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1. Conclusions and recommendations

1.1. The EESC pays particularly close attention to the impact of digital technology on European small and medium-sized enterprises (SMEs). In fact, 25 million SMEs form the backbone of the EU’s economy. They employ around 100 million people, account for more than half of Europe’s GDP and play a key role in creating value in every sector of the economy.

1.2. In hearings that the EESC held in a few countries (Belgium, Germany, Portugal and Romania) selected in respect of the 2019 Digital Economy and Society Index (DESI), it noted that many European SMEs, in particular micro- and small enterprises (93 % of businesses in Europe) have been slow to adopt digital solutions. Those that have taken the plunge told the EESC that they faced a number of barriers hampering their operations.

1.3. The EESC recommends that every effort be made to remove the main barrier, which is the lack of comprehensive high-quality broadband coverage across Europe.
1.4. It noted that SMEs' digital technology training needs in areas such as cybersecurity, artificial intelligence and blockchain are crucial, if not urgent. The EESC therefore recommends that schools offer compulsory courses in digital technologies and that SMEs be able to access training in these tools. In addition, appropriate and affordable continuing training for the self-employed, SME managers and their employees needs to be further supported and promoted.

1.5. The EESC calls for appropriate national tax coordination in this field, as in half of the countries where hearings were held the lack of such coordination entails proportionately higher costs for SMEs than for large companies and hinders cross-border business. Indeed, ensuring fair competition between SMEs and large companies is essential for the proper functioning of the internal market.

1.6. The EESC would like to see differences in legislation and excessive regulation, standards and labelling eliminated, as these are major barriers to the digital and cross-border operation of SMEs, entailing costs for compliance, wages and external expertise, which hamper businesses' growth.

1.7. The EESC considers that SMEs' access to financing is a priority in order to support the investments that these businesses make to adapt to the digital transformation of society, trade and consumption patterns and to the internationalisation of trade. It notes that the Enterprise Europe Network (EEN) is not sufficiently well known or used by European SMEs, or by the digital innovation hubs funded by the European Union. Enhanced dialogue and cooperation between the EEN and SME organisations would make the system more effective.

2. Impact of digital technologies on SMEs

2.1. When the 2020 Digital Economy and Society Index was published on 11 June 2020, the European Commission's Vice-President, Margrethe Vestager, stated that 'The coronavirus crisis has demonstrated how crucial it is for citizens and businesses to be connected and to be able to interact with each other online'.

2.2. The European Commissioner for the Internal Market, Thierry Breton, pointed out that 'The data we publish today [from the DESI] shows that industry is using digital solutions now more than ever. We need to ensure this is also the case for small and medium businesses and that the most advanced digital technologies are deployed throughout the economy.'

2.3. The EESC also pays particularly close attention to the impact of digital technology on SMEs. In fact, 25 million SMEs form the backbone of the EU's economy. They employ around 100 million people, account for more than half of Europe's GDP and play a key role in adding value in every sector of the economy.

2.4. SMEs are deeply woven into Europe's economic and social fabric and are very diverse in terms of business models, size, age and entrepreneurs' profiles, and draw on a pool of diverse talent, of both women and men. They include the professions, although regulated professions that are subject to rules specific to their sphere of activity (such as pharmaceuticals, the judiciary, etc.) are not included as such in the definition of SMEs, micro-enterprises, middle-range industrial companies, traditional crafts businesses or high-tech start-ups.

2.5. Recognising the impact of digital technologies on SMEs, the EESC agrees with the Commission's analysis and considers that the three pillars on which the Commission's SME Strategy for a Sustainable and Digital Europe is based (capacity-building and support for the transition to sustainability and digitalisation; a reduced regulatory burden; and improved access to the market and to financing) are indeed priority areas. The EESC emphasises that SMEs need immediate financial support, because they have been hit very hard by the economic impact of the COVID-19 pandemic; as a result, their employees are more likely to lose their jobs.

The EESC therefore regrets that the Recovery Plan for Europe, which is intended to repair the economic and social damage caused by the COVID-19 pandemic, and which was adopted by the extraordinary European Council; held from 17 to 21 July 2020, is limited to EUR 750 billion, and that the 27 Member States have curbed their ambitions, particularly in the digital sphere, in order to gain the endorsement of the so-called 'frugal' countries, as this will have an impact on financial support for the digitalisation of SMEs.

(2) Digital Economy and Society Index (DESI).
(3) COM(2020) 103 final.
(4) See footnote 3.
2.6. The EESC notes that these pillars of the Commission’s strategy for SMEs to achieve a sustainable and digital Europe reflect the expectations expressed by SME representatives at hearings that the EESC held in four countries selected on the basis of the 2019 DESI (Belgium, Germany, Portugal and Romania) to assess the impact of digital technologies on SMEs, before this process was interrupted by the coronavirus crisis and the enforced lockdown. As a result, the EESC was unable to conduct hearings in Estonia or Ireland, which had been selected in view of their high rankings in the 2019 DESI.

3. General comments

3.1. Digitalisation is a growth factor for SMEs (craftsmen, traders, the professions, service providers, etc.). More than half of retail sales in Europe are impacted by the internet, be they online sales or shop sales following online research (so-called ‘ROPO’: Research Online, Purchase Offline) (5).

3.2. The development of websites, social media, digital marketing and customer relationship management (CRM) software promotes the development of 'digitised' SMEs. Software suites and data analysis programmes also contribute to optimal business performance. In this regard, the EESC notes that training programmes should enable users, including SME managers, to be trained in the use of these tools.

3.3. Digital technology can also disrupt and lead to upheaval. ‘Disruptive’ innovation is a process of market transformation set in train by digital challenges. The disruption changes a market by opening it up to as many people as possible and enables new players to capture (disrupt) turnover within traditional value chains.

3.4. For example, the relationship of trust and proximity between an SME and its customers could create the impression that the SME’s activities are immune to penetration by digital technology. However, experience shows that this close relationship with the customer is never guaranteed. After all, consumers are willing to turn to other offers if they are more practical and advantageous (6).

3.5. In the digital economy, consumers' legal protection does not have any impact on their behaviour. An internet offer to a consumer accustomed to a paperless service, which is accessible and easy to use and which includes legal protection safeguarding their interests, despite being less convenient, will have no impact on their behaviour (7).

3.6. The positive, even overblown, discourse on digital disruption often concerns large companies with sufficient resources to invest in R&I and marketing. But what this discourse fails to recognise is that digital disruption can, for example, affect some of the professions, which are by nature highly fragmented and often have no budget for R&I. They can only take advantage of the digital solutions available on the market rather than developing their own, and are therefore more vulnerable to the digitalisation of their activity.

3.7. The digital space also puts paid to some of the illusions of SMEs. For example, the fact of providing smaller-scale services, in a limited geographical area where development potential is just as restricted, may create the illusion that they are unaffected by the changes being introduced by the digital age. However, reality demonstrates that the opposite is true. For example, the hospitality sector would appear to be a service that cannot be relocated. Yet booking platforms have been able to capture a significant share of the value of this market, to the extent that representatives of the catering and hospitality industry claim that they should have anticipated this and created their own platform to keep reservations under their control and not be so dependent on these operators outside their industry (8).

3.8. Moreover, digital disruption leads to work being redistributed. To give a few examples from the professions: in accounting, the highly manual work of entering accounting data is increasingly being done by the clients themselves, which reduces the work of the accountants as well as their margins, not to mention the fact that competitors are now emerging who offer online accounting.

(5) Forrester, European Cross-Channel Retail Sales Forecast, 2015 to 2020

(6) DVD rental shops, weakened by the rise of VOD and downloads, are proof of this fragility. The emergence of stakeholders such as Amazon, which offers a reliable and prompt home delivery service for an identical price on the basis of a catalogue, has led many consumers to favour online shopping — even though they still browse in bookshops in their free time.

(7) Le numérique déroutant [Disruptive digitalisation], Bpifrance Le Lab Study, 19 February 2015.

(8) Bpifrance Le Lab Study, mentioned above.
3.9. The risk created by the redistribution of work in the notarial profession is, for example, lower, but part of a notary’s activities can be carried out by others; thus start-ups are offering to draft legally valid wills for EUR 70 (9).

3.10. The redistribution of work is also affecting the medical sector, with websites offering online appointment scheduling and telemedicine to cover poorly served areas.

3.11. Commercial collaborative platforms may also be unaware of European and national legal requirements on matters such as mandatory company registration, compulsory insurance, health and safety, worker and consumer protection, etc., that must be respected.

3.12. In the light of all these economic, social and societal upheavals, the challenges of digitalisation should, therefore, become a permanent feature in social dialogue.

3.13. SMEs form a heterogeneous category of economic players, ranging from bakers and pharmacists to those working in the professions, which means that policy on capacity-building and on support for the digitalisation of SMEs must be inclusive and easily applicable by SMEs, without giving rise to disproportionate additional costs or slowing down their core business in order for them to comply with the rules.

3.14. The needs of SMEs are not limited to smart and inclusive legislation, however: they also cover skills development and continuous training and are based on a new vision for businesses. Indeed, the digital transformation of SMEs also affects business organisation and culture. And yet, many SME managers are not making digital transformation a strategy for their company. Digital transformation is not just about digital tools and processes: it is a new way of creating value by adapting business models to the digital context, on which managers should take the initiative.

