

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Towards a Single Market Act — For a highly competitive social market economy — 50 proposals for improving our work, business and exchanges with one another’

COM(2010) 608 final

(2011/C 132/08)

Rapporteurs: **Ms FEDERSPIEL, Mr SIECKER and Mr VOLEŠ**

On 27 October 2010 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — Towards a Single Market Act — For a highly competitive social market economy — 50 proposals for improving our work, business and exchanges with one another

COM(2010) 608 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 4 March 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 108 votes, with 12 abstentions.

1. General remarks

1.1 The EESC welcomes the Commission's initiative to relaunch and revive the single market, but notes that it did not fully take on board the Monti, Lamassoure, González, Grech and Herzog Reports and effectively deliver a Single Market at the service of consumers and citizens, as urged by the EP in its Resolution of 10 May 2010.

1.2 The European Economic and Social Committee (EESC) has been closely following the Single Market from the civil society perspective and set up its Single Market Observatory (SMO) in 1994 to this effect. It therefore asks the European Commission to associate the SMO as one of the major stakeholders to such initiatives as the Single Market Forum.

1.2.1 The EESC welcomes the Commission's intention to view consultation and dialogue with civil society as a priority in the preparation and implementation of new measures and consequently hopes that the EESC, as the institutional representative of civil society, will come to be involved at the very earliest stages of planning and designing these measures, and in both ex ante and ex post impact evaluation.

1.3 The contribution of civil society organisations is an indispensable element for the right focusing of the measures that are required to relaunch the Single Market since they

represent its users. The 50 proposals under scrutiny are only the start of a long term process to revive the Single Market. This process should never stop because the Single Market is a work in progress.

1.4 The EESC identified a number of measures that are missing in the Single Market Act and will make proposals in due time, which would also contribute to citizens' confidence. The missing measures include copyright levies, the revision of the copyright directive, net neutrality, data protection, investor protection, the social progress protocol, European private company statutes, e-procurement, European credit rating agencies, gender equality, micro- and family businesses, measures to support the formation of new companies and the extension of the existing ones, credit and debit cards, e-payments, consumer credit and overindebtedness, interbank transfers, youth, measures to complete the implementation of the euro and to consolidate the operation of the Single Euro Payments Area (SEPA), etc.

1.5 The EESC does not present in this opinion an in-depth study of all the Single Market Act proposals. Some of them have already been the subject of Committee opinions. It will issue more detailed positions when the European Commission proposals emerge following on the communication, including the proposals related to the EU 2020 flagship initiatives. The EESC identified priorities, which the basic components of European civil society as represented at the EESC have agreed upon. The EESC regrets that the Commission has not carried out the necessary incorporation of the comments and

conclusions of the 'EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens' rights' ⁽¹⁾. These priorities should enable all actors of the Single Market on the ground to make full use of its potential. The EESC insists on the need for a holistic approach that goes beyond the artificial division of the Single Market Act into three pillars. The Committee aims at remedying the eclectic nature of the proposals by suggesting more coherence and mutual interdependence of individual measures. The proposals are complementary in that they interact with one another and impact on society at large: workers, consumers, businesses and citizens alike. There is no specific Single Market for each of those categories. According to the Treaty on European Union (art. 3.3) *The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance*. The Committee insists on guaranteeing a high level of consumer protection.

1.6 Open communication on the added value and challenges is of paramount importance in order to gain public support. Short term political aims often resulting in a lack of consistency and/or unbalanced proposals as well as the financial economic, political and social crises do not contribute to citizens' trust in the EU. It is important to take into account the reality on the ground and the real worries of citizens.

1.7 The European Commission cannot alone take responsibility for raising awareness on Single Market issues and for informing the public on instruments ⁽²⁾ that are available for all. The input of organised civil society is indispensable as well as the involvement of national governments that have to take into consideration that the Single Market is an integral part of our domestic economies. Political parties, the media, educational institutions and all stakeholders have a historical responsibility in relation to the EU being able to successfully cope with the challenges of the global world based on the values that so far have characterised our social market economies. The world will not wait for us. Europe's fragmentation, protectionism, nationalism and lack of vision will not allow us to compete with the new global powers.

1.8 The Single Market is at the heart of European integration and its EU 2020 Strategy. Monitoring, managing and enforcing Single Market legislation is crucial. To achieve this, the European Commission should cooperate closely with Member States through better use of the Single Market Scoreboard.

2. Specific comments

The following priorities are not ranked by any specific order of preference. The numbering of the proposals of the Single Market Act is indicated in brackets).

