civil law instrument (the EC Regulation) and tax law requirements that Member States would consider essential (e.g. disbursement of the annual income in a reasonable period of time).

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([3]) See Foundations Legal and Fiscal Country Profiles, European Foundation Centre 2011.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services'

COM(2012) 131 final — 2012/0061 COD

(2012/C 351/13)

Rapporteur: **Thomas JANSON**

On 18 April 2012 the European Parliament, and on 25 April 2012 the Council, decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

COM(2012) 131 final — 2012/0061 COD.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 27 June 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September 2012), the European Economic and Social Committee adopted the following opinion by 219 votes to 2 with 8 abstentions.

1. **Conclusions and proposals**

1.1 The Commission proposal for a directive on the enforcement of the directive on posting of workers is one of the proposals intended on the one hand to strengthen the rules on posting of workers and on the other to codify the existing legislation governing the right to take collective action in cross-border situations. These proposals represent a response to the debate following four EU Court of Justice judgments (Viking-Line, Laval, Rüffert and Luxembourg) about the balance between social rights and economic freedoms.

1.2 The EESC has in two opinions called for strengthening of the rules regarding posting of workers, by among other things clarifying and improving the provisions of the directive on posting of workers and by enhancing cooperation between the authorities of the Member States. The EESC welcomes the aims of the Commission's proposal for an enforcement directive, while stressing the importance of guaranteeing the protection of posted workers, respecting the various labour market models in the Member States and discouraging social dumping and unfair competition. The EESC therefore considers that the EU should put more emphasis on social aspects.

1.3 The EESC welcomes the intention to enforce the existing directive, focusing on better implementation and effective administrative cooperation among Member States. The original Directive plays a key role in promoting a climate of fair competition between all service providers (including those from other Member States) by guaranteeing both a level playing-field and legal certainty for service providers, service recipients, and workers posted for the provision of services.

1.4 In the EESC's view, it is important for the proposal to guarantee protection for posted workers and respect the Member States' different labour market models, but at the same time to increase the scope for cross-border trade, in particular by preventing unnecessary administrative costs.

1.5 In order to promote transnational provision of services in a climate of fair competition, it is important to have equal minimum conditions of employment according to national laws and collective agreements.

1.6 The elements in Article 3(1) of the directive should not be an exhaustive list but be used as part of an overall assessment where all the relevant factors are taken into account.

1.7 The directive should ensure greater respect for the autonomy of the social partners and the role played by them in various labour market models. The EESC reminds Member States of the responsibilities in terms of securing effective controls and considers it very important to review the list of measures after three years.

1.8 To protect the rights of workers the Member States should be able to oblige foreign service providers to designate a contact person with the necessary powers to negotiate on behalf of the company, and Article 11(3) should ensure that host country trade unions and other parties can defend the rights of posted workers in line with national practices.

1.9 The EESC finds the proposal on joint and several liability in subcontracting situations to be a crucial point in the proposed directive. It provides for protection of workers in the sector where subcontracting is most prevalent, while at the same time respecting employers' need for certainty with respect to their liabilities. The EESC stresses, however, that the proposal must respect existing systems for several and joint liability in the Member States. The EESC strongly recommends Member States that do not have such systems to introduce them after consultation with the social partners. The EESC encourages the Commission, together with the social partners, to provide a more precise definition of due diligence, as has been done in some Member States. The EESC understands the concept of due diligence to mean, without prejudice to the social dialogue at the national level, that companies that perform adequate checks and controls of subcontractors should not be held liable.

2. **Gist of the Commission proposal**

2.1 The Commission's proposal for a directive on the enforcement of the directive on posting of workers is part of a package of proposals. Together with the enforcement directive, the Commission has presented a proposal for a regulation codifying the existing legislation governing the right to take collective action in cross-border situations ([1]). The Commission states that the purpose of both proposals is to create more and better jobs and to increase the EU's competitiveness by updating and improving the single market without compromising the rights of workers.

2.2 The Commission's proposal for a directive on enforcement of the directive on posting of workers includes the following:

— Chapter I sets out a framework for preventing abuse and circumvention. The proposals include provisions on determining whether an undertaking genuinely performs substantial activities other than purely internal management and/or administrative activities. An indicative description is given of the constituent elements of the concept of posting for the provision of services, as well as the criteria determining what constitutes actual establishment of a service provider in a Member State. This is intended to prevent bogus postings or letter-box companies.

— Chapter II establishes rules on access to information, i.e. the information needs of employees and companies in relation to their rights and obligations. Article 5 contains more detailed measures for making information on labour market rules generally available, including where terms and conditions are laid down by collective agreements.

— Chapter III contains provisions on cooperation between the national authorities responsible for posting. The general principles, rules and procedures needed for effective administrative cooperation and assistance are set out in Article 6, while requirements of the Member State from which the posting takes place are dealt with in Article 7.

— Chapter IV concerns the monitoring of posting and covers national control measures, where Member States may only impose certain administrative requirements and control measures.

— Chapter V regulates mechanisms for enforcing and ensuring application in practice, the lodging of complaints and the right to institute judicial or administrative proceedings. The provisions of Article 12 concern protection of workers' rights based on (1) joint and several liability for the remuneration of posted workers in the construction sector and (2) better handling of complaints. The provisions are limited to the construction sector as defined in the list of activities included in the Annex to Directive 96/71. Posting by a placement agency is included, provided the work is in the construction sector. However, the Member States may if they wish extend these provisions to include other sectors.

— Chapter VI sets out the rules on cross-border enforcement and administrative fines and penalties. Finally, penalties and provisions in relation to use of the Internal Market Information System are outlined in Chapter VII.

3. **Background to the Commission proposal**

3.1 The Commission notes that, although the number of posted workers represents a small proportion of the total EU workforce, there are a large number of posted workers in certain Member States and the phenomenon is becoming more and more common. There is a lack of reliable data, but it is estimated that around one million workers are posted each year. This is a very small proportion of the total workforce – less than 1 % of that of the current Member States – but it makes up around 20 % of cross-border labour mobility. The countries most affected are Germany, France, Luxembourg, Belgium and Poland.

3.2 The Commission proposal follows an intense debate, prompted by four EU Court of Justice judgments (Viking-Line, Laval, Rüffert and Luxembourg), about the balance between social rights and economic freedoms. In October 2008, the European Parliament adopted a resolution in response to the ECJ's judgments. The European social partners conducted a joint analysis of the Court of Justice rulings at the request of the Commission and the French presidency (in the second half of 2008).

3.3 These issues were also raised in the report on the relaunch of the Single Market presented by Professor Mario Monti in 2010. The report recommended guaranteeing and clarifying the application of the right to strike, and introducing a mechanism for informal solutions of labour disputes relating to application of the Directive.

([1]) The Committee is drawing up a separate opinion on that proposal.

3.4 The EESC addressed the issue of the Court of Justice rulings on the posting of workers directive in two opinions: *The Social Dimension of the Single Market* ([2]) and *Single Market Act – Twelve Levers* ([3]).

The EESC called for the following in its opinions:

— clarification and improvement of the provisions of the directive on posting of workers;

— more effective cooperation between the authorities of the Member States;

— implementation of the principle of non-discrimination with respect to work and remuneration conditions;

— consultation with the social partners;

— non-discrimination for companies in the internal market.

4. **Comments of the EESC**

4.1 The EESC notes the Commission's proposal for a directive intended to improve the enforcement of the posting of workers directive by clarifying the conditions for posted workers and to improve facilities for the relevant national authorities, companies and workers to cooperate and exchange information. The Committee believes it is important that the proposal should guarantee the protection of posted workers, respect the various labour market models in the Member States and be effective in its purpose of discouraging social dumping and unfair competition, as well as increasing scope for cross-border trade, especially by preventing unnecessary administrative costs. In order to promote the transnational provision of services in a climate of fair competition, it is important to have equal minimum conditions of employment according to national laws and collective agreements.

4.2 The EESC finds legal certainty to be of the utmost importance and notes the legal uncertainty concerning foreign workers who are posted by a temporary agency. These workers are covered by the Posting of Workers Directive and by the Directive on Temporary Agency Work. In order to resolve this ambiguity, the EESC proposes that the Enforcement Directive provide that temporary workers fall within the scope of the Directive, unless more favourable terms and conditions of employment are concluded pursuant to Article 5(3) of the Directive on Temporary Agency Work.

4.3 The Committee's position is that cross-border services are very important to the development of the internal market. In order to create political acceptance for the EU and increase solidarity within the Union, the EU should put more emphasis on the social aspects of its policies. For the full potential of the internal market to be realised, the EU must strengthen the social dimension. The proposal for a directive is a step in the right direction, but it does not do enough to satisfy the Committee's wishes. That would require further clarification and strengthening of the proposal.

4.4 The EESC supports the intention in Article 3(1) of the directive to address the issue of so-called letter-box companies, i.e. companies that have no real activities in the country where they are registered but exist for the sole purpose of avoiding obligations in the host country. In order to ensure clarity, legal certainty and consistency with Article 3(2), the assessment of whether an undertaking genuinely performs substantial activities in the country of establishment should be made through an overall assessment where **all** relevant factors are taken into account, which means that the list should not be seen as exhaustive.

4.5 Article 3(2) of the proposal for a directive is intended to clarify when a worker should be regarded as carrying out his or her work temporarily in another Member State. The distinction between temporary and permanent work in the host country is very important because it determines which country's labour law is to apply and whether the situation can even be considered a posting. The EESC welcomes the clarifications contained in the proposal, in particular the reference to the need for an overall objective assessment.

4.6 The EESC welcomes the new information rules, but considers that Article 5(4) should also express absolute respect for social partners' autonomy and the role played by the social partners in various labour market models. It is also necessary to ensure that the administrative burden of financing tasks such as translations is not transferred to the social partners. Initiatives taken by sectoral social partners in disseminating information should be supported.

4.7 It is important where checks are concerned (Article 7) that the authorities of the host country should have overall responsibility for monitoring abuse where a worker is posted temporarily from another country, and that the authorities in the country of origin should cooperate with the authorities in the host country. It should also be possible for these checks to be conducted on the initiative of the authorities in the host country and not just on that of the authorities where the company is established.

4.8 Article 9(1)(d) allows Member States to impose an obligation on foreign service providers to designate a contact person to negotiate, if necessary, on behalf of the employer with the relevant social partners in the Member State to which the posting takes place, in accordance with national law and practice. In some countries it may be sufficient to appoint a contact person, as the authorities can ensure compliance with

([2]) OJ C 44, 11.2.2011, p. 90.
([3]) OJ C 24, 28.1.2012, p. 99.

laws and agreements. In other countries, with different labour market models, the contact person should have the power to represent the undertaking with the authorities and trade unions. The directive should therefore allow for different labour market models. Article 11(5)(b) should include a requirement to provide information on social security contributions/taxes and where they were paid.

4.9 Article 11(3) states that the Member States shall ensure that trade unions and other organisations which have a legitimate interest in ensuring that the directive is complied with may engage on behalf of the posted workers or employer in judicial or administrative proceedings. This article should ensure that host country trade unions and other parties can defend the rights of posted workers according to national practices.