3.15. Moreover, SMEs face many barriers in terms of access to financing, affordable training and support for internationalisation. The Enterprise Europe Network, which is devoted to innovation and the internationalisation of companies and provides SMEs with information, advice on European law and support, is not very well known among businesses. Digital innovation hubs funded by the European Union (such as the European Digital Innovation Hubs run by Innoviris in Brussels, for example (10)) also help to support the digitalisation of SMEs through training and funding, and to develop a digital entrepreneurial culture. Nevertheless, improvements in dialogue, analysis of SMEs’ needs, and cooperation between the EEN and SME organisations would make the scheme more effective.

4. Specific comments

4.1. This opinion is partly based on the conclusions of hearings held between July 2019 and the first quarter of 2020 with the social partners, SME federations, consumer associations, public authorities and others in four Member States: Germany, Belgium, Portugal and Romania. Hearings could not be held in Estonia or Ireland, which had also been selected, due to the coronavirus crisis.

4.2. The EESC points out that the purpose of the hearings in the aforementioned countries was to provide ‘grassroots’ evidence to support and feed into European action and policy on SMEs’ take-up of digital technologies.

4.3. In order to assess the impact of digital technology on SMEs, the EESC has selected the following from among the five DESI indicators (11):

— the integration of digital technology by businesses, the latter including three indicators that the EESC considered relevant: the percentage of SMEs trading online, SMEs’ turnover generated by e-commerce and the percentage of SMEs trading online and across borders.

4.4. Among the countries selected by the EESC for the indicator mentioned above in respect of the 2019 DESI, Ireland and Estonia lead the way in e-commerce and the integration of commercial aspects of digital technology, followed by Belgium, which also ranks above average.

4.5. Germany ranks at the average and Portugal below average. Romania is one of the countries lagging furthest behind.

(9) https://testamento.fr/fr/
(10) Digital Europe Programme 2021-2027.
(11) Connectivity, human capital, Internet use, digital technology integration and digital public services.
4.6. The majority of the hearings (Belgium, Germany, Portugal) reported disparate broadband network coverage, with urban areas having decent coverage, while rural and peripheral areas do not. 4G is not even available in some parts of one country (Portugal). And yet, shaping the digital future of Europe and its SMEs presupposes the development of large-scale digital solutions and the interoperability of essential digital infrastructure. Indeed, the EESC notes that connectivity is the key pillar of the digital transformation of SMEs.

4.7. Training in digital technologies is a need identified by all those who spoke during the hearings. Education and vocational training in digital technologies are sorely lacking and prevent SMEs from being able to recruit competent staff in this field (Portugal and Romania). Training in digital issues for SME employees to become competent and up to date in areas such as cybersecurity, artificial intelligence and blockchain is crucial, if not urgent (Belgium). The current situation is characterised by a superficial knowledge of digital tools that will not suffice for much longer (Germany). Workers also need digital skills to keep their jobs and succeed in an increasingly digital and rapidly changing labour market (Germany). Digitalisation may even lead to fears of job losses in some highly automated sectors (Germany).

4.8. SMEs are not sufficiently equipped or trained to manage the risks generated by malicious cyberactivity (Belgium and Germany). As a result, some traditional SMEs even question the value of developing an online business (Portugal). Those that have gone digital find it difficult to make use of the large data repositories available to larger companies and are reluctant to use advanced tools and applications based on artificial intelligence (AI), for example, which places them at a competitive disadvantage vis-à-vis larger companies (Germany). At the same time, SMEs across all sectors are highly exposed to cyber-threats and often have to rely on external experts, which generates additional costs.

4.9. The lack of appropriate national tax coordination creates proportionately higher costs for SMEs than for large companies in half of the countries where hearings were held (Belgium, Portugal) and hinders cross-border activities.

4.10. Differences in legislation and excessive regulation, standards and labelling are also barriers to the digital and cross-border operation of SMEs (Belgium and Portugal), as they generate compliance- and wage-related costs, to the extent that some SMEs are seeking to relocate (Belgium). For example, the entry into force of the General Data Protection Regulation has obliged SMEs to employ their staff in developing internal procedures for managing personal data, inform their customers, etc. Sometimes they have had to turn to external consultants, which has diverted them from their business development priority, generated costs and slowed down their core business (Belgium).

4.11. The digital development of SMEs may also be hampered by the inertia of national legislators: training and education in digital technology and support for SMEs in their digital deployment are not considered strategic priorities (Romania).

4.12. In view of the economic, social and societal risks generated by the digital revolution, all of the stakeholders heard in the countries concerned felt that it was essential for the social partners and SME representatives to be involved both in drawing up legislation that affected them and in social dialogue.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'Effective and coordinated EU measures to combat tax fraud, tax avoidance, money laundering and tax havens'

(Own-initiative opinion)

(2020/C 429/02)

Rapporteur: Javier DOZ ORRIT

1. Conclusions and recommendations

1.1. In spite of the efforts made by the EU and many governments and the entry into force of major European directives (Anti-money Laundering and Counter Terrorist Financing Directive — AMLD; Anti-Tax Avoidance Directive — ATAD) (1), together with the OECD’s base erosion and profit shifting (BEPS) programme, the volume of tax fraud, tax evasion and money laundering, as well as tax avoidance, remains very high in proportion to the public finances of the European States.

1.2. The EESC proposes launching a European pact to effectively combat tax fraud, evasion and avoidance and money laundering. The EESC calls on the European Commission to promote a political initiative involving national governments and the other European institutions in achieving this goal, fostering the consensus needed for this and involving civil society. Cooperation between Member States should be the main pillar of the pact.

1.3. The EESC urges the European institutions and the Member States to provide the financial and human resources required for the effective implementation of existing European legislation and to agree on a commitment to adopt all necessary new legislative and administrative measures to effectively combat tax offences and bad practices, money laundering and the activities of tax havens. This requires permanent evaluation of the outcome of implementing each measure.

1.4. The EESC considers the Member States’ commitment to putting an end to unfair and damaging forms of tax competition to be essential. This is also reflected in what the earlier EESC opinion on Taxation — qualified majority voting (2) has to say on the need to press ahead with the debate on the progressive shift from unanimity to qualified majority voting on tax matters.

1.5. The active involvement of civil society is crucial to creating public feeling against tax crime and bad practices and in favour of fair taxation. Its cooperation will help to bring about and apply the pact. The involvement of employers and their organisations is very important for the latter’s success. It must be guaranteed that the legislative measures adopted do not have an undue impact on companies that fulfil their tax obligations by burdening them with excessive red tape. Effective and urgent action against tax offences and bad practices will generate additional public financial resources needed to help fund pandemic recovery plans, the green and digital transformation of the economy and the construction of the European Pillar of Social Rights.

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(1) From here onwards the acronyms are used in English.

1.6. The digitalisation of the economy creates new challenges for tax authorities, as it can give rise to new methods of aggressive tax planning, financial crimes and bad practices. However, the digitalisation of the economy, through more efficient administrative cooperation and data exchange, also creates new opportunities for tax authorities to combat such practices.

1.7. Achieving better results in combating these crimes and bad practices requires closer political, administrative, police and judicial cooperation both directly between the Member States and between them and the EU, a more robust legal basis for this cooperation and adequate financial and human resources for the financial intelligence units (FIU), tax authorities, European supervisory bodies and other actors in this fight.

1.8. The starting point to make measures more effective must be a shared vision of these offences and bad practices and how they tie in with economic and financial crime and political corruption, together with the necessary role that tax havens play in facilitating and concealing them. Eradicating criminal activity by tax havens should be a priority for the EU.

1.9. While such a policy is necessary under all circumstances, the EESC is convinced that in the situation created by the COVID-19 (coronavirus) pandemic, it is crucial that it become a political and ethical priority for the Union, national governments and European civil society. At a time when such massive public financial resources are needed to tackle the health, economic and social consequences of the pandemic, it is intolerable that a significant amount of these resources should be unlawfully channelled towards the private benefit of a small number of people, to the direct detriment of the vast majority of workers, businesses, self-employed persons, employees and pensioners who comply with their tax obligations.

1.10. The EESC supports the new action plan for a comprehensive Union policy on preventing money laundering and terrorist financing (3) presented by the European Commission on 7 May 2020. It believes that it should be implemented as a matter of urgency. The EESC backs the proposed measures to ensure effective implementation of the existing legal framework for combating money laundering and terrorism financing, the establishment of a single EU legal code, the creation of a European supervisory body and the other pillars out in the plan. The EU and Member States should maintain common positions in international forums such as the Financial Action Task Force (FATF, housed at the OECD), G20 and the UN. The EESC shares the Commission’s view that the measures taken should take account of European data protection legislation and EC case law on the matter and ensure that they entail the smallest possible administrative and financial burden for the Member States and the obliged entities.

1.11. The EESC calls on the European Commission to assess the current list of non-cooperative jurisdictions and to consider the possibility of establishing additional criteria to ensure that all tax havens are included in that list. It also calls for sufficient measures to be put in place to prevent businesses or individuals from carrying out unjustified transactions with financial institutions.