⁽¹⁾ COM(2010) 603 final.

⁽²⁾ Such as SOLVIT, EURES, European Consumer Centres and the Enterprise Europe Network among others.

2.1 *The Charter of Fundamental Rights as an integral part of the Single Market (29)*

The Commission wants to ensure that the rights guaranteed in the Charter, including the right to take collective action, are taken into account. It reaffirms the duties placed on the European institutions, as well as the fact that the Charter of Fundamental Rights has become legally binding. As quoted above, article 3.3 of the Treaty on the European Union states very clearly that economic freedoms have to be in balance with the respect for fundamental social rights. Professor Monti recognises this problem and proposes to rebalance the Single Market with fundamental trade union rights. The EESC recommends the Commission to fully integrate the Charter in the Single Market and to invite those Member States that have an opt-out to adopt it.

2.2 *Services (4 and 43)*

The further development of the Single Market for services should stimulate the use of the full potential of services to bring new growth and employment, choice and competition in the market to benefit consumers. This would also benefit all the service providers, especially small and medium, both those operating throughout the Single Market, and those operating locally, thanks to the legal simplification and lifting of barriers to entry. The EESC calls for safety, better quality and affordability of services for consumers and businesses. It is also necessary to improve the implementation of the Services directive, to develop the activities of the single points of contact and to enlarge the provision of information translated into other languages while improving administrative cooperation between Member States and raising awareness about the possibility of providing cross-border services.

It also welcomes the long awaited proposal for a revised regulation on passenger rights in view of recent events and of a particular case at the Court of Justice of the European Union.

2.2.1 *Retail financial services (40, 41)*

Retail financial services represent one of the areas where the greatest shortcomings in the operation of the single market have been observed. In addition to mortgages, a number of other aspects pinpointed in EESC opinions and by the Commission should be addressed as a matter of absolute priority.

The EESC welcomes the initiative to improve access to basic banking services as well as transparency and comparability of bank charges.

2.3 *Services of General Interest - SGI (25)*

The Commission undertakes to adopt, by 2011, a Communication and a series of measures on services of general interest. The EESC welcomes the initiative to support the evaluation of public services and to remove obstacles to universal access and repeats its request for a binding framework directive⁽³⁾. The aim of the Communication and other measures on public services should be to support Member States develop and improve their public services in line with the SGI protocol. The evaluation of public services should include a critical, in-depth assessment of previous liberalisations and be carried out with the participation of all major stakeholders. The EESC is especially concerned about keeping up quality standards and accessibility including easy switching to increase competition. The EU should develop expertise in its ability to assess the impact of all the Single Market initiatives and other EU initiatives on public services, in conformity with the SGI protocol.

2.4 *Sustainable development (10, 11 and 27)*

The EESC welcomes the idea of an energy efficiency plan to exploit the potential for significant energy savings. We need a functioning Single Market for energy to ensure affordable, secure and sustainable supplies for its consumers. A fully functioning Single Market for energy benefits consumers with wider choice and lower prices but it is necessary to strengthen common minimum standards. The development of the so-called 'smart metering' to raise awareness of consumption patterns and the associated costs requires further regulatory action to ensure the quick uptake of new technologies and greater efficiency through competition in energy services. In addition, the EESC is interested in the results of the feasibility of an initiative on the Ecological Footprint⁽⁴⁾.

2.5 *Small and medium-sized enterprises and other legal forms of entrepreneurship (5) (12, 13, 14 and 37)*

2.5.1 SMEs access to finance can be considered as the main issue for SMEs, especially in the wake of the crisis. SMEs rely mainly on bank lendings because they have no access to capital markets and other sources of funding. The EESC therefore welcomes the proposal to improve the access of SMEs to

⁽³⁾ OJ C 221, 08.09.2005, p. 17.

⁽⁴⁾ The ecological Footprint is based on the idea that individual consumption can be converted into the surface area that is needed to produce it. In 2008, 1,8 ha per capita was available while 2,2 ha per capita was used.

⁽⁵⁾ The concept of SMEs and the reference to businesses must be expanded to include all forms of access on the Single Market, be it profit or non-profit. This to give a more complete and nuanced understanding of the single market with its diversity of actors. Any measure in the area of SMEs is equally relevant for all types of social economy actors, such as the need to cut red tape, remove barriers and unnecessary administrative burdens.

capital markets. Opening the Single Market to venture capital funds can also improve the financing of SMEs especially in the area of innovation and new technologies.