4.10 The EESC finds the proposal on joint and several liability in subcontracting situations to be a crucial point in the proposed directive. It provides for protection of workers in the sector where subcontracting is most prevalent, while at the same time respecting employers' need for certainty with respect to their liabilities. The EESC stresses, however, that the proposal must respect existing systems for several and joint liability in the Member States. The EESC strongly recommends Member States that do not have such systems to introduce them after consultation with the social partners. The EESC encourages the Commission, together with the social partners, to provide a more precise definition of due diligence, as has been done in some Member States. The EESC understands the concept of due diligence to mean, without prejudice to the social dialogue at the national level, that companies that perform adequate checks and controls of subcontractors should not be held liable.

Brussels, 19 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Innovation for a Sustainable Future — The Eco-innovation Action Plan (Eco-AP)'

COM(2011) 899 final

(2012/C 351/14)

Rapporteur: **Mr RIBBE**

On 15 December 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the EU, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Innovation for a sustainable Future — The Eco-innovation Action Plan (Eco-AP)

COM(2011) 899 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 141 votes to 5 with 6 abstentions.

1. Summary of the EESC's conclusions and recommendations

1.1 The EESC welcomes the proposed Eco-Innovation Action Plan. It would particularly like to highlight the approach adopted in the plan for pinpointing and removing obstacles, as well as for consolidating the drivers behind positive developments.

1.2 It is not possible to have a "one-size-fits-all" definition of the term "eco-innovation", because within society (and between different cultures) there are quite different ideas as to what "innovative" and "progressive" mean. The Commission should therefore establish qualitative and, if possible, even quantitative award criteria which are as clear as possible, for the different areas where it wants to take action.

1.3 Companies which will benefit from the future action plan should be obliged to describe briefly, in a small additional study, where they themselves see the biggest obstacles to implementing their technologies and placing them on the market.

1.4 Eco-innovation supported by the EU must be propitious to resource conservation and be equitable and sustainable. Such support must be linked to the EU's sustainable development strategy criteria.

1.5 Particular attention should be paid to small, appropriate environmental technologies. As far back as its 2004 opinion on the "Realities and prospects for appropriate environmental technologies in the candidate countries" ([1]), the EESC pointed out that a plethora of alternatives to large-scale, centralised solutions were already in existence or should be developed. Appropriate, decentralised and small-scale technological solutions are often of no interest to research bodies or investors, since very little or no money at all can be made from them precisely because they are cheap, although they are nonetheless effective. The EESC recommends that the Commission incorporate into the new action plan the suggestions set out in that EESC opinion.

1.6 Existing directives and regulations, as well as structural fund and agricultural policy eligibility criteria, must be reviewed at regular intervals to check whether they need to be adjusted to the latest innovations in environmental technology.

1.7 Likewise, the Commission must at last compile the list of environmentally harmful subsidies and gradually abolish them. Nowadays it is no longer appropriate to support eco-innovation with a lot of money and effort, while at the same time contributing to environmental damage by implementing an unsuitable subsidy policy.

2. Content of the Commission document

2.1 In order to implement and give concrete form to the Europe 2020 Strategy – the Commission's current political planning and governance tool – seven flagship initiatives have been launched, namely:

— *Innovation Union*

— *Youth on the Move*

— *Digital Agenda for Europe*

— *Resource Efficient Europe*

— *An Industrial Policy for the Globalisation Era*

([1]) OJ C 112 of 30.4.2004, p 83.

— *Agenda for New Skills and Jobs* and

— *European Platform against Poverty*.

2.2 The *Innovation Union* flagship initiative is to be fleshed out inter alia by the *Eco-innovation Action Plan (Eco-AP)*, although other flagship initiatives are also mentioned therein, such as the *Resource Efficient Europe* initiative and the *Agenda for New Skills and Jobs*.

2.3 The action plan points out that environmental protection technologies are not only able to open up fast-growing markets, but can also create many new jobs.

2.4 The plan builds on the old "Environmental Technologies Action Plan (ETAP)" from 2004. Its focus, however, is now no longer just on traditional research and the development of new "green" techniques and technologies. The new action plan should be viewed more as a package of measures based on a comprehensive idea of what eco-innovation is about; in addition, it examines the obstacles hindering the introduction of new technologies and how these obstacles can be removed and also the drivers behind the implementation of these technologies and how they can be fostered.

2.5 The Commission document contains interesting results from a survey on this subject, which describe both hindrances and drivers and quantify them to some extent.

2.6 The survey shows that unstable demand from the market and uncertain return on investment are two of the main barriers, while high energy and material prices, new regulations and standards, and access to knowledge are among the main drivers.

2.7 The action plan states that: *Eco-innovation has until now penetrated to the markets relatively slowly, with the exception of renewable energy as a result of energy and climate policies. Bottlenecks to eco-innovation include the failure of market prices to accurately reflect environmental costs and benefits, rigid economic structures, infrastructure and behavioural lock-ins, and harmful incentives and subsidies*. It can be deduced from this that subsidies which are detrimental to the environment should be abolished in order to consolidate eco-innovation.

2.8 The plan aims to speed up eco-innovation across the board, i.e. in all sectors of the economy, with targeted measures. To help create stronger, more stable market demand for eco-innovation, measures are to be taken in future on regulatory incentives, private and public procurement and standardisation; support is to be provided for SMEs so as to improve investment readiness and networking opportunities.

2.9 The Eco-innovation Action Plan therefore includes measures on demand and supply, research and industry, and policy and financial instruments. It consolidates the underlying importance of environmental law as a driver of eco-innovation, and a review of relevant legislation and standardisation has been envisaged should these turn out to be an obstacle.

2.10 The plan also emphasises the international aspect of eco-innovation and highlights better policy coordination with international partners.

2.11 In all, seven areas of action are listed for the action plan, a milestone being outlined for each one:

1. Using environmental policy and legislation as drivers for eco-innovation;

2. Supporting demonstration projects and partnerships to bring promising, smart and ambitious operational technologies to market;

3. Developing new standards to boost eco-innovation;

4. Mobilising financial instruments and support services for SMEs;

5. Promoting international cooperation;

6. Supporting the development of emerging skills and the creation of jobs and related training programmes to match labour market needs; and

7. Promoting eco-innovation through the Innovation Union flagship imitative.

3. **General comments**

3.1 The EESC supports the action plan: it appears to be logically structured and properly thought out.

3.2 Eco-innovation is a key – if not *the* key – way to remain competitive and achieve sustainability targets, but also to demonstrate to hitherto less-developed regions how to boost their economies and prosperity without damaging the environment.

3.3 One not-insignificant question is, however, what eco-innovation actually means. What one person or one cultural group finds innovative and progressive, might well meet with resistance from another. This is illustrated most clearly in matters relating to genetic engineering and nuclear power. These alone clearly demonstrate that there is no "one-size-fits-all" definition of eco-innovation.

3.4 In any case, the Commission does attempt to home in on a kind of definition in its action plan. It believes that: "*Eco-Innovation is any form of innovation resulting in or aiming at significant and demonstrable progress towards the goal of sustainable development, through reducing impacts on the environment, enhancing resilience to environmental pressures, or achieving a more efficient and responsible use of natural resources*." What is still unclear, however, is what actually constitutes "*significant and demonstrable*" progress in reducing the impact on the environment. The EESC therefore recommends that the Commission, in the implementation plan to be issued at a later point, describe the individual priority

areas in greater detail and ensure that EU financing for "eco-innovation" is channelled towards projects which contribute most efficiently to achieving the environmental goals of each sector.

3.5 The EESC also recommends that thought be given to specifying the areas in the action plan that are to be promoted as a priority. This might include those areas of environmental policy where a) for many years, Europe has only made very little progress, b) it is clear that some environmental goals will only be achieved with difficulty and c) the technologies remain expensive.

3.6 The EESC feels it is important to point out that particular attention should also be paid to what are known as small-scale, appropriate environmental technologies. As early as 2004, in its opinion on the "Realities and prospects for appropriate environmental technologies in the candidate countries" (NAT/203 of 31.3.2004), the EESC pointed out that a plethora of alternatives to large-scale, centralised solutions already existed or should be developed. Appropriate, decentralised and small-scale technological solutions are often of no interest to research bodies or investors, since very little or no money at all can be made from them, precisely because they are cheap, although they are nonetheless effective. The EESC recommends that the Commission incorporate into the new action plan the suggestions set out in the 2004 EESC opinion.

3.7 Consequently, eco-innovation comprises not only new technologies which make their way onto the market, but also ideas and concepts which can be put into practice without any major investment, but whose development depends less on companies which have to keep their share of the market or want to open up new markets.

3.8 The development of such appropriate solutions, inter alia for rural areas or less developed regions and countries, should therefore be driven forward with at least the same degree of intensity as companies' research and development projects.

3.9 The EESC endorses the action plan as a whole, particularly the announcement that obstacles will be subject to close examination, something it deems to be especially welcome.

4. **Specific comments**

4.1 It does, however, remain unclear how the above-mentioned obstacles could be eliminated, because first of all the obstacles to innovation (both technical and non-technical) need to be identified. This is a task of major importance.

4.2 One concrete example of this is the "2nd generation vegetable oil" project promoted under the EU's Seventh Research Programme. The aim of the project was to discover whether locally manufactured unrefined plant oils could be used to power farm tractors, while complying with European environmental and climate protection standards. The outcome: today's high-tech engines can indeed do this, with a simultaneous reduction in greenhouse gases of up to 60 %, a level which is far better than the minimum stipulated in the renewable energies directive.

4.3 Yet this technology, which can clearly be described as eco-innovation, will not be successful in the EU as long as a) fossil diesel fuel is given favourable tax treatment, b) the CO_2 component of scheduled energy taxation measures turns out to be as minor as planned and c) the use of vegetable oil is banned outright by law.

4.4 The Commission should therefore consider stipulating that there should be an additional small study for all such projects, providing indications as to possible or real obstacles. This should not entail academic analyses, but merely indications to policy-makers as to where additional implementation needs lie.

4.5 At the same time, the Commission needs to review all its directives and regulations - as well as structural fund and Common Agricultural Policy eligibility criteria - at regular intervals, to check whether they have to be adjusted to the latest environmental technology innovations.

4.6 Lastly, the EESC would like to highlight that this action plan, like many other documents, quite rightly points out that environmentally harmful subsidies have to be abolished. The EESC finds it all the more annoying that, despite its repeated calls, the Commission has not yet published a list of environmentally harmful subsidies, although it has been promising to do so for more than five years. If there is such a wide gap between words and action, there has to be doubt as to whether the Commission is seriously committed to this.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — European Strategy for a Better Internet for Children'

COM(2012) 196 final

(2012/C 351/15)

Rapporteur: **Antonio LONGO**

On 2 May 2012, the Commission decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions European Strategy for a Better Internet for Children

COM(2012) 196 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 134 votes to one with seven abstentions.

1. **Conclusions and recommendations**

1.1 The Committee takes note of this Communication, which seeks to put into practice one of the EU's commitments under *An EU Agenda for the Rights of the Child* (Action 9), i.e. to strengthen risk prevention and the empowerment and participation of children online, in a positive approach to the Internet as "a place of opportunities for children to access knowledge, to communicate, to develop their skills and to improve their job perspectives and employability" ([1]).

1.2 **An important aspect concerns the possibility of developing new high-level skills** relating to safety, content quality and new applications. This is important because the European market is not big enough to encourage adequate investment.

1.3 The Communication **sets out a comprehensive strategy** that will involve everyone in the development of this "**new eco-system**", which will be crucial in the coming decades; it thus warrants due consideration.