1.12. The EESC welcomes the introduction of tax indicators into the European Semester, appeals to the Member States to comply with the relevant provisions in the Country-Specific Recommendations (CSR) and proposes that the European Commission also include a procedure for evaluating the efficiency, equity, sufficiency and proper functioning of tax systems in the Semester.

1.13. The EESC calls for European directives to cover works of art and other high-value assets, in particular those placed in free ports and customs warehouses; for the progressive abolition of the schemes set up in certain Member States for citizenship or residence in exchange for investment; and for the lack of transparency involved in bearer shares to be brought to an end.

1.14. The EESC supports a global solution on the corporate taxation of companies with a significant digital presence under the aegis of the OECD’s work, but if a solution is not reached by the end of 2020, the EU should resume its initiative for taxing large digitalised companies.

1.15. The EESC considers that the provisions of the fifth Anti Money Laundering Directive (AMLD) on a centralised and public register of beneficial owners of companies and trusts should be applied to tax evasion. It further calls for appropriate procedures to be put in place to make it easier for SMEs to comply with registration requirements.

1.16. The ATAD should be revised to include rules on tax treatment in relation to low-tax jurisdictions and on the repatriation of dividends or capital gains that have not been taxed abroad.

(*) C(2020) 2800 final.
1.17. National FIUs should be supported financially and technically and close cooperation should be promoted between them and between the tax authorities, as well as between national police forces and Europol, in the prosecution of tax and financial offences.

1.18. The EESC calls on the Commission to carry out a study on the role of ‘letterbox companies’ in tax fraud, evasion and avoidance as well as money laundering and, in the light of its conclusions, to amend the ATAD, the Capital Requirements Directive and the Anti Money Laundering Directive in order to prevent offences being carried out and bad practices being facilitated through these directives.

1.19. The EESC calls on the Commission and the Member States to explore the concept of minimum effective taxation of corporate profits, and its possible application.

1.20. The EESC proposes that EU trade or economic agreements include, in keeping with WTO principles and rules, a chapter containing clauses against tax offences, money laundering and aggressive tax planning and for cooperation between tax authorities.

2. Background

2.1. The scale of tax fraud, tax evasion, tax avoidance and money laundering in Europe and across the world is very significant in macroeconomic terms. It clearly has a transnational dimension. Tax havens play a key role in enabling these practices by holding and channelling capital from large companies and personal fortunes that has evaded and avoided taxation, as well as money originating from political and economic corruption and organisations forming part of the criminal economy.

2.2. There is no universally accepted definition of a tax haven, but in all cases, there is no or very little taxation, and opacity regarding customers and flows is the norm. They are identified by means of lists that define an uncooperative nature as the refusal to provide information to tax authorities and cooperate with judicial authorities. The recognised lists are that of the OECD (\(^4\)) and the EU’s two lists: relating to money laundering and terrorist financing, and on tax evasion and avoidance (\(^5\)). A monograph in F&D (IMF) estimates the private wealth hidden away in offshore financial centres at between USD 7 and 8.7 trillion (\(^6\)) (between 8% and 10% of the world’s GDP).

2.3. The IMF estimates that tax evasion costs governments around USD 3 trillion per year (\(^7\)). According to the European Parliament (EP), the figure comes to EUR 825 billion in the EU (\(^8\)), and the VAT gap — most of which is due to fraud — stands at around EUR 147 billion a year, EUR 50 billion of which is from cross-border ‘carousel fraud’ (\(^9\)).

2.4. Tax avoidance does not always involve a violation of the letter of the law, but it certainly does of the spirit. Tax havens receive around USD 600 billion a year due to corporate tax avoidance (\(^10\)). The EU loses between EUR 160 and 190 billion per year (\(^11\)). Tax avoidance through six Member States results in tax revenue losses of EUR 42.8 billion for the other twenty-two (\(^12\)). F&D (IMF) claims that 40% of global foreign direct investment (FDI) — some USD 15 trillion — is channeled to letterbox companies (companies with no economic activity), frequently in the form of holdings that pool operating subsidies. Most of them are located in five European countries (\(^13\)).

\(^4\) The FATF’s High-Risk Jurisdictions contains only two states (North Korea and Iran). The FATF’s Jurisdictions under Increased Monitoring includes 18 countries. Both were updated on 21 February 2020.

\(^5\) The list set out in the Commission Delegated Regulation (EU) 2020/855 of 7 May 2020 (OJ L 195, 19.6.2020, p. 1) contains 20 high-risk territories in relation to money laundering and terrorist financing. The revised list of non-cooperative jurisdictions concerning evasion and avoidance contains 12 jurisdictions, in addition to a further 20 which are subject to surveillance.


\(^8\) European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance, point 24.

\(^9\) EP, Ibid, points 142 and 143.


\(^12\) EP, Ibid, point 328.

2.5. According to the UN, money laundering accounts for between 2% and 5% of the world’s GDP (14). Recent cases, such as those of Danske Bank (with an initial estimate of EUR 200 billion) (15) and Swedbank (EUR 37 billion) (16) reveal the weaknesses of the anti-money laundering system, despite the directives in force and the work of supervisory authorities.

2.6. There are money laundering channels other than the financial sector: art, diamond and precious metal markets, free ports, customs warehouses and special economic zones, etc. Rapid technological developments are providing new channels in the form of virtual assets and blockchain. The same applies to methods of evasion and avoidance: dividend stripping and coupon washing through cum-ex transactions (EUR 55.2 billion), aggressive tax planning, secret agreements between States and multinational companies that substantially reduce their tax obligations or schemes to grant citizenship or residence to foreign nationals in exchange for investment. E-commerce, the platform economy and the digital economy in general create new threats that could facilitate tax offences and avoidance, as well as providing new opportunities for tracing and supervision.

2.7. The Juncker Commission worked very hard to combat tax offences and avoidance: 26 legislative initiatives and 57 initiatives of all types. Two anti-money laundering and counter-terrorist financing directives stand out in particular: the fourth and fifth Anti Money Laundering Directive (2015 and 2018). The fifth Directive, whose implementation was completed in January 2020, improved the identification of holders and owners, exchanges of information and cooperation between FIUs, extended the scope of obliged entities and introduced monitoring of virtual currencies. The practical results are unsatisfactory: there are still many shortcomings and gaps, although the Commission is highly active within the scope of its limited powers (2019 assessment) (17). Very recently, the European Court of Auditors launched an audit to assess the effectiveness of anti-money laundering measures in the banking sector (18) and the European Commission referred three Member States to the Court of Justice of the European Union (ECJ) for failing to fully implement the 4th Anti Money Laundering Directive (19).

2.8. On 7 May 2020, the European Commission presented a new action plan for a comprehensive Union policy on preventing money laundering and terrorist financing (20) and a Delegated Regulation (21) with the list of countries and jurisdictions that are not working together to achieve these ends. Based on the assessment of the divergences in the way the existing legislative framework is applied and of the ‘serious weaknesses in the enforcement of the rules’, and expressing a desire for ‘zero tolerance for illicit money within the European Union’, the plan is structured around six pillars:

— ensuring the effective implementation of the existing framework, starting with the full transposition of the AML directives,

— establishing a single EU rule book by means of an amended directive and a regulation,

— establishing procedures and creating an EU-level supervisory body by means of a legislative proposal,

— establishing a support and cooperation mechanism for FIUs and interconnecting national central registers of bank accounts,

— enforcing criminal law provisions and improving the exchange of information,

— strengthening the international dimension of the EU framework.

Four legislative proposals will be presented in the first quarter of 2021 to develop these pillars.

(14) UN: UNODC Money-Laundering and Globalization.
(15) EP, Ibid, points 236 and 237.
(20) C(2020) 2800.
2.9. The second main area where the European Commission has taken action is tax avoidance, in relation to initiatives on digital taxation and the corporate tax base. Its strategy has targeted ‘effective taxation’ that would make multinationals pay the appropriate amount of tax where they generate value, in keeping with the OECD’s BEPS action plan, in particular by limiting the erosion of the corporate tax base through deductions from interest, royalties and other financial benefits. The main rule for this has been the AT AD (2016), amended in 2017 to include hybrid mismatches (AT AD 2) (25). Its results cannot yet be assessed. There has also been legislation to facilitate the resolution of disputes arising from double taxation (26). A new Regulation on controls on cash entering or leaving the EU was enacted in 2018 (27).

2.10. The European Commission has taken account of tax avoidance in its legislative initiatives on digital taxation and on the corporate tax base. In 2018, it presented two directives: one relating to the taxation of companies with a significant digital presence and another on a tax on the revenues of large digital companies. In 2016, it proposed a further two on the common corporate tax base — CCTB — and the common consolidated corporate tax base — CCCTB. The latter is of great significance in combating tax avoidance. Parallel discussions at the OECD and opposition in some Member States have delayed the adoption of these Directives. To address this situation, the Commission presented a communication (2019), which proposes to launch a debate on adopting decisions on tax matters by qualified majority.