2.5.2 Access to finance is only a part of the problem. SMEs as well as the social economy also need a continued thorough reduction of unnecessary administrative burdens, which weigh disproportionately over them due to their smaller size. For this, it is crucial that the Small Business Act is better implemented, to finally deliver the expected results including for instance the statute of the European private company. For the same reason, the simplification of accounting directives for SMEs should be given high priority. Measures necessary to promote sustainable development and the protection of the environment should be drafted in a way that passes the SME test on expected impacts.

2.5.3 The EESC welcomes the Commission's commitment to adopt a regulation on a European Foundation Statute and to undertake a study on the mutual societies. In the EESC's view such a study should lead to a statute for a European Mutual. In addition, the EESC urges the Commission and Member States to take the necessary steps to ensure that the European Association Statute also becomes a reality.

2.6 *Competitiveness (19, 20 and 21)*

Promoting entrepreneurship is the main source of growth and employment. This implies applying the principles of Smart Regulation. The Interconnection of business registers may become the first step towards improving the business climate and contribute to a smoother operation of the Single Market. The EESC also welcomes other measures to improve the business climate and the governance of the Single Market and communication methods. The fast implementation of Common Consolidated Corporate Tax Base (CCCTB) and the revision of the VAT directives should improve cross-border activities of companies.

2.7 *Standardisation (6)*

Standards are a major building block of the Single Market and the EESC supports measures to make the standardization process more efficient. At the same time it stresses the importance of the greater involvement of consumers and SMEs while securing in a constant and sustainable way that the cost factors that limit their participation in this process are overcome. Standards should not be dictated by specific players. The EU standards have to play a much bigger role in global trade and should be promoted in the forthcoming trade negotiations at bilateral and multilateral level.

2.8 Digital Single Market (2, 5 and 22)

2.8.1 Electronic commerce seems to be the main victim of the fragmentation of the Single Market characterized by the absence of the harmonization of rules, a lack of interoperability of information systems and unsolved IPR issues. The EESC therefore believes that the solving these problems can speedily contribute to enlarging the scope of activities of businesses, increasing the choice of products and services to customers and improving the satisfaction of citizens with the functioning of the Single Market without hampering consumer protection. Proposal on electronic commerce is therefore of paramount importance.

2.8.2 Electronic interoperability is one of the priorities to facilitate all activities in the Single Market. The creation of a genuine digital Single Market must be based on the mutual recognition of for instance e-signatures, e-certificates, e-authentication and e-forms. Extending the scope of the Internal Market Information system (IMI) would contribute to enhanced administrative cooperation and data exchange serving the administration, businesses and citizens ⁽⁶⁾.

2.8.3 Copyright clearance and management by facilitating pan-European content licensing and developing EU-wide copyright rules taking all interests into account is necessary. In this field the Single Market Act is not pro-active enough – more could be done for consumers.

2.9 Corporate Governance and workers involvement (36, 37, 38)

The Committee welcomes the Commission's proposal to launch the public consultation on corporate governance and its support to innovative social projects. The Commission has to strengthen EU commitment to enhance corporate governance to further develop employee involvement and improve transparency of information provided by businesses. Employee right to information, consultation and participation has been integrated as a fundamental right under the treaty in different forms of workers' involvement: TFEU art. 151.1 'Dialogue between management and labour' and 153.1 where it says in f) that the Union shall support and complement the activities of the Member States in the following fields: 'representation and collective defence of the interests of workers and employers, including co-determination'. The public consultation should therefore look into how to improve the transparency of information provided by business on social and environmental matters and human rights. A Social Business Initiative will be critically assessed by

the EESC, including the possibility to keep upright the voluntary basis of CSR, when a concrete request for an opinion reaches the Committee.

2.10 Free movement of workers and the economic freedoms (30)

The Commission plans to adopt a legislative proposal to improve the implementation of the Posting of Workers Directive, which is to include or be supplemented by a clarification of the exercise of fundamental social rights within the context of the economic freedoms of the Single Market. This does not propose a revision but suggests another legal act on the improved implementation of the directive. Contradictions in the applications of the directive should be clarified and Member States' competence to enforce their labour standards and industrial relations systems, including the crucial role of collective bargaining in the different forms, should be properly defined. The result of this clarification should show if a revision of the Posting of Workers directive is needed. This should not come at the expense of competition rules and the principle of non-discrimination on ground of nationality. Any review of the existing legislation or any new legislative act should be based on consultation with the social partners and on the balance between high labour standards and economic freedoms. ⁽⁷⁾

2.11 Public procurement legislation (17)

2.11.1 The Commission will make legislative proposals in 2012 to simplify and update the EU rules to make the award of contracts more flexible and to enable public contracts to be put in better use of other policies. Public procurement can support innovative and green growth within the current legal framework. Any new proposal should not hinder the participation of the competitors from other Member States based on the rules approved in 2004. The principle of equal treatment should be respected.

