Opinion of the European Economic and Social Committee on Improving the Community civil protection mechanism — A response to natural disasters

(2008/C 204/15)

On 25 September 2007, the European Economic and Social Committee, under Rule 29A of the implementing provisions of the Rules of Procedure, decided to draw up an additional opinion on Improving the Community civil protection mechanism — A response to natural disasters.

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 26 February 2008. The rapporteur was Ms Sánchez Miguel.

At its 443rd plenary session, held on 12 and 13 March 2008 (meeting of 13 March), the European Economic and Social Committee adopted the following opinion by 108 votes in favour and 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC, as the representative of civil society, believes that it should contribute to the EU debate on the handling of natural disasters, taking an approach geared towards prevention, intervention and the assumption of responsibility in the event of disasters caused by human acts or omissions.

1.2 In this context, it should be borne in mind that current European legislation contains sufficient provision for preventing or mitigating the potential effects of some natural disasters. It would therefore be useful to again urge the competent authorities to monitor the application of this legislation throughout the EU. The EESC believes that the implementation of the WFD and related legislation, particularly the Flood Directive, would alleviate these effects which — while not preventable — could be reduced by setting up the flood management plans included in river basin plans. Legislation to prevent forest fires could have a similar effect.

1.3 An important issue is the link between disaster prevention and training and education, and the need to set up a suitable information system so that professionals and the public are aware of the methods of response to incidents that might occur in an area. The EESC therefore welcomes the system of inter-regional civil protection training centres set up by the European Commission.

1.4 With regard to civil protection, the EESC wishes to congratulate the Commission for swiftly setting up a European solidarity system which is not only interregional but international, and has its own resources enabling it to act efficiently both in response to disasters and in rehabilitating affected areas. The new Article 176 C of the Lisbon Treaty strengthens the objectives that the European Parliament and the Council had set in this respect.

1.5 Lastly, the EESC believes that the environmental liability system should be applied as set down in the Directive on Environmental liability with regard to the prevention and remedying of environmental damage, so as to clearly establish the liability of the perpetrators of certain disasters, such as arson attacks. The EESC considers that better implementation of national provisions and information on the consequences of non-compliance with preventive legislation or of harmful acts by both citizens and the competent authorities could help to alleviate the effects of natural disasters.

2. Introduction

2.1 Disasters are occurring with increasing frequency, not only within the borders of the EU but throughout the world; some are caused by natural phenomena such as floods, earthquakes, fires, etc., while others are due to terrorist acts which spread fear among civilians. In both cases, human activity is to some degree responsible, whether directly or indirectly, although the degrees of intentionality cannot be compared.

2.2 The EU has pledged to take preventive action in response to climate change, not just by implementing the commitments made in the Kyoto Protocol, but also through a number of decisions aimed at preserving land, water and air. This initiative is geared towards prevention; it could help not only to maintain and regenerate our land, seas and atmosphere, but also to encourage action to be taken in other countries. In addition, the Commission is conducting preparatory work regarding the development of a European integrated approach to the prevention of natural disasters by the end of 2008.

2.3 In addition to these preventive measures, the EU has set up a Community system for assistance in the event of any disaster that occurs within its borders. It is a mutual aid system intended not only for the EU countries, where it has been put into operation on numerous occasions, but also for disasters in the Indian Ocean, South America, etc.

2.4 It is important to clarify the complementarities between disaster intervention and humanitarian aid. Both instruments have largely the same primary objective of alleviating the impact of disasters and other events on the population. Disaster intervention falls within the domain of civil protection, which also
helps to reduce the impacts of disasters on the environment and property be it within or outside the EU, calling upon resources and teams from the EU Member States. Humanitarian aid, on the other hand, is active in specific third countries and involves NGOs and other humanitarian bodies. Both instruments cooperate with UN agencies.

2.5 It should be noted that the disaster fund set up in the wake of the severe flooding in the Elbe basin has helped to improve the interventions carried out in the EU. Equally important is the Civil Protection Mechanism (1) created in 2001 and later reformed (2) in order to provide a rapid response to disasters that could befall the Member States or third countries.

3. Prevention measures

3.1 Prevention is an essential factor in the protection and conservation of the environment, and in avoiding harm to civilians. The aim is to use natural resources in a sustainable way. Predictions about the wide scale decline and loss of biodiversity have come true, to an extent that surpasses even the most pessimistic forecasts. When we add human — often deliberate — intervention to this equation, we find ourselves confronted today by recurring disasters which, though natural, are not normal, owing to their frequency and above all the scale of their impact.