2.11. Cooperation between the tax authorities and other Member State institutions through the automatic exchange of information (AEOI (28)) on tax, and transparency, are key. As many as six directives on administrative cooperation (DACs) have been adopted. From the first (2011/16/EU (29)) to the last (EU 2018/822 (30)), all of them have extended the obligation to disclose the names of the beneficial holders of accounts, financial assets and transactions, and all products, including insurance and dividends. Progress has been made with regard to requirements of AEOI on tax rulings and financial information relating to large companies, by country (country-by-country reporting, CBCR (31)). Directive (EU) 2019/1153 of the European Parliament and of the Council (32) regulates the use of financial and other information for the criminal prosecution of offences.

2.12. The Juncker Commission tackled the secret agreements between some Member States and multinational companies by means of which these companies hardly pay any tax in these countries. It also introduced tax indicators into the European Semester. The latest CSR indicate that in some Member States the implementation of legislation is unsatisfactory with regard to aggressive tax planning or the identification of beneficial owners. There is clear room for improvement in cooperation between the Member States. Despite some progress, there is no widespread reduction in the levels of fraud, money laundering and avoidance, which in some cases — such as flows of capital to letterbox companies — are even increasing.

2.13. In the last five years, the EESC has adopted 25 opinions on these issues. The EESC has generally supported the measures proposed by the Commission. Sometimes, it went further in its requirements, in line with the European Parliament’s position.

3. General observations and recommendations

3.1. The COVID-19 pandemic crisis — the most serious that Europe has faced since the end of the Second World War — must be at the heart of any economic and social considerations and proposals. With regard to this opinion, it seems clear that a drastic reduction in the economic volume of tax offences and avoidance would give States, and the EU itself, some of the financial resources required to deal with the health, economic and social impact of the pandemic. The EESC believes that involving the EU institutions, national governments and civil society in the adoption of all the measures needed to take long-lasting and effective action against tax offences and avoidance is now, more than ever, an undeniable political and moral imperative. It is also urgent.

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(28) Automatic exchange of information — AEOI.


(31) Country by country reporting — CBCR.

3.2. The main aim of the present opinion is to provide an overview and build on the views expressed in previous EESC opinions so as to formulate proposals on how to make the fight against these offences more effective. Attention needs to be paid to the links between the various tax offences and how they are connected to tax avoidance, by means of shared channels that flow towards tax havens.

3.3. The EESC acknowledges the intention of the Commission and the European Parliament to promote initiatives against tax crimes, tax evasion and fiscal dumping, and regrets that some of the main initiatives, such as those affecting corporate tax, VAT fraud and aggressive tax planning, are being blocked or may be pared back by some Member States and by the lack of cooperation between them.

3.4. The EESC proposes launching a European pact to effectively combat tax fraud, evasion and avoidance and money laundering. The EESC calls on the Commission to promote a political initiative involving national governments and the other European institutions in achieving this pact. Cooperation between the Member States must be one of the pillars of the pact.

3.5. The effective implementation of the pact should give the EU and its Member States additional resources to those generated by growth to fund their plans for the recovery from the pandemic, the green and digital transformation of their economies, and the construction of a sound European Pillar of Social Rights. Taking respect for the tax sovereignty of the Member States as a basis, the EESC calls on the political leaders of the EU and on national governments — while demonstrating the responsibility and generosity required by our current tragic circumstances — to reach an agreement on the details of the pact that the EESC has proposed. In the EESC’s view, the development of the consensus to achieve the European Fiscal Pact against tax crime, tax avoidance, money laundering and terrorist financing should be based on:

(a) the commitment of the Member States and the European institutions to take all necessary additional legislative and administrative measures to effectively combat these offences and bad practices;

(b) bolstering the political will for cooperation between the Member States and with EU institutions, leading to the introduction of effective administrative, police and judicial cooperation procedures to achieve the pact’s objectives;

(c) the Member States’ commitment to ending unfair tax competition and unblocking the relevant directives related to the pact’s objectives; and

(d) the involvement of civil society organisations in the pact.

3.6. The involvement of civil society organisations in such an agreement and in creating greater social awareness of tax issues is key. EU citizens are very keen for there to be sufficient resources for certain high-quality public services — particularly those of health and research at the moment — and adequate social protection systems. Companies that meet their tax obligations — the majority — want to see an end to tax evasion and avoidance by certain companies, which creates unfair competition with them.

3.7. The EESC agrees with the European Parliament’s belief that fair taxation and the determined fight against tax fraud, tax evasion, aggressive tax planning and money laundering have a central role to play in shaping a fair society and a strong economy while defending the social contract and the rule of law. Therefore, it is concerned by the extent of the tax gap that these crimes and bad practices generate in tax revenues, as well as by recent tax developments that have shifted the tax incidence to labour income and from the financial sector to the real economy, where SMEs are subject to greater tax pressure than multinationals.

3.8. The introduction of tax indicators in the European Semester country reports marked a step forward. However, the assessment of its results shows that the functioning of FIUs and AEOIs, and the cooperation between the tax authorities are unsatisfactory in some EU Member States, in terms of both money laundering and tax evasion and avoidance. The EESC suggests to the Commission that the tax indicators be given the same status as the other indicators in the European Semester and that a procedure be established to assess the efficiency, equity, sufficiency and proper functioning of tax systems.

\(^{(30)}\) EP, Ibid, point 328.
3.9. The EESC supports the new Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing and thinks it should be implemented urgently. It supports the creation of a European supervisory body that ensures maximum cooperation between Member States’ tax authorities and FIUs and that holds direct responsibility for monitoring and investigating obliged entities from all areas, and has sufficient human and technological resources to adapt to the continuous developments in crime. It calls on the Commission to consider, as the most appropriate formula for this, the creation of a European Agency to combat fiscal, economic and financial crime and money laundering and to monitor compliance with legislation and the effectiveness of administrative actions. The EESC thinks the EU needs to voice a single opinion in international forums such as the FATF (OCD), the G20 and the UN. The EESC believes that the Commission should help Member States by setting up training mechanisms such as a European tax academy, as proposed in its opinion on the Fiscalis programme (10/2018) (31).

3.10. The anti-money laundering legal framework must allow access to information relating to account holders, and owners of companies and trusts, while complying with data protection rules and the relevant case-law of the ECJ. Professionals who are required to report suspected money laundering practices that they detect must be protected. The EESC is pleased that the action plan proposes a new whistle-blower protection system and requests that it be set up earlier than December 2021. The EESC shares the Commission’s view on the need to ensure that the measures adopted entail the smallest possible additional administrative and financial burden for the Member States and the obliged entities.

3.11. The measures for supervising third countries included in the fifth Anti Money Laundering Directive will only be effective with a realistic list of high-risk countries. The EESC advocates a clear and transparent methodology and shorter evaluation periods. It believes that the new list, which only includes 20 countries and territories, should be approved as soon as possible and should include some other countries, such as those that have played a leading part in recent scandals. It regrets the obstacles put in place by some EU countries preventing access to information on transactions in tax havens.

3.12. The Ecofin list (2017) of tax havens with regard to tax evasion and avoidance was updated in February 2020. Unlike other lists, this one has the advantage of including both those that do not accept AEOIs and those offering companies special tax systems. The fact that the European list rules out the existence of EU tax havens on principle is open to criticism. However, in the European Semester CSRs, the Commission pointed to certain Member States as undermining the tax bases of their EU partners. Although the threat of inclusion in the blacklist acts as a deterrent by affecting reputation, the sanctions are insufficiently effective.

3.13. To ensure that the jurisdictions in the list undertake the required reforms, the EESC proposes that, after the next assessment, the Regulation be reformed to prohibit those that have not done so from carrying out financial transactions with the EU. The measures also need to affect companies avoiding paying tax. One effective measure would be to refuse to grant COVID-19 public aid to companies that carry out unjustified transactions with jurisdictions on the list, as has been approved by some Member States. The EESC calls for the possibility of excluding these companies from public procurement to be examined.

3.14. Multinationals operate globally and under common management, but tax rules are adopted at national level without taking account of how they interact with the systems of other countries, in cases when the tax competition with them is not fair. Certain jurisdictions adopt tax systems that undermine the tax bases of other territories. This, together with a widespread fall in rates, has caused countries to engage in a race to the bottom on tax in order to attract FDI, and has given rise to numerous loopholes and legal imbalances. Many multinationals restructure their businesses in order to

significantly reduce their tax bill. To this end, they resort to certain intra-group operations to artificially transfer a large part of expenditure to medium or high-tax territories, while profits are declared in low or zero-tax jurisdictions, where they have reached secret tax rulings with governments. The transfer of profits by large companies in the digital economy is particularly easy in this environment. The EESC hopes that applying BEPS standards and the ATAD will open the door to changing this situation. It is too early to evaluate the results. If these measures are to be effective, cooperation between all the Member States — the main objective of the European pact — is essential.

3.15. The EU is vulnerable to tax avoidance (32). Mobility of capital, goods and people on the internal market contrasts with a lack of coordination on tax policies. Following the crisis in 2008, progress in economic governance focused on supervising expenditure. The situation has changed in the last few years, but coordination of fiscal policies remains insufficient. The introduction of tax indicators in the European Semester is a step forward that has served to highlight the harmful nature of some Member States’ tax systems.