2.11.2 The Commission's initiative in the area of public procurement should pay more attention to the persistent imbalance in openness of public procurement markets between the EU and its main trading partners. It should be considered to which extent EU public procurement markets can sustainably remain open whilst third countries maintain an unlevel playing field. In this respect, ratified ILO conventions and Human Rights have to be respected by all players, Member States and third countries alike.

⁽⁶⁾ OJ C 128 of 18.05.2010, p. 103.

⁽⁷⁾ OJ C 44, 11.02.2011, p. 90.

2.11.3 Since the start of the Single Market project in the mid 1980s, the integration of a fundamental social clause in the rules has been discussed. These demands have been met during the revision of the procurement rules in 2004. The review of the EU public procurement directives should allow for full exploitation of the current framework for the integration of social and environmental criteria into public contracts, provided that such criteria are in balance with the fundamental principles of EU law ⁽⁸⁾.

2.12 External dimension (24)

The EESC considers the proposal to assure the competitiveness of European enterprises in global markets as one of the major priorities since the Single Market cannot be isolated from global competition. It is necessary to take much stronger position in the negotiations with the main trading partners to promote regulatory convergence and the adoption of international standards based on the EU standards. The external dimension of the Internal Market and the application of fair trade rules are crucial not only for the competitiveness of firms, but also to

defend our social and environmental model from distorted competition. Global competitiveness, however, should not be promoted at the expense of upholding basic rights of consumers and citizens.

2.13 Access to justice/Collective redress (46)

Access to justice is key for consumers to gain confidence in the Single Market. The present consultations on alternative dispute resolution (ADR) and collective redress – which were called for by the European Parliament ⁽⁹⁾ and the Monti Report - must lead to legislative proposals from the Commission. The EESC welcomes the forthcoming legislative proposal on Alternative Dispute Resolution (ADR) foreseen in the Commission Work Programme for 2011 and supports its quick adoption. This, however, does not in itself offer any guarantee that proposals will be presented in good time, or that they will ensure the effective implementation of properly designed and efficient mechanisms providing a mindful set of tools for consumers and businesses, avoiding unjustified litigation.

Brussels, 15 March 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁸⁾ See recitals No 1 and 4 of Directive 2004/18 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

⁽⁹⁾ Report on delivering a Single Market to consumers and citizens (Louis Grech, MEP).

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendment, which received more than a quarter of the votes cast, was rejected in the debate:

Amend point 2.3as follows:**2.3 Services of General Interest - SGI (25)**

The Commission undertakes to adopt, by 2011, a Communication and a series of measures on services of general interest. The EESC welcomes the initiative to support the evaluation of public services and to remove obstacles to universal access ~~and repeats its request for a binding framework directive~~ ⁽¹⁾. In that regard, it would refer to Protocol No 26 on services of general interest, which is attached to the European treaties. The aim of the Communication and other measures on public services should be to support Member States develop and improve their public services in line with the SGI protocol. The evaluation of public services should include a critical, in-depth assessment of previous liberalisations and be carried out with the participation of all major stakeholders. The EESC is especially concerned about keeping up quality standards and accessibility including easy switching to increase competition. The EU should develop expertise in its ability to assess the impact of all the Single Market initiatives and other EU initiatives on public services, in conformity with the SGI protocol.'

Reason

Efficient, cost-effective and high-quality public services are essential for European society; they improve our quality of life and make a substantial contribution to promoting territorial and social cohesion in Europe.

A new horizontal legal framework for services of general interest in the form of a binding framework directive is no longer needed following the 2009 entry into force of the Lisbon treaty, which attached Protocol 26 on services of general interest to the European treaties. These new arrangements obviate the need for a reference to the EESC's 2005 opinion.

Result of the vote

| | |
|------------------|----|
| Votes in favour: | 42 |
| Votes against: | 53 |
| Abstentions: | 19 |

(1) EESC opinion CESE 121/2005, OJ C 221 p. 17, 8.9.2005 (rapporteur: Mr Hencks, co-rapporteur: Mr Hernández Bataller).