3.2 The prevention measures which will be mentioned in this opinion are those covered by existing legislation — in other words, they should have been implemented and monitored by the competent authorities in each Member State. Generally speaking, some disasters can be avoided, or minimised, and it can therefore be concluded that there should be similar conditions for environmental protection throughout the EU, by means of compliance with the regulations in force.

3.2.1 One of the legislative measures which has had the greatest impact on preventing natural disasters relates to pollution of the seas and oceans by hydrocarbons. This has been achieved by introducing not only certain transport conditions (double hull vessels) but also the maritime measures contained in the Erika I and II packages, which have helped to minimise their impact.

3.3 Environmental research is linked to the issue of prevention, and the EESC has already called for better, greater coordination between research and environmental programmes (3), so that some research funds can be earmarked for practical environmental research.

3.4 Prevention is also connected to training and information, not only for the members of the civil protection teams but for the public as a whole, in order to make the intervention more effective in the event of a natural disaster. Promotion and awareness of environmental policies should be increased in all Member States, and these policies should be taught in schools, not just in universities.

3.5 Flood prevention measures

3.5.1 The first area that will be covered here is water. Water is often involved in natural disasters, not only through floods, tsunamis or other marine phenomena, but also because of its scarcity (4), which can wreak significant change, such as the desertification of large areas of southern Europe.

3.5.2 There has always been something missing from the Water Framework Directive (5); the fixing of an objective on prevention, protection and preparedness in relation to floods. Considering the high number of disasters that have occurred in under a decade and their many victims, the Commission put forward a Communication and a proposal for a Directive (6) to regulate the assessment and management of flooding risks, proposing an analysis of the situation and future risks, and a concerted, EU-wide action and prevention plan.

3.5.3 Floods are on the increase in the EU for two main reasons: firstly, it is now generally believed that climate change has an impact on the intensity and frequency of floods all over Europe (7), partly due to irregular torrential rains and potentially higher sea levels; secondly, human activity, such as construction work in rivers and projects to divert and channel the course of rivers and other activities which seal the soil, and thereby reduce the natural capacity of nature to store excessive amounts of water during a flood event without measures to assess and redress their environmental impact. The risks are also on the increase in the sense that the damage that floods cause is increasing as more and more settlement is taking place in areas of high flood risk.

3.5.4 In line with its earlier position (8), the EESC considers that the measures set down in the Directive on the assessment and management of flood risks should be carried out. The

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(9) Intergovernmental Panel on Climate Change (IPCC) — Working Group II Report ‘Impacts, Adaptation and Vulnerability’.
(10) See note 6.
Commission’s acceptance of the EESC’s proposal (in its opinion on the 2004 communication) to incorporate measures on flooding into the WFD implementation helps to promote the inclusion of flood management plans into river basin management plans, and thus ensure that the necessary action is planned for the entire basin and effective measures are taken by all competent authorities (local, state and transnational).

3.5.5 The EESC also reiterates that a preliminary flood risk assessment should be conducted for each basin, evaluating which sections are likely to flood, so that an intervention map can be drawn up to facilitate preventive measures, particularly with regard to the reforestation and afforestation of mountain areas, protection of wetlands and related ecosystems. In this context, it is important for civil society to be informed and involved, as this will help to make precautionary measures easier.

3.6 Fire prevention measures

3.6.1 Prevention policies must be stepped up. Although prevention is essentially the responsibility of the Member States, the Community can help them to prevent and reduce the impact of natural disasters, including forest fires.

3.6.2 The Community should continue considering measures ranging from public awareness-raising to land management. Such measures can also have other positive effects, such as helping to adapt to climate change.

3.6.3 An integrated approach should be taken, bearing in mind the ways in which different sectors interact. Urban development affecting areas traditionally devoted to forestry does not only increase the risk of fire and, therefore, environmental destruction, but may also mean that consideration should be given to the evacuation of inhabitants rather than the loss of forests.

3.6.4 The various EU financial instruments available in support of the Member States’ prevention efforts should be revised and updated, in order not only to bring them into line with the current situation, but also to find synergies between the different instruments with a view to protecting lives and the environment, and cultural heritage more effectively. Where Community funds are granted for recovering from forest fires or for afforestation and reforestation, Member States should be required to demonstrate that sound fire prevention measures will be implemented.