3.16. In 2009, the G20 launched a process of cooperation in order to tackle tax evasion and avoidance. The OECD approved a new global standard for the exchange of information — the Common Reporting Standard (CRS) — based on AEOI. Since January 2018, most jurisdictions in the international community have committed to implementing it. An overall assessment of compliance is pending.

3.17. In the EU, AEOI is regulated by the DAC, which has been reformed several times to bring it into line with the CRS. The DAC has extended the obligation of AEOI to natural and legal persons and to the main types of revenues, but there are gaps that need to be addressed. The issue of information on the beneficial owner of assets and funds and of opaque intermediary vehicles (certain trusts, letterbox companies, foundations, etc.) remains unresolved, as the ‘Panama Papers’ scandal showed. The same goes for the anonymity of ‘bearer shares’, which have no publicly-known owner, and are still permitted in certain countries. The DAC’s scope should be extended to works of art and other high-value assets located in free ports and customs warehouses. The issue of citizenship or residence schemes offered by 19 Member States in exchange for investment, and which in many cases are used for tax offences, should also be resolved.

3.18. The OECD’s BEPS Action Plan is the global initiative to combat tax base erosion and profit shifting. The progress reports for each of the 15 actions it sets out have a different legal nature. Some are best practices and others have the status of minimum standards, with the ability to oblige States to incorporate their content into company law. Some key issues, such as the taxation of the digitalised economy or the distribution of taxing rights by country, are pending resolution at global level. Some countries and civil society organisations have criticised the BEPS process and called for the reform of the international tax architecture to be transferred to the UN’s Committee of Experts on International Cooperation in Tax Matters. The EESC is of the view that the OECD has to complete its work and work alongside the UN Committee in order for its conclusions to be shared and rolled out.

3.19. The ATAD is the centrepiece of the EU’s anti-avoidance tax strategy. They ensure that the Member States implement the BEPS reports in a coordinated way and strengthen their legal status by making compliance subject to CJEU oversight. In some cases, their anti-abuse rules go further than BEPS, as is the case for ‘exit taxes’, the rules on ‘controlled foreign companies’, anti-hybrid rules and the establishment of an anti-abuse general clause. However, investment clauses were not included due to the opposition of some countries, even though they were advocated by the Commission and a majority of Member States.

3.20. The European Commission's investigations into secret tax agreements signed by some large multinationals and the governments of some EU Member States highlighted the significance of the facilitated tax avoidance arrangements: tax rates ranging from 0.05% to 2% on profits transferred from other European countries. In response, the EU reformed the DAC to make mandatory the automatic communication of any cross-border tax ruling signed by a Member State.

3.21. A more recent reform of the DAC extended the automatic exchange of basic information on large enterprises (CBCR (34)), on a country-by-country basis (CBCR (34)), following the requirements of BEPS Action 13. However, public access to this information is still not permitted. The European Commission has proposed a reform of the Accounting Directive 2013/34/EU of the European Parliament and of the Council (35) to allow for the publication of the Country-By-Country Reports. In the EESC's view this should apply, at least, to companies receiving public aid.

3.22. One very important proposal by the Commission in the area of business taxation is its proposal to harmonise the corporate tax base. In its first phase — CCTB — the tax base would be calculated on the basis of common rules. In the second — CCCTB — the profits and losses that individual subsidiaries of a company or multinational group have in each Member State would be consolidated across the EU. The resulting net balance would be split between the different countries in which the company was active, with taxation in each one based on a predetermined formula (assets, sales and employment). There is a hope that with this consolidation, a large part of aggressive tax planning operations would cease. The EESC agrees that taxation should be based on a weighted formula that takes into account the location of sales, employment and assets. The value of intellectual property rights, data and other intangible assets must be rigorously assessed.

3.23. According to the Commission and the OECD, the difficulty of existing tax rules capturing revenues from new business models in the digital economy has in different situations and countries led to an under-taxation of digital companies compared to traditional businesses. The European Commission adopted two proposals (in March 2018) for directives for the taxation of the digital economy (36), in line with the OECD work to be completed by the end of 2020; one with an interim solution and the other with the definitive solution. The interim solution sets a 3% rate on sales of digital services by large companies (and not on profits or where value is generated). It is blocked in the Council. The Commission now supports a global solution on the corporate taxation of companies under the aegis of the OECD's work, but if a solution is not reached by the end of 2020, it will resume its initiative for taxing large digitalised companies.

3.24. Both the European Commission and the EESC (37) have expressed their position on the need to launch a debate on the necessary conditions for a progressive shift from unanimity to qualified majority voting on tax matters. The time limits for this change may be shorter or longer depending on the Member States' sensitivity to the tax area on which action is to be taken.

3.25. The EESC believes that the huge challenges facing the EU and all of its Member States because of the COVID-19 pandemic are incompatible with any lax approach with regard to crimes that undermine economic growth and public finances. Similarly, it argues that cooperation and solidarity between the Member States, the EU institutions and sections of European civil society need to be strengthened.

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(33) The locations of its employees, sales, declared profits and taxes paid.
(34) Country by country reporting — CBCR.
(37) COM(2019) 8 final, Towards a more efficient and democratic decision making in EU tax policy.
4. Specific observations and recommendations

4.1. The EESC recommends extending the solution set out in the 5th Anti-Money Laundering Directive to the field of tax evasion, i.e. to oblige countries to establish a centralised and public register of beneficial owners of companies and trusts. A proper procedure should also be established to identify the beneficial owners who are behind companies based outside the EU. All such registers must operate properly and proportionately in order to facilitate the work of businesses that must comply with requirements. This applies in particular to SMEs, which should be offered support services.

4.2. The need to identify the beneficial owners of all companies and trusts should be expanded to identifying the holders of bearer shares. The EESC calls on the Commission to examine the possibility of establishing a procedure to allow this, and, if it is not possible, to ban this practice at EU level.

4.3. The remaining gaps in the text of the DAC must be closed in order to extend the AEOI to works of art and other high-value assets situated in free ports, customs warehouses and special economic zones.

4.4. The Member States should be urged to phase out citizenship or residence schemes in exchange for investment that facilitate tax crimes. This is the position of the European Parliament and of the EESC, in its opinion SOC/618 (38). For as long as such schemes continue to exist, the necessary supervisory measures should be adopted to ensure that investors comply with their tax obligations.

4.5. Measures agreed within the OECD and the Integrated Framework on Trade-Related Assistance should be introduced with regard to the allocation of tax revenue to market jurisdictions such as India and China. The ATAD must be revised to include rules on the fiscal treatment of low-tax jurisdictions, in particular the repatriation of dividends or capital gains from subsidiaries abroad, if they have not been taxed at a minimum level in another country.

4.6. In accordance with the request included in the March 2019 European Parliament resolution (39), the EESC calls on the Commission and the Member States to explore the concept of minimum effective taxation of corporate profits, and its possible application.

4.7. Cooperation between Member State tax authorities and supervisory bodies should be stepped up, particularly in the area of tax offences and money laundering, and more robust cooperation between Europol and national police forces should also be promoted.

4.8. The national FIUs should be supported financially and technically to enable them to carry out their tasks effectively.

4.9. The huge amount of capital flowing through letterbox companies based in the EU requires a strong response from its policy-makers. The EESC calls on the Commission to carry out a study on the role of letterbox companies in tax fraud, evasion and avoidance (following the application of ATAD 1 and 2) as well as money laundering and, in the light of its conclusions, to take all necessary measures to prevent such crimes and bad practices from being carried out through this type of company. The ATAD, the Capital Requirements Directive and the Anti Money Laundering Directive should be amended, if necessary.

4.10. The EESC proposes that in the forthcoming EU trade, investment or economic partnership agreements, or in the review of existing ones, a tax chapter should be envisaged, in compliance with WTO principles and rules, including the results of the BEPS/OECD programme, as well as clauses on tackling tax fraud and evasion, aggressive tax planning and money laundering, and cooperation between tax administrations.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

(39) EP, Ibid, points 78 to 85.
Opinion of the European Economic and Social Committee on ‘The rule of law and its impact on economic growth’

(Own-initiative opinion)

(2020/C 429/03)

Rapporteur: Jukka AHTELA

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1. Conclusions and recommendations

1.1. The rule of law has come under pressure recently both within the EU and outside it. This development is worrisome as it has the potential to undermine respect for fundamental rights — as well as the other values set out in Article 2 TEU.

1.2. The weakening of the rule of law will affect the functioning of society, fundamental rights, civil society, as well as the economy. The question therefore is where this kind of backsliding could lead the EU and the European economic and social model.

1.3. To function well, the single market needs to rely on a transparent and stable legal framework that also covers the enforcement of common rules, as national courts must trust that courts in other Member States are equally committed to upholding the values on which the EU is founded.

1.4. The separation of powers, and in particular an independent judiciary that has the power to review government behaviour, is key to investment and economic growth.

1.5. The EESC calls on the European Commission to make efforts to measure the economic impact of the rule of law. This includes developing a solid system of measurement that takes the substantive part of the rule of law as well as the procedural part explicitly into account.

1.6. Many countries have laws that are perfectly compatible with the rule of law but are imperfectly enforced. It is therefore important to focus on proper implementation.