1.4 However, the EESC also points out a number of critical aspects and shortcomings which it invites the Commission to address by amending some choices and including new proposals in the strategy.

First of all, the EESC raises a fundamental concern about the general tenor of the Communication, which **seems to give more importance to business growth** than to creating a better Internet for children and ensuring the highest level of protection for them.

1.5 The EESC is convinced of the need to **first define a coherent framework of protection and guarantees for minors**, as guidelines for all those involved. In this respect, the Communication is not sufficiently concrete and detailed.

1.6 Another area of concern is the **effectiveness of self-regulation**. The EESC is firmly convinced that on **the most important issues**, such as data protection, privacy and combating child pornography, **precise and stringent rules** have to be adopted, with adequate sanctions including the immediate closure of the websites and the withdrawal of authorisations.

1.7 Special attention must go to **online advertising** ([2]). The Commission itself recognises the vulnerability of children but makes only generic commitments. The Committee finds the strategy vague and insufficient and calls for more precise and binding obligations for all operators in the sector.

1.8 The Committee also points out that there is no reference to **food advertising**, which is a cause for serious concern due to problems like obesity and eating disorders. The Committee urges the Commission to be consistent with its own statements, and therefore "to make sure that standards for advertising on websites for children allow a level of protection comparable to that of advertising in the audiovisual services".

([1]) EESC opinion on *Protecting children using the Internet*, OJ C 224, 30.8.2008, p. 61-66; EESC opinion on *The impact of social networking sites on citizens/consumers*, OJ C 128, 18.5.2010, p. 69-73.

([2]) EESC opinion on *A framework for advertising aimed at young people and children*, See page 6 of this Official Journal.

1.9 The Committee is not against creating public-private partnerships to develop new high quality content provided that the freedom and independence of NGOs is safeguarded and that such partnerships are not used to promote companies.

1.10 With regard to **involving children in the development of new content**, the Committee is in favour of all measures that enhance the creativity of young people but has serious reservations insofar as the measures to be supported are prevalently commercial, putting protection second.

1.11 The Committee shares **concerns about cybercrimes** such as child pornography and grooming and welcomes the Commission's intention to strengthen hotlines and continue successful EU programmes such as the Safer Internet Programme.

1.12 **Preventive action should also be stepped up against aspects constituting fraudulent online practices**, with regard to downloads such as ringtones and applications for mobile phones and tablets, EU legislation must be more stringent and national authorities must be reminded of their responsibility to regulate.

1.13 With regard to **data protection**, the Committee has already expressed its concerns and recommendations on this sensitive issue ([3]) and calls for more stringent constraints not only on EU businesses but also on all other operators in the EU market.

1.14 Furthermore, the EESC points out that the Communication does not include any references or measures **regarding the physical and psychological health risks for children, especially dependencies**. The Committee advocates incorporating these important aspects in the strategy or drawing up a new document.

1.15 Lastly, the EESC calls on the Commission to engage in ongoing, broad-based and in-depth monitoring of the issue of children and the Internet, because amassing such information is a vital prerequisite to selecting any course of action ([4]).

2. Gist of the Communication

2.1 According to the Council Conclusions on the Protection of Children in the Digital World of 28 November 2011, to deliver a Better Internet for Children a **combination of policies** is required at national, European or sectoral level to be included in a comprehensive strategy, which sets baseline requirements and avoids fragmentation.

2.2 The Commission is convinced that regulation remains an option, but, where appropriate, it should be avoided, in favour of more adaptable self-regulatory tools, and of education and empowerment.

2.3 The Commission's analysis first studies what it refers to as "Current gaps and problems", identifying them as market fragmentation and the market's inability to deliver protection and quality in the EU; difficulty in managing risks in order to build trust; and the realisation that the lack of skills among children amounts to a very real "digital skills deficit".

2.4 The Communication proposes a set of guidelines for the Commission, Member States, and the whole industry value chain, based a comprehensive strategy articulated around **four main pillars that mutually reinforce each other**:

— **stimulating quality content online for young people;**

— **stepping up awareness and empowerment;**

— **creating a safe environment for children online;**

— **fighting against child sexual abuse and child sexual exploitation.**

2.5 The final outcome of the substantial and compelling overall commitment that the Commission is advocating for Europe, the Member States and the industry's service and content providers is a "new eco-system", which could involve the implementation of ten actions:

— the production of creative and educational online content;

— the promotion of positive online experiences;

— digital and media literacy and online safety lessons in schools;

— awareness activities and youth participation;

— simple and robust reporting tools for reporting harmful content;

— age-appropriate privacy settings;

— wider availability and use of parental controls;

— the use of content classification (PEGI system);

— online advertising and control of overspending (telephone ringtones, etc.), online gambling;

— fighting against child sexual abuse and child sexual exploitation (online material, international cooperation, etc.).

([3]) EESC opinion on the *General Data Protection Regulation*, OJ C 229, 31.7.2012, p. 90.

([4]) Eurostat statistics date back to 2009; however, more recent findings are available at national level in various countries. EU Kids Online is an important project; it was set up in 2006 under the Safer Internet Programme and is on its third report (for 2011-2014), covering 33 countries.

3. **General comments**

a) *Positive aspects*

3.1 The Committee takes note of this Communication with great interest. The proposed strategy has its substantive justification in Article 3(3) of the Lisbon Treaty, which explicitly mentions the Union's obligation to promote the protection of the rights of the child, which are also enshrined in the Charter of Fundamental Rights of the European Union (Article 24).

3.2 It is also one of the commitments set out in *An EU Agenda for the Rights of the Child* ([5]), which foresees, under Action 9, support for Member States and other stakeholders in strengthening prevention, empowerment and participation of children to make the most of online technologies and counter cyber-bullying behaviour, exposure to harmful content, and other online risks.

3.3 The EESC welcomes the general approach, which views the Internet positively, as a place of opportunities for children to access knowledge, to communicate, to develop their skills and to improve their job prospects and employability ([6]).

3.4 Thus the Internet is viewed as a great opportunity, the use of which, however, presupposes skill, awareness, and the necessary information to avoid difficulties and risks. "Surfing" is a metaphor that is pregnant and rich with meaning because the Internet is seen as a natural, rather than pathological, environment, i.e. as a "sea" where movement has to be mastered so that its opportunities and resources can be fully exploited, with rules on conduct and attention to the dangers.

3.5 **The EESC endorses the Commission's decision to opt for the coordination of national policies** on a growing issue in a changing society.

3.6 **Yet another important aspect concerns the possibility of developing new high-level skills** relating to safety, content quality and new applications.

3.7 This is an important decision since in Europe it is still difficult for the market to commit the financial resources required to provide quality content and the European market is still not big enough to generate adequate investment.

3.8 **At the same time answers must be found to the widespread skills deficit among European children**, who despite being "digital natives", admit to having little knowledge of the IT skills that will qualify them for the job market.

3.9 Finally, the Communication warrants due consideration because it **sets out a strategy** where everyone is involved in the development of this "**new eco-system**", which will be crucial in the coming decades.

b) *Critical points and shortcomings*

3.10 However, the EESC also raises fundamental concerns about the general tenor of the Communication and draws attention to shortcomings in certain areas.

In its opening statements, the Communication already seems to make **business growth a predominant objective** or, at best, gives it the same importance as creating a better Internet for children and ensuring the highest level of protection for them.

3.11 Moreover, the Commission is quite candid about this in point 1.1, where it states: "Paying attention to the demands of children opens up a wide range of business opportunities". This is also the case in point 1.2 on current gaps and problems, which puts concerns about "fragmentation" and "failure of the market" first. Only afterwards does it mention "managing risks in order to build trust in services and content" and children's "lack of skills".

3.12 The Committee agrees with the Commission when it states that a coherent framework has been lacking in recent years and that measures with specific objectives have been taken, such as media channels or technological platforms. There is therefore no doubt that Europe needs to make a decisive breakthrough in terms of promoting the development of a sizeable and internationally competitive digital single market.

The EESC has supported the Commission's action on this particular point in many of its opinions.

3.13 However, it was and remains even more necessary to define a **coherent framework of protection and guarantees for minors** as guidelines for all those involved, ranging from Member States to the monitoring authorities and institutions and companies, schools and families. In this respect, the Communication is a missed opportunity.

3.14 Another area of concern is the **effectiveness of self-regulation**. The choice between laws, regulations, controls or self-regulation for preventing and combating Internet content that is potentially harmful to a child's psychological development, not to mention antisocial or criminal content, must reflect the children's age, the context and the effectiveness of each type of measure, each of which may be useful and effective ([7]).

3.15 The Internet has global reach and it is easy to move websites to countries that are not subject to EU legislation. Self-regulation may be the most effective and quickest way to take action pending an international agreement; it could be

([5]) COM(2011) 60 final, 15.2.2011.

([6]) Key priority of the EU's e-skills strategy – *e-Skills for the 21st century* – COM(2007) 496.

([7]) EESC opinion on *The proactive law approach: a further step towards better regulation at EU level*, OJ C 175, 28.7.2009, p. 26.

a temporary option pending regulation. However, there is no doubt that self-regulation often proves to be no more than a red herring. It is often breached by the very companies that have subscribed to it so it is advisable to back it up with regular monitoring and sanctions, which could come within the remit of the national regulatory authorities.

3.16 The EESC is firmly convinced that on **the most important issues**, such as data protection, privacy and combating child pornography, **precise and stringent rules** have to be adopted, with adequate sanctions including the immediate closure of websites and the withdrawal of authorisations.

3.17 Special attention must go to **online advertising**. The Commission itself recognises (point 2.3.4) that children "do not have a developed ability to engage critically with advertising messages", giving online purchases, gambling and ringtones as examples and pointing out that "all this may incur high charges". However, it then makes only generic commitments to step up the enforcement of existing EU rules, evaluate the relative effectiveness of self-regulatory codes, expand the Consumer Agenda, etc.

The Committee finds the strategy vague and insufficient and calls for more precise and binding obligations for all operators in the sector.

3.18 The Committee also points out that there is no reference to food advertising, which is a cause for serious concern due to problems like obesity and eating disorders.

4. **Specific comments**

a) *Quality content, skills and schools*

4.1 The Committee endorses the assertion that schools lack the relevant online teaching resources and *is not against* the creation of public-private partnerships involving parents, teachers and NGOs working to protect children and promote their rights provided that the freedom and independence of these NGOs is safeguarded and that such partnerships are not used to promote companies.

4.1.1 It is important to disseminate as widely as possible the numerous ongoing experiments in many countries, such as the creation of interactive text books using the "wiki method" ([8]), the development of virtual school communities to share experience, and the online availability of online distance self-training modules.

4.1.2 With regard to involving children in the development of new content, the Committee is in favour of all measures that enhance the creativity of young people and is well aware that some of them have been the source of major innovations in recent years, such as Google, Facebook, and Apple applications. However, the Committee is concerned by the Commission's tendency towards a prevalently commercial approach, which is more or less apparent at various points in the strategy, almost putting protection in second place.

4.1.3 It would be appropriate to involve high-level expert groups (developmental psychologists, educationalists etc.) in the development of quality teaching and interactive content for children so that they can recommend the most suitable materials for different age groups and the developmental processes that can be triggered; prepare short publications for teachers and parents; participate in setting age ratings for websites and videogames; and contribute to developing dedicated portals and stimulating, quality content.