3.6.5 Likewise, the Commission should continue promoting the exchange of information and experiences between Member States, in order to ensure that good practices are widely shared. The differences between situations in the various countries should be taken into account, and action in regional groups should be stepped up.

3.6.6 The prevention measures should also include legal provisions relating to the civil and criminal liability of those who cause fires, whether deliberately or accidentally.

4. Civil protection

4.1 The EESC welcomes the fact that the Lisbon Treaty (9) introduces a new article, 176 C, whereby civil protection is established as a means to ‘encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters’. It is important to stress that the aim is not only to support the Member States, but also to harmonise actions taken internationally by the EU.

4.2 The framework regulating civil protection action consists of two instruments: the Community Civil Protection Mechanism and the Civil Protection Financial Instrument (10). The Monitoring and Information Centre for the Civil Protection Mechanism is based at the European Commission and operates around the clock. It has a database on the civil protection services in each Member State, incorporating data from military databases, which are very useful. This centre also administers Community programmes in the area of preparedness, including training programmes and exercises.

4.3 Over the last few years, experience has shown how important the centre’s coordination work is — as illustrated recently by the fires in Greece. However, there is still room for improvement, which is why the EESC called for an increase in its budget so that it could have more and better resources for its work. The Monitoring and Information Centre should become a genuine operational centre with increased staffing to pro-actively anticipate the development of crises, monitor their development, organise preparedness activities, and facilitate and coordinate EU civil protection assistance within the EU and outside of the EU.

4.4 To achieve better preparedness for major disasters, it is necessary to step up the EU efforts in the area of civil protection training and exercises. This would be best achieved by developing a European Civil Protection Training Institute that would link the national centres of expertise. Proposals for the creation of such a structured network should urgently be examined by the European Institutions.

4.5 Early warning systems exist for most of the main natural hazards in Europe but the lack of such systems for tsunamis is a significant gap. The lack of common alert systems and protocols is also an important concern in view of the growing mobility of citizens across Europe and third countries.

(10) Furthermore, in some Member States there are institutes to investigate and provide information about natural disasters. These play a major role in preventing such disasters.
4.6 The improvements provided for by the Commission in 2005 have helped to make the Civil Protection Mechanism more effective in the EU, and enabled it to act as an instrument for inter-regional, international solidarity. Consequently, no effort should be spared to provide the swiftest and most effective response to disasters in all their forms. This calls for predefined procedures or assistance plans which should in all cases be tested by means of drills, and updated on the basis of experience gained from these.

4.7 The plans must include satellite communications, up-to-date maps and suitable resources to achieve satisfactory coordination. All these resources should be owned by the EU. These plans should set a standard which will boost the image of solidarity and effectiveness at international level.

4.8 The recast of the Community civil protection mechanism provides for the creation by the Member States of civil protection modules made of national resources. This would contribute to the development of an EU rapid reaction force to major disasters. Member States should urgently identify and train such modules, in priority in the area of fire fighting. The Member States should ensure that such modules are available for swift deployment in case of activation of the Community mechanism.

4.9 Recent disasters have shown that despite EU solidarity, the resources mobilised are not always adequate. It is now urgent to undertake an analysis based on disaster scenarios to identify existing gaps. Where such assessments show that certain resources are insufficiently available in the EU or that the constitution of European reserve civil protection resources would have advantages in terms of effectiveness and cost-efficiency, the EU should develop European reserve resources.

4.10 Furthermore, EU assessment teams and coordinators must be consulted on the recovery of the affected area, as their expertise will be useful for its rehabilitation. This will help to prevent the speculative activity that, unfortunately, occurs after some fires.

4.11 When it comes to action in non-EU countries, interventions by the mechanism must be considered an integral part of EU foreign policy and humanitarian aid and seen as a sign of the EU’s solidarity with the countries concerned.

4.12 Lastly, it is important to define the cooperative role that humanitarian organisations should play in civil protection. Operations outside the EU must be coordinated with humanitarian aid partners working with specific mandates, such as the United Nations, the Red Cross/Red Crescent Movement, international organisations and NGOs.

5. Environmental liability

5.1 It is important to note that prevention legislation has not had the desired effect on the damage caused by natural disasters. There have been excessive delays in setting up a legal system for environmental liability (11) and criminal environmental legislation (12) is still only in its second draft.