1.7. The EESC welcomes the efforts of the European Commission and other institutions to develop appropriate tools to defend EU values and promote a rule of law culture. However, the EESC considers that the effectiveness of existing tools, such as Article 7 TEU and the rule of law framework and infringement procedure, the annual EU Justice Scoreboard and the new Rule of Law Mechanism, could still be improved and should be complemented by measures focused on the rule of law, but geared more effectively towards economic considerations.

1.8. In the European Semester, the Commission should accelerate highlighting the relevance of the rule of law as one of the key elements underpinning a competitive and sustainable economy. The EESC recommends that national follow-up review processes be created, which include representatives from civil society and the social partners, and that the overall involvement of CSOs and the social partners be increased throughout the Semester process.
1.9. The EU’s annual rule of law review process should be made as open as possible to civil society. The findings and recommendations of the European Commission should be discussed publicly both at the national and the European level, and followed up by specific measures to address incidents and negative trends, including for the economy. Civil society, including the social partners, should be involved more closely and also be involved in the follow-up. The EESC has proposed an annual forum of civil society organisations, which would contribute to the review cycle with its diverse representation.

1.10. Civil society organisations as well as the media play a crucial role in countries where governments are moving away from the rule of law. They enable the checks and balances that hold governments accountable. The EESC calls for increased financial and substantive support for organisations involved in defending and promoting the rule of law and fundamental rights.

1.11. Membership of the EU is very valuable for all members as long as non-compliance with the basic rules is sanctioned. If no sanctions apply, the value of membership for all complying members is reduced.

1.12. It seems that awareness regarding the crucial importance of the rule of law both as a fundamental value but also as being instrumental to economic growth is lacking among the public in many Member States. Therefore, the EESC calls for a permanent awareness-raising strategy to alert EU citizens to just how crucial the rule of law is.

2. Introduction

2.1. The rule of law is one of the values on which the European Union is built (Article 2 TEU) and is a precondition for achieving the other values that the Union aims to promote (1).

2.2. However, the rule of law has come under pressure recently both within the Union and outside. This development is troublesome as it might mean less respect for the other values named in Article 2.

2.3. This pressure has an impact on the functioning of and trust in the judiciary. Further implications are felt by civil society with the threat of the judiciary losing its role as a bulwark and guardian of fundamental rights.

2.4. As the EESC noted in its opinion (2), ‘Respect for the rule of law also ensures legal certainty and a level playing field for business initiatives, innovation, investments and fair competition across the internal market for the benefit of consumers and citizens’.

2.5. The question therefore is where this kind of backsliding could take the European economic and social model. The weakening of the rule of law might impact the functioning of society, fundamental rights, civil society and the economy.

2.6. If not stopped, the threats to the rule of law and the overall deterioration of fundamental rights are likely to negatively affect the mutual trust that underpins the internal market and hence economic growth in the EU.

2.7. In the Communication (3) on ‘Strengthening the rule of law within the Union’, the Commission refers to the work of the OECD on the importance of the rule of law to development and the overall business and investment climate. In this connection, the EESC has likewise underlined the need to give more consideration to economic aspects of the rule of law.

2.8. Disregard for the rule of law hampers balanced economic and social development in line with the Sustainable Development Goals (SDGs), and the pursuit of the Union’s overarching goal ‘to promote peace, its values and the well-being of its peoples’ (Article 3 TEU). Promoting the rule of law is one of the targets of SDG 16.

2.9. When dealing with rule of law deficiencies in the EU, the impact on economic growth has received less attention. Research focuses on the impact of state and public governance at large on economic growth, especially in developing countries. This opinion, therefore, focuses on the economic impact on the rule of law in the EU.

(1) The position is shared by the Commission and explicitly stated in its rule of law framework (IP/14/237).
2.10. The aim of this opinion is to help stakeholders understand that the European values enshrined in Article 2 TEU, in addition to their intrinsic value, also represent an economic value.

3. Defining the rule of law

3.1. At European level, the rule of law is a well-established principle enshrined in the Treaties and based on the case law of the Court of Justice of the European Union (CJEU), the European Court of Human Rights (ECHR), and the Council of Europe, as well as on the relevant work of the Venice Commission. The rule of law requires that all public powers act within the constraints laid down by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts (1).

3.2. By specifying the individual components of the rule of law, substantive components can be separated from procedural ones. The most basic and central component of the rule of law is equality before the law, i.e. the notion that the law treats everybody the same and refers to the substance of the law.

3.3. Procedural equality before the law is a necessary condition for achieving a high level of rule of law. Nevertheless, it is not sufficient as both substantive and procedural equality are needed. A number of procedural components are needed to make sure that the letter of the law is implemented. The separation of powers is key as it helps to ensure that the government also remains within the confines of the law. The judiciary will only be able to keep the executive power in check if both judges and prosecutors are independent from the other two branches of government.

3.4. Moreover, a number of minimum standards in law enforcement need to be safeguarded: everybody has to enjoy fundamental rights, have the right to a fair trial, etc. Finally, law enforcement needs to be impartial, meaning that nobody is discriminated against and that the judiciary is free of corruption (2). According to Article 2 TEU, the rule of law and democracy go hand in hand as founding values.

4. Why the rule of law is conducive to sustainable economic growth

4.1. Sustainable economic growth is considered to be one of the most important indicators of the health of an economy. Increasing economic growth is associated with the increasing wealth of a country and its population. Moreover, a market economy is unable to function without basic rules and procedures, including rules regarding private ownership and the voluntary transfer of ownership (i.e. contract law). More generally speaking, a market economy will only thrive on the basis of stable and predictable rules, as exemplified by the internal market and the economic and monetary union (EMU) as the engines of the European economy.

4.2. Economic growth implies that more goods and services become available on a per capita basis over time. The only means to achieve that is to increase productivity. This, in turn, presupposes investment in both capital and education (also called ‘human capital’). To establish a connection between the rule of law and economic growth, we thus need to ask how the rule of law can affect the general propensity to invest.

4.3. Investment, in particular long-term investment, will only take place if potential investors expect the investment environment to remain predictable and favourable over many years. The rule of law plays a crucial role in a government’s ability to offer such a stable environment.

4.4. An executive power that is not constrained by the other two branches of government — the legislative and the judiciary — could make many promises to potential investors regarding their freedom to set prices at will, not to be taxed highly (or at all), to transfer profits back to their country of origin, etc.

4.5. However, an unconstrained government is incapable of making binding promises, i.e. entering into credible commitments. The separation of powers, and in particular an independent judiciary that has the power to review government behaviour and uphold private contracts is key to investment and economic growth.

4.6. As well as the independence of the judiciary, its impartiality is also key. If judges can be bribed, i.e. they are not impartial, then, rather than being based on the principles of the rule of law, cases are decided in favour of the party that is able (and/or willing) to pay the higher bribe. Thus, corruption is incompatible with the rule of law.


4.7. If judges discriminate against certain groups, then the law is not applied equally. Any kind of partiality will make the legal environment less certain, which is not only expected to lead to lower overall investment levels but also to fewer transactions. Partial courts will therefore slow down economic growth.

4.8. The accessibility of courts is another key factor. If it takes years to reach a court decision, this might have a number of detrimental effects on the economy: contracting partners in breach of contract might use the court strategically if it is commonly known that a court decision will take a long time. Delayed justice — whether this involves delayed decision-making or late implementation — makes contracting less attractive, leading to fewer transactions and exactly the same effects as those caused by the lack of an independent judiciary, as described above.

5. How to measure the rule of law

5.1. To ascertain the rule of law’s effects on economic growth, it first needs to be measurable. However, this is not easy as it is a multidimensional concept and various difficult coding decisions need to be made, such as whether all dimensions should be given the same weight.

5.2. Some of the early measures were driven by data availability rather than theoretically derived conjectures. Although there is a very high correlation between the substantial and procedural aspects of the rule of law (6), the substantive component, equality-before-the-law, does not figure in most of the better-known indicators of the rule of law. A solid system of measurement that takes the substantive part of the rule of law as well as the procedural part explicitly into account should therefore be developed by the Commission.

5.3. Another important issue regarding measurement is the question of whether de jure provisions or their actual implementation are measured. Many countries have laws that are perfectly compatible with the rule of law but ineffective enforcement. It is therefore important to focus on implementation.

5.4. The question of how best to use available measures is also important. On the one hand, aggregate measures can be useful for getting a first impression of what is going on in a particular country. On the other hand, if ‘actionable’ advice is sought, i.e. analyses that can have direct policy implications, aggregate measures are not very helpful.

5.5. Despite the difficulty involved, the EESC recommends that the European Commission explore the possibility of measuring the economic impact of the rule of law both in the Member States and in the candidate countries, and possibly link this to the rule of law review cycle.

6. What do the existing data say?

6.1. Cross-country studies analysing the effects of the rule of law on economic growth have shown that, on average, countries adhering more to the rule of law grow faster than countries adhering less (7). This does not mean that individual non-rule-of-law-abiding countries cannot achieve high levels of economic growth. These are called ‘outliers’ by economists. Such cases are possible and do occur but will not occur with high frequency.