4.1.4 Efforts to develop this content could be facilitated through EU support or national tax relief measures. It would also be advisable to set up a European programme for quality content and applications, which could be used mainly to promote start-up schemes for young people, who are celebrated innovation leaders when it comes to the Internet.

4.1.5 The EESC would take this opportunity to call on the Commission to improve its direct communication to children through the *Europa* portal, especially as regards the risks of the Internet, with special child-tailored content.

b) *Adult digital literacy*

4.2 In a situation that can be described as transitional, where generations of "digital natives" co-exist with generations which have only made a partial transition from a passive (TV, press, cinema) to an active use of the media, but are responsible for protecting children from possible harm, the best course of action is to continually improve adult digital literacy, especially for those involved in educating children at school, at home or through voluntary associations. We need to avoid the risk of our children becoming "digital orphans", without mentors to guide and help them to be masters of their own decisions.

4.2.1 The Commission could be more precise on this point and in the section where it refers to the Internet as a tool for developing creativity and learning. These two aspects must be combined in order to foster positive parental attitudes ([9]).

c) *Illicit and fraudulent content*

4.3 Risk prevention and the promotion of the Internet as an instrument for the development of children are inseparable aspects of the same process, which allows for objective

([8]) This is a reference to the drafting methods used by Wikipedia, a free online encyclopaedia and a product of cooperation between thousands of expert volunteers.

([9]) EESC opinion on *Enhancing digital literacy, e-skills and e-inclusion*, OJ C 318, 29.10.2011, pp. 9-18.

prevention. It is important to find a balance between the natural inquisitiveness of children and the barriers placed by prohibitions, which can delay or interfere with growing up and becoming independent.

4.3.1 In order to prevent cybercrimes such as child pornography, grooming, and to combat cyber-bullying, adults must be able to assess signs of uneasiness. For this reason, experts have to be involved – developmental psychologists, child neuropsychiatrists, paediatricians, expert counsellors and GPs – in the production of courses and materials for parents and teachers.

4.3.2 In addition, a technical solution could be sought as regards including an intuitive graphic symbol in all browsers – to be disseminated with sufficient publicity – which would function as an "emergency call" to send suspicious links to the relevant enforcement authorities in real time.

4.3.3 Preventive action should also be stepped up against aspects constituting fraudulent online practices, which primarily target children. More specifically, with regard to downloads such as ringtones and applications for mobile phones and tablets, EU legislation must be tightened up and national authorities must be reminded of their responsibility to regulate.

The Committee endorses the Commission's undertaking (point 2.3.4) "to make sure that standards for advertising on websites for children allow a level of protection comparable to that of advertising in the audiovisual services".

4.3.4 Special attention should be given to the cost of prevention and security software (filters, antivirus software, parental controls, etc.). We need to prevent the development of a "risk divide", whereby the most disadvantaged children, families and schools would be more exposed to online risk due to the high cost of software.

4.4 Nevertheless, prevention through education at home and in schools remains indispensable and central, upstream of enforcement measures. Training for teachers must be reinforced and Internet awareness incorporated in their studies. Furthermore, it might prove useful to define and disseminate a new type of "etiquette" on the use mobile phones and social networks, with common rules for children, teachers and families.

d) *Protection of personal data*

4.5 In recent years, the EESC has expressed its concerns regarding data protection in a number of opinions. The EESC calls for more stringent constraints not only on EU businesses but also on all other operators in the EU market. In particular, with regard to social networks, action has to be taken against apparent "simplifications" adopted by Google and Facebook, which in fact seem to take a "free-handed" approach to the commercial use of personal data obtained from user profiles. In this case, extra caution is needed where children are concerned ([10]).

e) *Health and dependency*

4.6 The Communication does not however include any references or measures regarding the physical and psychological health risks for children who spend much of their time online or playing with IT media: musculoskeletal and postural disorders; visual impairment; obesity; psychological dependency ([11]), tendencies towards isolation and escapism.

It would be a good idea to incorporate actions on this important aspect or to draw up an ad hoc document and undertake ongoing monitoring. The current European statistics are outdated, while the phenomenon continues to rapidly evolve.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([10]) EESC opinion on the *General Data Protection Regulation*, OJ C 229, 31.7.2012, pp. 90-96; EESC opinion on *The responsible use of social networks*, not yet published in the OJ.

([11]) Studies on "Internet addiction" date back to 1995, when Dr Kimberly Young set up the first "Center for Internet Addiction" in the USA (www.netaddiction.com). In recent years, major research has been carried out in Germany, Italy and the Czech Republic.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market'

COM(2012) 238 final

(2012/C 351/16)

Rapporteur: **Mr McDONOGH**

On 15 June and 25 June 2012 respectively, the Council of the European Union and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market

COM(2012) 238 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 144 votes to 1 with 8 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee welcomes the Commission's Proposal for a Regulation of the European Parliament and of the Council on electronic identification (eID) and trust services for electronic transactions in the internal market, which aims to strengthen the EU Single Market by boosting trust and convenience in secure and seamless cross-border electronic transactions.

1.2 The Committee strongly supports the advancement of the Single Market and it believes that the Regulation will increase the effectiveness of public and private online services, eBusiness and electronic commerce in the EU for the benefit of EU citizens who work or study in another EU country and for SMEs as they develop their cross-border business.

1.3 The Committee welcomes that the Regulation proposes an approach that is technology neutral and open to innovation.

1.4 However, the Committee believes that the Commission should have gone further with this Regulation and advanced the development of a *de facto* and *de jure* European eID for a defined set of services.

1.5 While recognising that the regulation of identity is a national competence, and respecting the principles of subsidiarity and proportionality, the EESC recommends that the Commission now considers how a standardised EU eID, available to be applied for by all citizens on a voluntary basis, could be introduced. A European eID scheme that was available to all citizens would facilitate the realisation of a truly single market for goods and services, providing substantial societal and service benefits including a higher degree of protection against fraud, a greater climate of trust between economic operators, lower costs of service provision, and a higher quality of service and protection for citizens.

1.6 The Committee recommends that the Commission develops a EU eID standard, analogous to standards developed by the European Committee for Standardisation (CEN). An EU eID standard would define the parameters for a European Union eID, while providing a focus for the harmonisation of the diverse national eID schemes, and a template for any new eID schemes to be introduced where none currently exist.

1.7 The EESC recommends that the Commission considers the possibility of beginning the introduction of an EU eID, available on a voluntary basis to all citizens, by creating a basic scheme to provide an EU-authenticated eID for a limited set of eCommerce consumer transactions.

1.8 Because there are currently no well developed national eID schemes for businesses (legal persons) in any of the 27 Member States, the Committee recommends that the Commission, while respecting the principles of subsidiarity and proportionality, should advance the case for an early introduction of a voluntary European eID scheme for legal persons that would include a defined set of parameters for all businesses in the EU.

1.9 The Committee welcomes the provisions in the proposed Regulation for the authentication of websites. The Committee believes that the early implementation of these provisions

would facilitate the development of the high-trust climate between consumers and businesses that is so vital to the digital single market.

1.10 The Committee calls again on the Commission to advance proposals for the introduction of a European Trustmark for businesses. As argued in previous Opinions by the EESC, a European Trustmark for businesses would greatly increase consumer confidence in online, cross-border commerce.

1.11 The EESC is pleased to see that the proposed Regulation takes account of the numerous Opinions by the Committee calling for cross-border harmonisation of eID, eSignature and trust services, as well as the Committee's concerns about upholding citizens rights to privacy and security while online ([1]). The Committee is also pleased to see that the draft Regulation includes the provision that the Member States will assume liability for their participating systems.

1.12 The Committee notes that the Regulation takes account of the technical standardisation and process development work of the STORK ([2]) projects to establish a European eID interoperability platform and implement a practical scheme which will create an internal market for eSignatures and related online trust services across borders. The Committee recommends that the Commission facilitates this critical effort and provides whatever support is necessary to accelerate the work.

1.13 The EESC recommends that the enactment of the proposed Regulation should be accompanied by an information campaign for citizens to explain how the cross-border eID and eSignature arrangements will operate in practice, and to assure them about any privacy and security concerns they might have.

1.14 As the digital society evolves and more critical public services are provided online, the Committee stresses the critical need for the Commission to maintain focused support for strategies aimed at accelerating digital inclusion across the Union.

1.15 The EESC asks the Commission to re-examine where the use of delegated acts is invoked in the Regulation and to advise the Committee why use of the power is essential to the implementation of the relevant Articles.

([1]) OJ C 97 of 28/4/2007, pp. 27-32
OJ C 228 of 22/9/2009, pp. 66-68
OJ C 44 of 11/2/2011, pp. 178-181
OJ C 54 of 19/2/2011, pp. 58-64
OJ C 318 of 29/10/2011, pp. 105-108
OJ C 229 of 31/7/2012, pp. 1-6

([2]) www.eid-stork.eu/.

2. **Background**

2.1 The eSignature Directive has been in place for over 12 years. The Directive has gaps, such as undefined obligation for national supervision of service providers, which are holding back cross-border eSignatures, and it does not cover many new technologies.

2.2 All countries in the EU have legal frameworks for eSignatures, however these diverge and make it de facto impossible to conduct cross-border electronic transactions. The same holds true for trust services like time stamping, electronic seals and delivery, and website authentication, which lack European interoperability. Therefore, this Regulation proposes common rules and practices for these services.

2.3 There are three key elements in the draft Regulation:

i. It upgrades the legal framework of electronic signatures replacing, the existing eSignature Directive. For instance, it allows you to "sign" with a mobile phone; it requires higher accountability for security; and it provides clear and stronger rules for the supervision of eSignature and related services.

ii. Through requiring mutual recognition between various national eID systems (different to harmonisation or centralisation), the Regulation extends the capabilities - the opportunities available with your existing eID - by making it functional across EU borders.

iii. Other trust services are included in the Regulation for the first time, meaning there will be a clear legal framework and more safeguards through strong supervision bodies for providers of services related to electronic seals, time stamping, electronic documents, electronic delivery and website authentication.

2.4 The proposed Regulation will not:

— oblige EU Member States to introduce, or individuals to obtain, national identity cards, electronic identity cards or other eID solutions,

— introduce a European eID or any kind of European database,

— enable or require the sharing of personal information with other parties.

2.5 Services likely to see greatest positive impact of greater eID use include, online tax collection, education courses and other social services, eProcurement and eHealth.

2.6 Through the STORK projects, which have involved 17 Member States working on the development of interoperability systems, the Commission and EU Member States have proven that cross-border mutual recognition of eIdentification works.

2.7 The draft Regulation is the last of 12 key actions proposed in the Single Market Act ([3]), as well as one of the proposals flagged in the eGovernment Action Plan 2011-2015 ([4]), the EU's Roadmap to Stability and Growth ([5]), and the Digital Agenda for Europe ([6]).

3. **General comments**

3.1 Creating a fully integrated digital single market is vitally important to the realisation of the Digital Agenda for Europe, the welfare of Europe's citizens and the success of EU businesses, especially the 21 million SMEs. Today 13 million citizens work in another EU country and 150 million shop online; however, only 20 % of EU shoppers online buy goods and services from another EU state. The creation of harmonised and interoperable pan-EU eID, eSignature and trust services (including website authentication, time stamping and electronic seals) is critical to advancing the digital single market.