5.2 National laws in this area vary widely, and this can distort the relevant legislation. In practice, there is no EU harmonisation of environmental liability, and there are no generalised provisions for repairing or cleaning up areas affected by natural disasters as this is not in the remit of EU law. Moreover, the ‘polluter pays’ principle is not applicable in many regions of the EU.

5.3 Other factors may also come into play, e.g. certain types of damage may affect more than one country, meaning that different systems of law apply. The separation of competent authorities from local to national level is also a major problem, as this causes conflicts when it comes to enforcing liability, given that these authorities may also be involved in the repair.

5.4 The scope of liability legislation, as set down in the Directive, focuses on prevention or repair of environmental damage, based on laws in force in the EU and relating to biodiversity, water and soil pollution, which is defined to a large extent, but not exclusively, by reference to existing Community legislation. It is therefore important to stress that only failure to comply with the laws in force and listed in Annex III of the Directive should be subject to liability claims against the perpetrators of the damage.

5.5 The first liability scheme applies to the dangerous or potentially dangerous occupational activities listed in Annex III to the Directive. These are mainly agricultural or industrial activities requiring a licence under the Directive on integrated pollution prevention and control, activities which discharge heavy metals into water or the air, installations producing dangerous chemical substances, waste management activities (including landfills and incinerators) and activities concerning genetically modified organisms and micro-organisms. Under this first scheme, the operator may be held responsible even if he is not at fault. The second liability scheme applies to all occupational activities other than those listed in Annex III to the Directive, but only where there is damage, or imminent threat of damage, to species or natural habitats protected by Community legislation. In this case, the operator will be held liable only if he is at fault or negligent. The Directive also provides for a certain number of exemptions from environmental liability.

(11) Directive on Environmental liability with regard to the prevention and remedying of environmental damage.
(12) A first Proposal for a Regulation was made in 2001, which was withdrawn by the Council. Later, the EESC was consulted on a new proposal (COM(2007) 51 final — 2007/0022 COD), upholding the Court of Justice case-law of 13 September 2005, confirmed by another judgement of 27 October 2007, on the authority of the Commission to legislate on environmental crimes.
5.6 There are two ways in which the damage may be corrected: either the operator may take the necessary restoration measures, in which case they will be financed directly by the operator, or the competent authority may have the measures implemented by a third party and recover the costs from the perpetrator of the damage. A combination of the two approaches is also possible in the interests of greater effectiveness.

5.7 When there is more than one party liable for the damage, the Directive leaves to the Member States to decide how to apportion the costs, the two main options being either joint and several liability or apportioned liability. While this dual system is intended to facilitate adaptation to the legal systems of the Member States, it should nonetheless be pointed out that determining the proportion of environmental damage is extremely difficult, which makes this system difficult to implement in practice.

5.8 Lastly, it should be stressed that the requirement of financial security for operators subject to water, soil and biodiversity legislation helps to make repair more effective, whilst avoiding the negative consequences of insolvency.


The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals (Own-initiative opinion)

(2008/C 204/16)


The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 February 2008. The rapporteur was Ms Roksandić, the co-rapporteur, Mr Almeida Freire.

At its 443rd plenary session, held on 12 and 13 March 2008 (meeting of 12 March), the European Economic and Social Committee adopted the following opinion by 118 votes to 56 with seven abstentions.

1. Conclusions and recommendations

1.1 The EESC expresses regret at the fact that the proposed directive on ‘Sanctions against employers of illegally staying third-country nationals’ was not referred to the EESC for an opinion, although it is stated in the introduction to the directive that this is so. The proposed directive does not ordinarily come under one of the areas for which consultation of the Committee is mandatory; however the Committee believes that it is necessary to consult representatives of civil society organisations in such instances and related cases, because they concern the regulation of key areas which not only fall within the domain of freedom, security and justice, but also have an impact on employment and social policy.

1.2 The EESC has decided on its own initiative to draw up an opinion on this proposal for a directive. The Committee believes that organised civil society, and especially the social partners, has a most important role to play in shaping and implementing the Directive proposed by the European Commission on ‘Sanctions against employers of illegally staying third-country nationals’.

1.3 In its opinions to date (1), the Committee has highlighted the need for simultaneous action to be taken to create opportunities for legal immigration and to deal with the causes of ‘irregular’ immigration.

(1) See the EESC opinion of 15.12.2004 on ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Study on the links between legal and illegal migration’, rapporteur Mr Pariza Castaños (OJ C 157, 28.6.2005).