6.2. In estimating the effects of the rule of law on economic growth, the respective income levels also need to be taken into consideration. All other things being equal, countries already enjoying a high per capita income level tend to find it more challenging to achieve high growth rates than countries starting from a lower level. This is an indication of the so-called ‘convergence effect’.

6.3. Aggregate measures of the rule of law are not very helpful for identifying specific transmission channels through which it could affect economic growth. This is why the focus here is on a limited number of the core components of the rule of law in this section.


6.4. It was already shown above that an independent judiciary seems to be crucial for ensuring that governments remain within their constitutionally defined constraints.

6.5. Analysing the effects of de jure and de facto indicators of judicial independence separately, it turns out that de jure provisions do not have any effect on economic growth. De facto provisions, on the other hand, are strongly correlated with faster economic growth (}). Improving de facto levels of judicial independence has an economic payoff: countries that have done so have received an extra dividend, i.e. they have experienced faster growth (}).

6.6. It has been shown that judicial independence and judicial accountability are complementary, rather than competing with each other (}). A number of judicial guarantees, such as the right to counsel, limit the discretionary leeway of judges. As such, they can be interpreted as ensuring judicial accountability. Interestingly, it has been shown that some such guarantees are not only conducive to judicial accountability and, in turn, the rule of law, but also to economic growth. This is the case with regard to the timeliness of court decisions, with written — as opposed to oral — procedures and with the right to counsel (}).

6.7. Corruption is not only a crime, it is also incompatible with the rule of law. However, measuring corruption is fraught with difficulties. Since the payer and the recipient of the bribe usually have no incentive to signal that a bribe was involved, objective data are impossible to gather. Most literature has relied on so-called ‘corruption perceptions’, i.e. the subjective evaluation of how widespread corruption is in a particular country or in a specific public service.

6.8. Although proving that corruption is detrimental to economic growth remains difficult, by now a host of studies point in that direction. For instance, it has been shown that it reduces investment (}). Corruption also has other distortive effects: for example, it could lead to higher military budgets (}). It also affects the structure of public spending, with the focus moving away from important public services such as health and education towards less productive activities (}). The OECD summarises a recent study as: ‘… it is clear that corruption has a direct impact on the cost of a project both for the private and public sectors. Its indirect effects include damaging public institutions, impairing citizens’ trust in their government thereby lowering incentives for innovation, and increasing social inequality. But they also increase the cost of doing business, a tax on economic activities, that then is translated to the ultimate users or consumers of the projects’ (}).

6.9. Prosecutors that are both independent and accountable are conducive to high rule of law levels because crimes will be prosecuted independently from political pressure, the particular identity of a criminal suspect and other similar factors. It has been shown that prosecutors that are actually independent are associated with lower corruption levels (}). Given that corruption is detrimental to growth this can, therefore, be interpreted as indirect evidence that independent prosecutors — as one component of the rule of law — are conducive to economic growth.


6.10. Finally, let us look at judicial efficiency, remembering the oft-quoted saying that justice delayed is justice denied. One of the most impressive studies in the area focuses on India (17). Differences in court delays are regressed on measures of output in agriculture, industry and the service sector. It shows that judicial delays have a negative effect on output growth in all three sectors of the economy.

7. Possible policy implications

Existing EU tools

7.1. The EESC has called for the tools at the EU’s disposal to be enhanced to counter backsliding with regard to fundamental EU values (18). The EESC welcomes the efforts of the European Commission and other institutions to develop appropriate tools to defend EU values and promote a rule of law culture. However, the EESC considers that the existing tools, such as Article 7 TEU and the Rule of Law Framework, the infringement procedure, the annual EU Justice Scoreboard and the new Rule of Law Mechanism could still be improved and should be complemented by measures focused on the rule of law but geared more effectively towards economic considerations.

7.2. In the European Semester, the European Commission considered the relevance of the rule of law to the business environment in its drive to promote growth-enhancing structural reforms in areas such as effective justice systems and the fight against corruption. Currently, input to the EU Justice Scoreboard originates mainly from those supplying justice services such as the ministries of justice, associations of judges, judicial councils, etc. Curiously absent are those demanding judicial services who might offer valuable suggestions on how to improve the various justice systems. Civil society organisations (CSOs), as well as the social partners, could assume an important role in mediating information. The EESC urges the Commission to accelerate highlighting the relevance of the rule of law as one of the key elements underpinning a competitive and sustainable economy. Rule of law indicators should be incorporated in a more visible way and include issues such as legal certainty and access to remedies for businesses and workers. Efforts should be made to improve the follow-up procedure with a view to better implementation of recommendations. The EESC recommends that national follow-up review processes be created, including representatives from civil society and the social partners, and that the overall involvement of CSOs and the social partners be increased throughout the Semester process.

7.3. The EU’s annual rule of law review process should be made as open as possible to ensure that the findings and recommendations of the European Commission are discussed publicly both at the national and the European level, and followed up by specific measures to address incidents and negative trends. The European Commission should increase involvement of CSOs as they are often the first to suffer when the rule of law is threatened and can therefore serve as a fire alarm (19). The European Commission should also take measures regarding reprisals against civil society organisations due to participation in the process. The EESC has proposed an annual forum of civil society organisations which would contribute to the review cycle. It stands ready to contribute to this process and to ensure broad representation of civil society organisations, including those representing socio-economic interests such as the social partners.

7.4. The EESC already welcomed the Commission’s proposal to protect the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States. In this regard, the EESC supported the proposal to make receipt of EU funds by the Member States conditional upon respect for the principle of the rule of law and thought that this conditionality could be extended to the other principles linked to the rule of law set out in the EU Treaties (20).

**Possible further policy responses**

7.5. Given that a high level of rule of law is a fundamental value of the EU and in addition has positive effects on economic growth, it is imperative that the EU take measures to safeguard the rule of law.

7.6. The Court of Justice of the European Union (CJEU) has issued a number of landmark decisions in defence of judicial independence lately. As well as the legal reasons given by the court, there are also economic justifications as to why action by the EU institutions is warranted. To function well, the single market needs to rely on a transparent and stable legal framework that also covers the enforcement of common rules, as national courts must trust that courts from other Member States are equally committed to upholding the values on which the EU is founded.

7.7. The concept of a single European judicial area is important for business as it allows court decisions made in one Member State to be applied in another. For this project to succeed, it is crucial that all courts within the European Union be independent. If that cannot be guaranteed anymore, the single European judicial area will not only remain incomplete but will also be in decline. The Commission needs to ensure that the principle of judicial independence is upheld in all Member States in order to make the idea of a single European judicial area and free movement of judicial decisions a reality.

7.8. Every nation state wants to be credible and investor-friendly, offering credible commitments to potential investors. EU membership provides clear benefits to all Member States as it enables all Member States, irrespective of their economic or political history, to make commitments that are more credible. In that sense, membership of the EU can be very valuable for all members as long as non-compliance with the basic rules is sanctioned. Without sanctions, the value of membership for all complying members will be reduced.

7.9. In other words, non-complying Member States create negative externalities for complying Member States. This is because every time a Member State government does not deliver according to the promises it made by joining the EU and such non-compliance remains unsanctioned, the credibility of EU law will suffer in all Member States. Hence, the value of being a Member State of the EU would be reduced, as in time it would no longer be a signal of credibility. Insistence on compliance with the basic values of the EU is, therefore, fully justified.

7.10. Many decisions are directly relevant for all citizens of EU Member States. If the voting rights of Member States that are governed by would-be autocrats systematically breaching the principle of the rule of law are not suspended, then these would-be autocrats will be allowed to participate in decision-making that directly affects all EU citizens. This has aptly been called Europe's ‘other democratic deficit’ (21).

7.11. In other words, another justification for intervention by the EU is negative externalities created by would-be autocratic governments that extend not only beyond their nation state's borders, but impact every citizen of EU Member States. In sum, interventions with the aim of upholding or re-establishing respect for the rule of law are fully justified.

7.12. One means of supporting and promoting the rule of law is to support civil society organisations and the media. The ability of citizens to create associations, meet and express themselves freely, as well as media freedom, are key elements of the rule of law as part of the checks and balances to hold governments accountable. A shrinking civic space also impacts the ability of companies and workers to establish themselves, associate freely, and innovate. Civil society organisations are also an important economic player, contributing to almost a third of employment in the EU (22), and providing services that are fundamental to economic growth, such as in the field of education, health and social protection. The EESC reiterates its call for active EU support of the social partners and civil society organisations in the EU, and notably the development of an EU fund offering financial support for litigation cases relating to violations of democracy, the rule of law and fundamental rights, targeted at civil society organisations (23).

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There are many reasons why the rule of law should be defended, both from within Member States and by the EU institutions. It seems that the general public in many Member States needs to be made more aware of the crucial importance of the rule of law as both a fundamental value and a vital ingredient to economic growth. One indirect way to defend the rule of law could therefore be to raise awareness of just how crucial it is among the general public in the various Member States. The EESC has already called for an awareness-raising campaign in the form of a deliberate communication strategy (24). The EU needs to invest in information campaigns to promote the rule of law and urgently take measures to support free media.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'The protection of unaccompanied minors in Europe'

(own-initiative opinion)

(2020/C 429/04)

Rapporteur: Ozlem Yildirim (FR-II)

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion
Section responsible Employment, Social Affairs and Citizenship
Adopted in section 9.7.2020
Adopted at plenary 18.9.2020
Plenary session No 554
Outcome of vote 215/1/5
(for/against/abstentions)

1. Recommendations and comments
1.1. The EESC recommends, as it has previously, that the principle of ‘the best interests of the child’ should take precedence over all other national and international law.