3.2 It is essential to promote the development of e-procurement, to improve efficiency, transparency and competition. The current take-up of e-procurement is slow, with no more than 5 % of EU procurement procedures allowing for electronic processing.

3.3 It is regrettable that in the absence of a European eID card scheme, numerous and diverse national schemes have been developed. The EESC recognises that the policy now proposed by the Commission in this draft Regulation, to facilitate the creation of a fully integrated digital single market by 2015 ([7]), is directed towards the mutual legal recognition of the diverse national notified eID schemes and at creating a concrete technical interoperability of all notified schemes.

3.4 The Committee notes the evolutionary approach taken by the Commission in the creation of this Regulation, which builds on the eSignature Directive ([8]), to ensure that people and businesses can use their own national electronic identification schemes (eIDs) to access public services in other EU countries where eIDs are available.

3.5 However, the Committee believes that the EU needs a standardised European eID scheme for all citizens and businesses and it regrets that the Regulation does not attempt to advance the development of a common European eID. Although the Regulation will require all Member States to accept all national eID schemes notified under the Regulation, it will permit countries to decide whether or not to notify their national schemes, and it also respects the preferences of those Member States without a national eID scheme.

3.6 Although the proposed Regulation respects national sovereignty and does not make it obligatory for all citizens in the EU to have an electronic identity (eID), the benefits of a universal European eID scheme should be considered. In time, those citizens without an eID will find themselves disadvantaged. To enjoy equality of opportunity, every citizen will need an eID that can be used across all borders in the EU.

3.7 The implementation of interoperability systems across the EU is critical to the successful delivery of seamless electronic transactions dependent on eID and the delivery of trust services, and much work still needs to be done to deliver a full European eID interoperability platform.

3.8 There should be a Europe-wide information programme to advise people about how to use eID, eSignature and trust services so that they are able to properly protect their online privacy and security. The awareness and information campaign should be implemented so as to communicate with citizens at different levels of information need and digital understanding.

3.9 Many people have privacy and security concerns when transacting business on digital services. These concerns are magnified when they do not understand the technologies being used to provide those services and this creates unnecessary fear and resistance. More effort needs to be made by public bodies and Member States to explain how personal privacy and security is protected when using notified eID and eSignature technologies. In this regard, the EESC notes that the proposed scheme on trust services has been designed so that no unnecessary data is revealed or exchanged and to avoid the centralisation of information.

3.10 The Committee has called on the Commission in previous Opinions to advance proposals for the implementation of an EU certification scheme, a European Trustmark, for businesses operating online. A European Trustmark would provide assurance that the business is fully compliant with European law and that a consumer's rights will be protected. Such a scheme would increase consumer confidence in online commerce.

3.11 The Committee is concerned that as Europe becomes more digitally connected, using eID and trust services, it is vital that all citizens have access to the technology and skills that

([3]) COM(2011) 206 final.
([4]) COM(2010) 743 final.
([5]) COM(2011) 669 final.
([6]) COM(2010) 245 final.
([7]) EUCO 2/1/11 and EUCO 52/1/11.
([8]) Directive 1999/93/EC.

enable them to benefit equally from the digital revolution. Digital inclusion is still a big issue for the EU where a quarter of the population has never used the Internet; age, gender and education remain the key challenges.

4. **Specific comments**

4.1 While respecting the principle of subsidiarity, the EESC recommends that the Commission considers how an EU eID card for all citizens could be introduced. Perhaps this might be achieved by defining a standard set of parameters that could be included in any national eID scheme to confer EU eID status and by the introduction of a EU-authenticated eID for a specified set of services. Thus citizens might apply for a EU eID, on a voluntary basis, to use when no national scheme exists.

4.2 The Committee would like the Commission to consider introducing an EU eID by creating a basic scheme to provide a limited EU-authenticated eID for online eCommerce consumer transactions. Authentication of this European eID could be centrally managed by a EU-controlled authority that would provide consumers and merchants with the high degree of trust and security they require.

4.3 Because there are currently no well developed national eID schemes for businesses (legal persons) in any of the 27 Member States, the Committee recommends that the Commission seizes the opportunity now to promote the early introduction of a European eID scheme for legal persons. The design of such a scheme should of course respect the principles of subsidiarity and proportionality. By acting now, the EU would avoid the harmonisation problems caused by the myriad of diverse national eID schemes for citizens that have developed in the absence of a universal European eID card. Furthermore, the implementation of a European eID scheme for legal persons would create immediate commercial benefit for Europe's 21 million SMEs as they grow cross-border business.

4.4 The Committee notes that in 16 of the 42 Articles in the draft Regulation the power to adopt delegated acts ([9]) is conferred on the Commission. Whereas the EESC understands that delegated acts are required to facilitate the implementation of some technical aspects of the Regulation and provide the Commission with flexibility in this regard, the Committee is concerned about such extensive use of these powers. The EESC fears that the safeguards concerning the use of delegated acts ([10]) may not be adequate for ensuring that the Council and the European Parliament will have effective control of the Commission's exercise of these powers, which has consequences for the legal security and certainty of the mechanism.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([9]) Article 290 of the Treaty on the Functioning of the European Union.

([10]) Safeguards as contained in Article 290 of the Lisbon Treaty and the Common Understanding of the European Parliament, the Council and the Commission on the functioning of Article 290 of the TFEU.

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — Trade, growth and development — Tailoring trade and investment policy for those countries most in need'

COM(2012) 22 final

(2012/C 351/17)

Rapporteur: **Ms PICHENOT**

On 27 January 2012, the European Commission decided to consult the European Economic and Social Committee under Article 304 of the Treaty on the Functioning of the European Union on

Trade, growth and development — tailoring trade and investment policy for those countries most in need

COM(2012) 22 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 127 votes to 1 with 6 abstentions.

1. **Conclusions and recommendations**

1.1 *Background*

In 2012, following a decade of proactive policies connecting trade and development, the European Commission has produced a communication, *Tailoring trade and investment policy for those countries most in need* [1], which makes a rather cautious assessment of the results of that policy in a world in complete upheaval. The developing countries now account for more than 50 % of world trade. The greatest potential for growth in the coming years is in South-South trade. Barriers to trade have themselves changed, taking the form of non-tariff barriers to a greater extent than in the past, which poses a serious problem for developing-country exports.

In this context, the EESC highlights the importance of better integration of developing countries in regional and international trade. It supports the EU's commitment to multilateralism and the early conclusion of a WTO agreement benefiting the least developed countries (LDCs). However, the EESC emphasises that trade remains a means, not an end. In a changing world, with unprecedented environmental pressure and growing inequalities, the challenge today is to make trade policy part of a new, more inclusive and more sustainable form of development.

1.2 *Points which the Committee supports*

The new communication on trade, investment and development should be welcomed as the outcome of effective collaboration between the European Commission's Directorates-General. The EESC acknowledges the quality of civil society's contribution to the public consultation and the relevance of the analysis, as well as the efforts to achieve consistency and to implement the trade-related aspects of the Agenda for Change [2]. It particularly welcomes the attention given to the impact, monitoring and evaluation of trade policies, which provides better bases for a pragmatic approach to the link between trade and development. The EESC, together with its partners, is involved in this monitoring and would like to see an assessment of the barriers to trade and investment which may affect certain developing countries.

The EESC shares the interest in access to credit and aid for trade for private operators, particular micro-, small and medium-sized enterprises, as well as support for local and regional trade between small farmers. The EESC reminds the leaders of developing countries of the importance of creating a secure investment climate in their countries and of the key role of supply in development.

The EESC supports the Policy Forum for Development, the initiative from the Commission's Directorate-General for Development and Cooperation (DEVCO) aimed at putting in place a structured dialogue on development, which will be in the interim phase until 2013.

1.3 *Points on which the Committee has criticisms*

Faced with a world in complete upheaval, a climate emergency and a growing gap between emerging and non-emerging countries, the communication merely fine-tunes policies, including

[1] Trade, growth and development. Tailoring trade and investment policy for those countries most in need, COM(2012) 22 final.

[2] Increasing the impact of EU Development Policy: an Agenda for Change, COM(2011) 637 final.

giving a retrospective justification of the reform of the Generalised System of Preferences (GSP). Constructing a new vision for development should become a priority both for the EU and for its partners, whose capacity needs to be strengthened with a view to inclusive and sustainable development. The Committee calls for a broad debate with civil society in order to move forward in this direction.

The communication also remains reticent on certain important subjects. In particular, it does not draw all the lessons of its analysis of the fragmentation of trade. The communication confirms that countries can be divided into three groups from the point of view of trade: the LDCs, whose share of world trade remains marginal; the rapidly-growing emerging countries; and between those two groups, the "middle countries". Since the communication focuses on the countries "most in need of aid", it does not deal in detail with the trade treatment granted to these "middle countries", even though they represent the majority of developing countries. A more restricted GSP cannot take the place of a development strategy.

Finally, the EESC warns of the limitations of differentiating between countries on the basis of income (GDP) alone. Better differentiation between developing countries by going beyond the national income criterion (as has been done for the LDCs) is a promising area of work, which the EU should continue to support in international fora. The EU already has the opportunity to raise this issue in the discussions on the post-2015 Millennium Development Goals and the Sustainable Development Goals (SDGs).

1.4 *The Committee's recommendations*

The EESC recalls the importance of producing *sui generis* development strategies that combine domestic and trade policies with a view to sustainable and inclusive growth. Domestic measures to strengthen the rule of law, correct market failures and protect the economic and human environment are essential for a development strategy. Without these elements, trade can make only a limited, marginal contribution to development, particularly in agriculture.

The Committee reiterates its recommendation to incorporate the sustainable development impact assessments in a broader cycle of ex-ante to ex-post impact assessments of trade policies which also covers the Europe 2020 goals.

The EESC encourages the EU to integrate the June 2012 ILO (International Labour Organisation) conclusions on the social protection floor more closely into its trade strategy regarding developing countries.

The EESC recommends integrating sustainable development provisions within the overall evaluation of free-trade agreements through procedures for the regular monitoring and *ex post* analysis of these agreements by the EESC. The Committee also wishes to see the inclusion in the sustainable development provisions of all trade agreements of a specific commitment to monitoring and evaluating the impact of the agreement as a whole on sustainable development.

The EESC encourages the EU to promote duty- and quota-free access for products from the LDCs more strongly in multilateral fora. Strengthening LDCs' ability to negotiate so they can sign "South-South" trade agreements could also become an EU priority.

The EESC calls on the EU to launch a debate on the future of the Economic Partnership Agreements (EPAs) in the face of the ongoing gridlock. The EESC wishes to be closely involved in this process and believes that it is important for the specific characteristics of "middle countries" to be taken into greater account during this debate.

2. **Lessons to be drawn from the fragmentation of international trade**

2.1 Since 2006, for the first time since the industrial revolution, developing countries are now accounting for over 50 % of international trade. For ten years now, we have been seeing the start of convergence between the incomes of developing and developed countries, still referred to as "catching up". These two phenomena are linked to the lowering of tariff barriers across the world and to the role played by emerging countries, particularly China, in world trade. The geography of industrial trade is shifting towards Asia. That of agricultural trade is shifting towards Brazil. At the same time, the composition of trade is being transformed, with trade in goods being joined by trade in tasks: most of the products traded in the world are intermediate rather than finished products. Three groups of countries can be identified: LDCs, whose share of world trade remains marginal; the rapidly-growing emerging countries; and between those two groups, the "middle countries", which represent the majority of developing countries.

2.2 However, the recent start of this economic convergence conceals significant differences in the speed with which different countries are catching up, with non-emerging developing countries lagging behind. This is the first respect in which trade is unequal as between the poorest countries and the others. Although all countries gain from trade, some specialisations provide greater added value than others and, in general, it is still the specialisations of the poorest countries which are (relatively) the least profitable. Those countries are "trapped" in the exploitation of a handful of extractive and tropical agricultural resources in which they have an absolute advantage in trade, but the return from which tends to decrease over time as compared with that of industrial and service activities.

2.3 The steady increase in the prices of mining and agricultural raw materials, particularly as a result of increasing demand from emerging countries, may seem to be a godsend for the developing countries that export those products. On the contrary, it threatens to entrap them in specialisation in

primary products and expose them to the "curse of raw materials" (poor resilience to shocks, instability of export revenues and public budgets and a propensity to extraction of rents and financing of armed conflicts) and to the phenomena of overvalued exchange rates and land-grabbing. Diversification of exports is necessary for the sustainable development of an economy. However, the market threatens to reinforce the historical dependence of developing economies on these products.

2.4 Economic catch-up is also accompanied by growth in inequality within countries. It is up to the state to ensure a fair distribution of the gains from trade liberalisation across the whole economy and territory. Gains from trade and growth do not automatically spread to all economic participants, particularly not to the most vulnerable. That is why it is important to produce *sui generis* development strategies that combine domestic and trade policies with a view to sharing growth. With their limited tax base and weaker budgetary capacity, developing countries here face a second disadvantage.

2.5 While the geography and composition of trade are being transformed, industrial and trade policies are also evolving. In the last ten years, the integration of developing countries in world trade has been transformed due to the erosion of trade preferences and the proliferation of regional and bilateral agreements. In its working document, the Commission notes a persistent marginalisation of the LDCs in world trade. The interventionist approach of the 2002 communication, introduced with a view to concluding the Doha development round, was not enough to lead to a substantial increase in the integration of the LDCs in world trade: almost all trade goes on without them.

2.6 Competition no longer occurs at borders, but within countries. In general terms, with the exception of certain tariff lines, barriers to trade increasingly take the form of non-tariff barriers such as standards, codes, subsidies and regulations. In this respect, the emergence in international trade of the BRICS is less a demonstration of the benefits of trade liberalisation alone than of the benefits of clear, planned, appropriate and autonomous development strategies combining interventionist public policies with market incentives. On the other hand, the absence of a development strategy and of the ability to influence globalisation constitutes a third inequality to which the least developed countries are exposed.

2.7 Inequality of *income* from trade specialisation, inequality of ability to *finance* green, inclusive growth and inequality of political capacity to *design, plan and manage* development strategies constitute the three inequalities which affect the least advanced countries in "modern" trade. They are interconnected, and are likely to grow in the absence of appropriate collective action combining trade, investment and development cooperation policies, as advocated by Millennium Development Goal No 8.

3. **The need for a European strategic vision, in line with the Europe 2020 strategy, in a changing world**

3.1 The Commission Communication on trade, growth and development reaffirms the broad principles of the 2002 communication, but emphasises the need to differentiate between developing countries so as to focus on those which need aid the most. On that basis, the Commission sets out six priorities for the present decade: more targeted trade preferences, more effective aid for trade, promotion and protection of foreign direct investment, modulated negotiation of full free-trade agreements according to the income of the countries concerned, promotion of good governance (including sustainable development), and finally strengthening the resilience of the most vulnerable countries to external and internal shocks.

3.2 The EESC supports these priorities, which reflect continuity, but emphasises that they only partly address today's three main development issues. The new communication on trade, growth and development has been put together on the basis of the very useful material collected during the excellent public consultation that took place on the subject in 2011 and should be welcomed as the outcome of effective collaboration between Directorates-General. It complements the communication on trade, growth and world affairs, which remains the backbone of the link between trade and the Europe 2020 strategy. The communication on the link between trade and development lacks a renewed vision of the future going beyond the progress made on specific points, such as greater differentiation between developing countries and increasing focus on private operators.

3.3 As the Commission emphasises in the study which preceded the communication, integration into the world market is neither an end in itself nor a sufficient condition for development. Trade liberalisation and access to markets are not a development strategy, only elements of one. Domestic measures to strengthen the rule of law, correct market failures and protect the economic and human environment are essential for a development strategy and are preconditions to achieving gains from trade, particularly in agriculture.

3.4 Without a shared vision of development, the political initiatives put in place by the European Union to give privileged access to foreign markets, such as the GSP and the Economic Partnership Agreements (EPAs), have not led to the expected burst of growth. The greatest worry is not the limited economic benefits of these initiatives for developing countries, but the weak political commitment shown by the developing countries concerned by them. It would be worthwhile for the EU to state more clearly the precise scale of the expected gains, both for itself and for its partner countries, from reducing tariff

and non-tariff barriers. Finally, it is up to the EU to demonstrate that its external policy in relation to the ACP countries, which prioritises the regional dimension of trade (EPAs) ([3]), is coherent, given that development and growth policies in those regions remain national.

3.5 The situation is the same at multilateral level. By contrast with the situation in relation to negotiations concerning climate change, where developing countries, particularly non-emerging ones, have taken hold of the issues under negotiation, the non-emerging developing countries continue to have little or no involvement in the Doha round. In addition, the priorities and needs of the countries that receive aid for trade are still poorly defined, due to the fact that those countries lack the necessary capacity and policy space to produce sustainable development strategies.

3.6 In the European Union's defence, international development cooperation still operates in the spirit of agreements between sovereign nation states. In practice, however, such diplomacy must be carried on with fragile states with limited capacities. The result at present is that trade is neglected in development strategies and aid programming. Constructing a new vision for development should become a priority both for the EU and for its partners, whose capacity needs to be strengthened to that end. Implementing national policies is the key to making trade contribute to development. In the near term, pragmatism, trial and error and experimentation should guide the EU's activities in the trade for development field and should contribute to building such a vision in line with the Europe 2020 strategy.

4. **A pragmatic approach to trade and investment to support a development vision**

4.1 *Developing capacity and tools for monitoring and evaluation of the impact of trade*

4.1.1 The empirical nature of the link between trade and development makes it necessary to develop a pragmatic approach to trade policy, in a spirit of learning and experimentation. Whether a trade agreement is good for development or not is not something that can be determined or asserted in advance. The EESC repeats its recommendation, expressed in an earlier opinion, to make sustainable development impact assessments part of a broader cycle of evaluation of the consequences of trade policies running from *ex ante* to *ex post*, taking into account the European goals of the Europe 2020 strategy.

4.1.2 Monitoring and evaluation are particularly necessary in relation to flanking policies to trade agreements, to improve their performance through successive reviews. That is also the case for examination of the "sustainable development" provisions which should, the EESC reiterates, be included in every EU trade agreement. The EESC recommends integrating sustainable development provisions within an overall evaluation of free-trade agreements through procedures for the regular monitoring and *ex post* analysis of these agreements by the EESC. The Committee also wishes to see the inclusion in the sustainable development provisions currently being negotiated of a specific commitment to monitoring and evaluating the impact of the agreement as a whole on sustainable development.

4.1.3 Regularly assessing the effectiveness and impact of trade facilitation and of the various forms of access to markets which the EU offers to developing countries (such as special and differential treatment, EPAs and the GSP) should also allow consolidation of what are today the essential elements of EU policies. Independent, scientific impact assessment is at the heart of the overhaul of official development assistance (ODA) policy. Aid for trade – the amount of which exceeded EUR 10 billion in 2010 – would benefit in terms of effectiveness and relevance from the production of indicators making it possible to assess its impact.

4.1.4 Beyond the GSP, further flexibilities from which developing countries could benefit are still unused. In line with an earlier opinion, the EESC supports any EU initiative that aims to encourage developing countries to make use of the provisions relating to food security. It is particularly necessary, within multilateral, regional and bilateral frameworks, to make it easier for them to use the available trade instruments, such as safeguard measures that allow them to act in the event of import surges that could undermine local food production ([4]) and to measure their effects.

4.1.5 The EESC repeats its recommendation, set out in an earlier opinion ([5]), to give resource and regulatory support to the development of improved transparency, monitoring and credibility of fair trade. The EESC also supports systematic assessment of the impact of fair trade, not only on the intended beneficiaries but also on non-beneficiaries in regions that produce the same products.

([3]) See the final declaration of the 12th regional seminar of the ACP-EU economic and social interest groups, Santo Domingo, 5 and 6 July 2012: http://www.eesc.europa.eu/resources/docs/12regional-seminar-domrep2012-final-declaration_en–2.pdf.

([4]) EESC opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Trade, Growth and World Affairs: Trade Policy as a core component of the EU's 2020 strategy. OJ C 043, 15.02.2012.

([5]) EESC opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Contributing to Sustainable Development: The role of Fair Trade and non-governmental trade-related sustainability assurance schemes COM(2009) 215 final, OJ C 339, 14.12.2010.

4.1.6 In line with the 2010–2013 work programme on policy coherence for development, it is essential to assess the coherence of the trade instruments that involve the EU, particularly those concerning access to medicines, intellectual property rights and decent work. The EESC encourages the EU to integrate the June 2012 ILO conclusions on the social protection floor more closely into its trade strategy for developing countries.

4.1.7 The EESC supports extending the monitoring and assessment of barriers to trade and investment from which certain developing countries may also suffer.

4.1.8 If learning and evaluation are to be effective and lead to trade policy reforms that support development, civil society must be heavily involved, more than at present, particularly within the monitoring mechanisms for trade agreements and economic partnership agreements.

4.2 *Support for private operators in developing countries*

4.2.1 The EESC recognises the fact that the communication focuses on the key role of private operators, particularly the small farmers and small entrepreneurs who are the backbone of the economy in several developing countries. The Committee emphasises the importance of promoting responsible business management, encouraging partnerships between the private and public sectors and recognising different forms of entrepreneurship such as cooperatives, mutual societies and other forms of social economy enterprises ([6]). It agrees that it is important to create a secure investment climate, stable business law, fair taxation and an effective and predictable legal system that guarantees the legal security of national and foreign investments. The EESC emphasises the importance of e-commerce infrastructure and services as part of a strategy of strengthening and diversifying export supply.

4.2.2 The EESC supports measures aimed at facilitating access for small farmers and small entrepreneurs to aid for trade, allowing them to take advantage of the benefits of trade, and at promoting policies that lead to a shift from the informal sector to registered activities. In this context, the EESC notes the timeliness of the joint ILO-WTO study ([7]), according to which "the high incidence of informal employment in the developing world suppresses countries' ability to benefit from trade opening by creating poverty traps for workers in job transition". Actions in support of gender equality and support for the employment of women will contribute to this transfer from the informal sector to registered activities. The priority given to the fight against corruption and to infrastructure development should be maintained. The cooperation in combating corruption between the social partners and other civil society organisations within the Euromed partnership could provide material for learning.

4.2.3 The EU's comparative advantage as compared to that of other national and multilateral institutions in supporting private operators, regardless of business form, should be strengthened so as to improve the efficiency of its aid for trade instruments, particularly as South-South trade increases. The EU must ensure that its delegations in third countries have human resources commensurate with the issues at stake, and must involve the delegations more in capitalising on experience on the ground.

4.2.4 Professional organisations, which are highly active in the private sector, can make a significant contribution to identifying the cooperation needs of partner countries. Closer consultation of such organisations through the EESC should help bring the supply of – and demand for – cooperation into line. The negotiation of EPAs and the drawing up of Poverty Reduction Strategy Papers under the aegis of the World Bank have made a start by helping to strengthen and give structure to professional organisations in developing countries.

4.2.5 As the Commission highlights, the Committee welcomes the notion that corporate social responsibility helps promote the conditions for fair worldwide competition in trade and investment. It is clear that large businesses of European origin have played a pioneering role in bringing in social, environmental and governance rules in the context of trade by way of International Framework Agreements covering subcontractors. Signing up to the OECD guidelines, which have the advantage of including a complaints mechanism in case of disputes, is therefore a good idea. Those principles also refer to the need to publish relevant, reliable and verifiable social information on an annual basis, something which should apply across the board.

4.3 *Preparing reforms to global governance*

4.3.1 The provision of cooperation in the field of trade and development should be broadened to involve the emerging countries alongside the OECD countries, which have historically provided official development aid and privileged access to markets. It is the emerging countries that currently have the most room for manoeuvre. In particular, the EESC encourages the EU to promote effective duty- and quota-free access for products from the least developed countries (LDCs) more strongly, not only in multilateral fora (particularly the G20) but also in its bilateral relations with emerging countries. Strengthening LDCs' ability to negotiate "South-South" trade agreements could also become an EU priority.

([6]) EESC opinion on Social Economy in Latin America, OJ C 143, 22.05.2012.

([7]) Globalization and Informal Jobs in Developing Countries, joint WTO/ILO study, 2009.

4.3.2 The EESC insists that every effort should be made to conclude the Doha development round, at the very least by way of an early agreement in favour of the LDCs alone and involving a broad commitment from donors, both members and non-members of the Development Assistance Committee (DAC). The EESC reiterates that it wishes to see 2015 – the target date for the Millennium Development Goals (MDGs) – being dedicated to international cooperation. The results of the MDGs and the prospects opened up by the Rio+20 sustainable development summit will be the subject of an opinion by the Committee in parallel with the consultation.

4.3.3 At the same time, the EU's trade and development strategy is not limited to more reciprocity with emerging countries on the one hand and duty-free access for products from the least developed countries on the other. The non-emerging developing countries or "middle countries", which fall between these two groups, constitute partners with which the EU could develop mutual interests. They could be important allies in the promotion of better governance, a key objective of the EU. As a result of the priority given to the countries most in need of aid, the communication lacks an explicit strategy other than a more restricted GSP.

4.3.4 Better differentiation between developing countries, by going beyond the national income criterion alone (as has been done for the LDCs), is a promising current area of work in terms of improving the effectiveness of special and differentiated treatment and aid for trade. The EU could raise this issue in the discussion on the post-2015 MDGs and the Sustainable Development Goals (SDGs).

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and repealing Council Regulation (EC) No 1288/2009'

COM(2012) 298 final — 2012/0158 (COD)

(2012/C 351/18)

Rapporteur-General: **Mr CURTIS**

On 5 July and 10 July 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 43(2) of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and repealing Council Regulation (EC) No 1288/2009

COM(2012) 298 final — 2012/0158 (COD).

On 10 July 2012, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr CURTIS as rapporteur-general at its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September), and adopted the following opinion by 122 votes to 1, with 2 abstentions.

1. **Conclusions and recommendations**

1.1 In view of the fact that the temporary technical measures provided for in Council Regulation (EC) No 1288/2009 will cease to be applicable on 31 December 2012, the European Economic and Social Committee agrees with the Commission proposal to ensure legal certainty while a new technical measures framework Regulation is being developed as part of the reform of the Common Fisheries Policy.

1.2 These technical measures are important for sustainable fishing, and their continuity needs to be ensured. Discontinuation of these measures, even temporarily, would have negative consequences for the conservation of stocks as well as for vulnerable deep-sea habitats – including in a number of NATURA 2000 sites. Their discontinuation would also imply that a number of justified and accepted derogations from provisions of Regulation (EC) No 850/98 would cease to apply.

1.3 The Committee suggests that the previous method of extending the application of the transitional technical measures in Regulation (EC) No 1288/2009 for an additional period of 18 months is maintained, instead of their incorporation into Regulation (EC) No 850/98.

2. **Background**

2.1 On 4 June 2008, the Commission submitted a proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures ([1]), intended to replace Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and to provide for permanent implementation of the technical measures laid down in the annual Regulation on fishing opportunities on a transitional basis.

2.2 The European Economic and Social Committee issued an opinion on this proposal, which, following the relevant procedures, was approved by the Committee's 451st plenary session on 25 February 2009 ([2]).

2.3 The Commission's processing of the regulation corresponding to this proposal was hindered in 2009 by the negotiations on the adoption of the Lisbon Treaty.

2.4 In the intervening period, and in view of its urgency, Regulation (EC) No 43/2009, establishing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, was adopted ([3]).

2.5 In the meantime, and while the proceedings for the Council Regulation on technical measures continued during 2009, the measures provided for in Annex III of the aforementioned Regulation (EC) No 43/2009 ceased to apply, since their period of application had come to an end.

([1]) COM(2008) 324 final.

([2]) OJ C 218, 11.9.2009.

([3]) OJ L 22, p. 1, 26.1.2009, p. 1.

2.6 For this reason, for reasons of legal certainty and to maintain the proper conservation and management of marine resources, Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011 ([4]) was adopted, providing for the continuation of temporary technical measures catered for in Annex III to Regulation (EC) No 43/2009 for a transitional period of 18 months.

2.7 In view of the new requirements of the Lisbon Treaty, in 2010 the Commission withdrew the 2008 proposal.

2.8 The transitional measures were further extended for another 18 months under Regulation (EU) No 579/2011 as it had not yet been possible to incorporate them into the existing technical measures Regulation (EC) No 850/98 (or a new Regulation replacing that Regulation) by 30 June 2011.

2.9 It is the intention of the Commission to revise Regulation (EC) No 850/98 after and in accordance with the Common Fisheries Policy reform which is currently in the process of negotiation. Thus a new technical measures Regulation cannot be ready for entry into force by 1 January 2013. Consequently, a solution is needed to ensure that the transitional technical measures are maintained after 31 December 2012, to allow time to develop a new framework for technical measures.

2.10 The result of the above is the proposal for a Regulation of the European Parliament and of the Council, the subject of this draft EESC opinion, amending Regulation (EC) No 850/98 to incorporate the technical measures in question.

3. **Comments**

3.1 In article 34b, it would be clearer to place paragraph 3 after paragraph 1: the exceptions immediately after the general prohibition, like it is done in Regulation (EC) No 43/2009, and only afterwards the requirement for a special fixed net fishing authorisation (paragraph 2 in the current proposal).

3.2 The exception in paragraph 9.12 of Annex III of Regulation (EC) No 43/2009, in force until 31 December 2012, should be extended. Precisely, during the last quarter of 2011 and the first semester of 2012, a research programme in depths greater than 600 metres has shown low levels of shark by-catches that should grant this derogation to the anglerfish gillnet fleet, once the report is validated by the Scientific, Technical and Economic Committee for Fisheries.

3.3 Paragraphs 1, 2, 4, 5a, 5b, 5c, 5d, 17 and 18 from Annex III of Regulation (EC) No 43/2009, applicable until 31 December 2012, are not reflected in the proposal. The Commission has explained that 5a, c and d are redundant as of from 1 January 2010; 1 and 2 were omitted and will not be re-included at the request of Denmark; 17 and 18 are included in the proposal under point 6 and point 3 respectively.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([4]) OJ L 347, p. 6, 24.12.2009, p. 6.

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on accounting rules and action plans on greenhouse gas emissions and removals resulting from activities related to land use, land use change and forestry'

COM(2012) 93 final — 2012/0042 (COD)

and on the

'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Accounting for land use, land use change and forestry (LULUCF) in the Union's climate change commitments'

COM(2012) 94 final

(2012/C 351/19)

Rapporteur: **Ludvik JÍROVEC**

On 12, 15 and 26 March 2012, the European Commission, the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Articles 192(1) and 304 of the Treaty on the Functioning of the European Union (TFEU), on the:

Proposal for a Decision of the European Parliament and of the Council on accounting rules and action plans on greenhouse gas emissions and removals resulting from activities related to land use, land use change and forestry

COM(2012) 93 final — 2012/0042 (COD)

and the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Accounting for land use, land use change and forestry (LULUCF) in the Union's climate change commitments

COM(2012) 94 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 185 votes to one with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee welcomes the Commission's proposal. In the Committee's view, this is an ambitious proposal that reacts to the need for a more rigorous accounting system that aims to incorporate the recommendations of international agreements into EU legislation. When preparing and drawing up legislation, the Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament, the Council and civil society. The Commission should conduct appropriate consultations, including with experts, in relation to the updating of definitions in the light of changes adopted by the United Nations Framework Convention on Climate Change (UNFCCC) or Kyoto Protocol bodies or definitions adopted on the basis of other multilateral agreements. It is very important to ensure the compatibility of the proposal with decisions taken in the UNFCCC context.

1.2 Bearing in mind that a universal legal agreement on climate change is to be negotiated by 2015 that would be effective – according to plans so far – by 2020, the EU should now be focusing on developing fair and climate-effective models which encourage climate change mitigation, in order to support the negotiations for a global agreement. LULUCF plays an important role in this and so it is important to have common rules for calculating both emissions and emission sinks.

1.3 The Committee thinks that a holistic assessment is needed that is geared towards reducing greenhouse gas emissions in agriculture, considering all greenhouse gas fluxes (emissions as well as removals) from cropland and grazing land, together with agricultural and livestock activities. By contrast, reporting and accounting for greenhouse gas emissions from agriculture and livestock activities are already mandatory under the Kyoto Protocol, and they are also covered by the emission limits of the "Effort Sharing Decision" [1].

1.4 The Committee has concluded that this complex issue needs to be explored in more depth and taking account of the wider context of EU climate change policy and the EU's energy needs. The Committee proposes increasing the visibility of

[1] Decision No 406/2009/EC.

mitigation efforts in agriculture, forestry and related industries, providing a basis for designing appropriate policy incentives e.g. in the Common Agricultural Policy, and levelling the playing field between Member States.

1.5 The Commission should direct its attention to all possible policies, not just those related to the environment and the natural world, and should seek synergy effects by linking these policies.

1.6 The forestry sector is not considered holistically, nor is its multifunctional role, namely as a producer of biomass for renewable energy, taken into account. The EESC welcomes the EU proposal to include harvested wood products (HWP) in the accounting rules. Taking into account the carbon stock in these products enhances the role of wood and wood products in the evaluation and assessment of climate impact.

1.7 The EESC welcomes the creation of national action plans because they can embody extremely well the "visibility" of potential measures called for in point 1.4. However, three basic principles must be followed:

1) The action plans must at all costs be flanked by other policy measures, or combined with existing ones, so that framework conditions can be created that enable landowners and land managers to implement effective LULUCF measures in a way that makes economic sense and not only at their own cost. For just as now nature protection measures often cost money and provide no profit (i.e. are economically unattractive), so too climate protection measures (such as the preservation of wetlands rich in organic material) are also often economically unattractive. One of the frameworks that the EU should set up must provide incentives and encourage EU producers to achieve the goals set, just as the emissions trading system – which the EU specifically does not want to include the LULUCF sector – aims to do.

2) The action plans and the monitoring and reporting procedures must be designed such that they can be implemented with minimal red tape both for landowners and land mangers and for authorities.

3) All rules and measures laid down by the EU must be clearly in line with the subsidiarity principle.

1.8 The Committee considers it important to stimulate the climate change mitigation potential of the LULUCF sector and increase the visibility of the mitigation efforts of farmers. This sector should not be assessed in isolation, but in an integrated way and making use of synergies with existing policies at EU and national level. The Committee stresses the need to avoid creating any unnecessary administrative burden or duplication of work and to take due account of national circumstances and competencies at each level. The active management and utilisation of the EU's forests, as well as increased use of renewable and sustainable raw material wood as cost-efficient climate change mitigation tools, should be starting points for the EU's climate policy.

1.9 The Committee welcomes the EU's endeavour to go beyond the Copenhagen, Cancun and Durban agreements and the offer to adopt a 30 % reduction target if certain conditions are met; at the same time, however, it calls for great sensitivity to the current economic situation in the EU. The EU must also bring pressure to bear on other parties to the UNFCCC to take similar steps in order to avoid carbon leakage to areas that are even more biologically sensitive than the EU.

1.10 Finally, in the light of current preparations for a good CAP framework for the next financial period, it should be recognised that this proposal must be carefully linked with EU agricultural and other policies. Soil carbon has gradually been better incorporated into policy evaluations, such that climate protection and adaptation to climate change have also become a greater issue in farming and forestry. The Committee emphatically welcomes the fact that the proposal does not include any obligations on farming and forestry to cut emissions for which farmers and foresters alone would bear the cost. Improved mapping of national situations will require only moderate investment in the Member States.

2. **Political context**

2.1 The Commission proposal presents new elements regarding the Kyoto Protocol and the Durban outcomes ([2]).

2.1.1 The current situation is such that while emissions and removals of greenhouse gases resulting from the LULUCF sector do not count towards the EU's 20 % greenhouse gas emission reduction target for 2020, they do in part count towards the Union's quantified emissions limits and reduction targets under Article 3(3) of the Kyoto Protocol. It is therefore necessary to establish common calculation methods in order to precisely quantify both emissions quantities and removals and incorporate these in the EU's reporting obligations.

2.1.2 Any legal proposal including mandatory reporting for "grassland" and "cropland" soils must be aligned with the decisions taken by the UNFCCC COP17 in Durban.

([2]) Conference of the Parties to the Kyoto Protocol, COP17, December 2012, United Nations Framework Convention on Climate Change.

2.1.3 With regard to "Forest management", prior to COP-17 accounting by the Member States was not required, since the instant oxidation of all harvested biomass was assumed. The EESC welcomes the EU proposal to include harvested wood products (HWP) in the accounting rules, meaning that the carbon stock in the harvested wood products pools is used. This can enhance the role of wood and wood products in climate change mitigation.

2.1.4 To further develop forestry's potential to boost mitigation (as acknowledged in the proposal), longer rotation periods of trees and avoiding clear-felling (as referred to in the explanatory memorandum) and conversion of undisturbed forests are measures which cannot be broadly considered since they depend on the species and ageing of the trees under sustainable management of the forest. It must be stressed, however, that this is not at present included in the proposal for legislation.

2.1.5 Cork is a very important product in the group of "harvested wood products" since it presents several advantages: it is a natural product made from renewable resources following an environmentally-friendly process that does not require harvesting of the trees; the demonstrated importance of the cork industry in maintaining the ecological stability of the fragile and threatened Mediterranean ecosystem; and finally the importance of the cork industry in terms of employment and income.

2.2 The proposal establishes that Member States will draw up and maintain accounts that accurately reflect all emissions and removals resulting from the activities of "cropland management".

2.2.1 The list of "carbon pools" includes "above-ground biomass" according to the Intergovernmental Panel on Climate Change (IPCC) guidelines for LULUCF. The problem for accounting the "above-ground biomass" on cropland derives from the distinction between "herbaceous" (accounting only the soil carbon) and "ligneous" (accounting the biomass). While acknowledging the high value of perennial crops such as olive trees, fruit trees or vineyards, it disregards the CO_2 removals by annual crops since the reference is the changes in carbon stock since 1990. The role of agricultural products such as colza (food, feed and fuel), fodder (feed and fuel) or vegetables (food) is not then taken into account since it can be jeopardised by a change in the carbon stock. This is because the IPCC and the Kyoto Protocol regard annual crops as carbon neutral.

2.2.2 In agricultural sectors where the potential increase in removals is not, significant – for example the use of harvested wood products – the accounting for agricultural soils may in some cases be a problem and have a negative impact. The inclusion of both emissions and storage of carbon must be clearly defined.

2.2.3 In certain areas with climate-related handicaps where rain-fed agriculture ensures farmers' livelihoods and supports the rural population, or where some perennial crops are at risk due to low profitability (e.g. olive trees in southern Europe), the risk of the zero potential increase may also contribute to land abandonment and lack of interest in keeping this land in production. Annex IV of the Commission proposal establishes measures that may be included in the action plans proposed by the Commission. Overlapping with measures already being carried out under the CAP's second pillar as "agri-environment measures" must be prevented by making these quantifiable.

2.2.4 The EESC welcomes the creation of national action plans because they can embody extremely well the "visibility" of potential measures called for in point 1.4. However, three basic principles must be followed:

1) The action plans must at all costs be flanked by other policy measures, or combined with existing ones, so that framework conditions can be created that enable landowners and land managers to implement effective LULUCF measures in a way that makes economic sense and not only at their own cost. For just as now nature protection measures often cost money and provide no profit (i.e. are economically unattractive), so too climate protection measures (such as the preservation of wetlands rich in organic material) are also often economically unattractive. One of the frameworks that the EU should set up must provide incentives and encourage EU producers to achieve the goals set, just as the emissions trading system – which the EU specifically does not want to include the LULUCF sector – aims to do.

2) The action plans and the monitoring and reporting procedures must be designed such that they can be implemented with minimal red tape both for landowners and land mangers and for authorities.

3) All rules and measures laid down by the EU must be clearly in line with the subsidiarity principle.

3. **General observations**

3.1 The European Commission proposal intends to introduce a more rigorous accounting system that incorporates the recommendations of international agreements into EU law. The proposal reflects key elements of the revised LULUCF accounting rules, which were agreed in Durban in December 2011 and which will apply from the beginning of a second commitment period under the Kyoto Protocol. However, some of its provisions differ from the decisions taken in Durban, such as the proposed mandatory accounting for cropland management and grazing land management and concerning the accounting rules for natural disturbances.

3.2 A proposal for new mandatory accounting of all emissions and removals resulting from "cropland management" and "grazing land management" activities will mean more administration at the national level and will require strenuous efforts from the Commission in monitoring in the Member States. The accounting rules adopted in this proposal and the reference levels will be of crucial importance for the operation of this decision. The Committee fears a possible duplication of Member State obligations laid down in the (UNFCCC), on the one hand, and in EU legislation, on the other.

3.3 EU forests provide crucial socio-economic benefits as well as essential ecosystem services and enhance the capacity to cope with and adapt to climate change, removing 10 % of all EU CO_2 emissions annually. Forests supply a wide variety of sustainable and smart bio-based products and wood represents half of the EU's renewable energy. The Committee stresses the multifunctional role of forests in society and calls on the Commission to take a holistic approach to them that embraces the aspects of both climate and the sustainable forest management practised in the EU. Forests are much more than carbon reservoirs and this should be acknowledged in climate-related policies.

4. **Remarks**

4.1 The EESC wishes to highlight the fact that agriculture and forestry have the potential to mitigate climate change. However, this potential is limited by natural conditions and disturbances, saturation risk, complex fluxes, insufficient capacity for emissions monitoring and considerable uncertainties relating to accounting methods.

4.2 The Committee acknowledges the results of the impact assessment carried out by the JRC and respects its opinion on feasibility. However, science-based knowledge and monitoring methods need to be refined in order to increase confidence in greenhouse gas emissions inventories linked to forestry and agricultural soils. Both their accuracy and consistency need to be improved and it is important to examine mitigation options from a holistic point of view using an integrated approach. In this connection, the Committee highlights the experience of some countries, such as Denmark and Portugal, whose reporting on agriculture is fully in line with the UNFCCC. The Committee thinks it essential to point out the complexity of measuring emissions in the LULUCF sector and does not share the unequivocal conviction that this area should be included in the European Union's reduction targets.

4.3 The Commission's proposal does not provide for the inclusion of the LULUCF sector in the EU's climate commitments at this stage, but is presented as a first step towards this by establishing the appropriate policy context. The Committee regrets that the proposal has not been expanded to include reference to the combined effects derived from forestry and agriculture of substituting fossil fuels and non-renewable materials with biofuels and biomass. This should happen in subsequent stages, which should also cover LULUCF-related bioeconomy and energy processes. This sector should not be assessed in isolation, but in an integrated way and by making use of synergies with existing policies at EU and national level. The Member States are themselves best suited to decide on appropriate measures.

Brussels, 19 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy'

COM(2012) 277 final — 2012/143 (COD)

(2012/C 351/20)

On 14 June and 15 June 2012, the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

COM(2012) 277 final — 2012/0143 (COD).

Since the Committee endorses the contents of the proposal, it decided at its 483rd plenary session of 18 and 19 September 2012 (meeting of 18 September 2012), by 148 votes with 8 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing'

COM(2012) 332 final — 2012/162 (COD)

(2012/C 351/21)

On 2 and 10 July 2012 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

COM(2012) 332 final — 2012/162 (COD).

Since the Committee endorses the content of the proposal, it decided, at its 483rd plenary session of 18 and 19 September 2012 (meeting of 18 September), by 141 votes in favour, nem. con. and 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2008/971/EC as regards the inclusion of forest reproductive material of the "qualified" category within the scope of that Decision and the updating of the name of the authorities responsible for the approval and control of the production'

COM(2012) 355 final — 2012/172 (COD)

(2012/C 351/22)

On 5 June 2012 the Council and, on the same day, the European Parliament decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2008/971/EC as regards the inclusion of forest reproductive material of the 'qualified' category within the scope of that Decision and the updating of the name of the authorities responsible for the approval and control of the production

COM(2012) 355 final — 2012/l72 (COD).

Since the Committee endorses the content of the proposal, it decided, at its 483rd plenary session of 18 and 19 September 2012 (meeting of 18 September), by 145 votes to 3 with 5 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2003/17/EC by extending its period of application and by updating the names of a third country and of the authorities responsible for the approval and control of the production'

COM(2012) 343 final — 2012/0165 (COD)

(2012/C 351/23)

The European Parliament and the Council decided, on 5 June 2012 and 23 July 2012 respectively, to consult the European Economic and Social Committee, under Articles 43(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2003/17/EC by extending its period of application and by updating the names of a third country and of the authorities responsible for the approval and control of the production

COM(2012) 343 final — 2012/0165 (COD).

Since the Committee endorses the contents of the proposal, it decided at its 483rd plenary session of 18 and 19 September 2012 (meeting of 18 September), by 142 votes to 3 with 8 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 18 September 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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