1.2. We call on the European Union to develop a coherent and uniform approach to protecting unaccompanied foreign minors in Europe.

1.3. We are seriously concerned about the situation of unaccompanied minors, who are one of the most vulnerable migrant groups and therefore at greater risk of their fundamental rights being infringed.

1.4. The EESC reiterates its request to the Member States to ensure that undocumented migrant children are protected first and foremost as children, under national child protection systems.

1.5. We call on the Member States to prevent any form of violence against migrant children by creating safe, legal and official migration paths.

1.6. Once again (1) we would point out that detention of children, regardless of their administrative status, is absolutely prohibited. We condemn this practice in the strongest terms: it violates the International Convention on the Rights of the Child.

1.7. To provide effective protection for unaccompanied minors, the EESC urges Member States to allocate the necessary resources to public services and to provide appropriate facilities, for instance through special training and enhancing the capacities of child protection professionals.

1.8. The Committee urges the European Commission to draw up a Directive on the protection of unaccompanied minors that would serve the best interests of the child.

1.9. The EESC points out that every unaccompanied minor must be supported by a qualified guardian who is assigned as soon as possible and remains in this role until the child comes of age. The guardian must be informed of any decision taken concerning the child and provide support for as long as the child’s case is being processed. The guardian should always be able to act in the best interests of the child and should not have a conflict of interest with the national child protection services.

1.10. The EESC notes that in accordance with the ‘presumption of minority’ principle, a young person who presents themselves as a minor must be considered a minor until a final court ruling has been delivered.

1.11. We call on the Member States to evaluate minority based on a body of evidence, consisting principally of the declarations by the person in question, civil status documents presented, interviews with the person conducted by qualified professionals and, where appropriate, verification of the authenticity of civil status documents.

1.12. Given that bone tests are not really reliable, the EESC calls for them to simply be stopped. Methods we know to be approximate should not be employed just because no reliable verification method is available.

1.13. Given the difficulty of covering all the issues and rules relevant to unaccompanied minors in the present opinion, the EESC intends to conduct a series of follow-up studies on specific sub-themes.

2. Background
2.1. An unaccompanied foreign minor is defined as ‘a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States’ (2).

2.2. There are unaccompanied minors in all the EU Member States, but in 2019 60% of all registered unaccompanied minors were registered in just four countries (Greece, Germany, Belgium and the Netherlands). In 2019, a total of 13 800 asylum-seekers who had sought international protection in the 27 EU Member States were classed as unaccompanied minors. Unaccompanied minors made up 7% of all asylum-seekers aged under 18 in the EU. Most of these (85%) were boys. Two thirds of them (9 200) were aged 16 or 17, 22% (3 100) were aged 14 or 15, and lastly 11% (1 500) were under 14 (3).

2.3. Migrant children are one of the most vulnerable groups in society. Without parents, which in itself exposes them to great uncertainty and danger, unaccompanied minors have very often had a long and chaotic journey that has been traumatic and entailed violence. They continue to be exposed to multiple dangers and are particularly vulnerable to criminal networks engaged in sexual exploitation and child labour.

2.4. The EESC recommends, as it has previously, that the principle of ‘the best interests of the child’ should take precedence over all other national and international law (4).

2.5. We believe that the various and complicated situations faced by unaccompanied minors call for multidisciplinary (legal/psychological/medical/social) approaches that are comprehensive and holistic.


(3) https://ec.europa.eu/eurostat/documents/2995521/10774042/3-28042020-AP-FR.pdf/a5951a9e-fe8f-ef1a-64f1-cdedfc925eb2
2.7. It was not until 26 June 1997 that the Council of Europe adopted the first legal instrument specifically addressing the issue of unaccompanied minors, but this is a non-binding resolution. Although there are EU legal acts which mention unaccompanied minors, e.g. the Return Directive or Directive 2003/9/EC (5), no specific EU-level legislation has been drawn up.

2.8. Consequently, in the absence of a precise legal framework, the Member States face considerable difficulties when it comes to managing the problem of unaccompanied minors in a concerted and coherent way. Thus the situation of unaccompanied minors varies widely between Member States in terms of the laws governing their treatment and procedures to which they are subject (e.g. to determine age, or on guardians or rights).

2.9. Thus the legal framework for unaccompanied minors must be strengthened by the Member States, and the EESC urges the European Commission to draw up a Directive on the protection of unaccompanied minors that would serve the best interests of the child. This is particularly clear given the deplorable situation of many unaccompanied minors, which children’s rights organisations across Europe have decried.

3. General comments

3.1. The EESC is seriously concerned about the situation of unaccompanied minors, who are one of the most vulnerable migrant groups and therefore more at risk of their freedoms and fundamental rights being infringed.

3.2. Under the UNCR C, countries must treat undocumented children in the same way as all children, without making any distinction (6). But in practice the EESC notes that there is a tension between national legal provisions governing immigration control and child protection laws. The EESC reiterates its request to the Member States to ensure that undocumented migrant children are protected first and foremost as children, under national child protection systems (7).

3.3. The EESC urges the Member States to prevent all forms of violence against migrant children by creating safe, legal and official migration paths, including flexible, rapid and efficient procedures, through family reunification, increasing quotas for resettlement of migrants, or granting humanitarian visas, which will strengthen guarantees for children and their family members.

3.4. The EESC calls on the Member States to put in place specific and effective procedures to regularise such children’s residence status and to seek a permanent solution for unaccompanied minors that guarantees their best interests.

3.5. The Committee points out that detention of children is absolutely prohibited, regardless of their administrative status. It strongly condemns this practice, which is an outright breach of the UNCR C (Article 3). The EESC notes (8) that detention can have a very serious impact on a child’s health and development, regardless of the duration. Detention is always contrary to the best interests of the child (9).

3.6. The EESC calls on the Member States to pass national legislation prohibiting the detention of unaccompanied children and promoting the development of alternatives that reflect their particular vulnerability, such as placing them with foster families or in supervised accommodation where they live independently.

3.7. The EESC notes the importance of upholding a child’s right to be involved in decisions that concern them.


\(^6\) Article 2, UNCR C.

\(^7\) EESC opinion on International protection of unaccompanied minors (OJ C 12, 15.1.2015, p. 69).

\(^8\) See A study of immigration detention practices and the use of alternatives to immigration detention of children, PACE Committee on Migration, Refugees and Displaced Persons, 2017.

3.8. The EESC recommends that Member States provide legal safeguards to ensure that unaccompanied minors have access to international protection procedures and guarantee that information appropriate to their age is provided. A good way of doing this would be to set up specialised asylum units to help migrant children and transmit age-appropriate information to them in their mother tongue, incorporating gender considerations and the cross-cultural dimension into national processes.

3.9. To protect unaccompanied minors from all forms of exploitation, the EESC asks all Member States to grant children who have been subject to exploitation and violence the status of victims of human trafficking and to issue them a residence permit. The EESC also believes that decisions on unaccompanied minors must be treated as urgent.

3.10. Unaccompanied minors should never be subject to criminal proceedings for reasons solely related to their immigration status or where their involvement in criminal activity is the result of exploitation.

3.11. Protection of unaccompanied minors does not stop at Europe's borders. The EESC would encourage the EU and the Member States to prioritise the needs and rights of this group in their foreign policy instruments and external action, especially when concluding cooperation programmes or agreements.

3.12. The EESC points out that every unaccompanied minor must be supported by a qualified guardian who is assigned as soon as possible and remains in this role until the child comes of age. The guardian must be informed of any decision taken concerning the child and provide support throughout the entire process. They should always be able to act in the best interests of the child and should not have a conflict of interest with the national child protection services.

3.13. As the EESC has already pointed out, although EU law recognises the importance of legal guardianship, it does not define the duties of a legal guardian. The legal guardian should be an accredited representative who has experience with minors and a knowledge of national law on the rights of foreign nationals and child protection legislation. The guardian should have the authority to represent the child in all decision-making processes (10), subject to the child's consent (11). The Belgian procedure for appointing guardians could serve as a model (12).

3.14. Unaccompanied children need not just legal assistance but also access to social protection and to reception facilities and temporary accommodation of an acceptable standard. Reception arrangements must be adapted to the child's vulnerability, with the involvement of specialist youth professionals, the option of a physical or psychological health check, and access to healthcare.

3.15. The EESC points out that unaccompanied children need not just legal assistance but also access to education with due regard for their preferences and, where applicable, those of their guardian. Erasmus and Erasmus+ could also facilitate that access for unaccompanied minors and people who arrived as unaccompanied minors but have now reached the age of majority.

3.16. The EESC stresses the importance of every child being provided with information on their rights that is adapted to their age, based on the UN Convention, so as to ensure that unaccompanied children without adequate guardianship can request protection.

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(10) See La protection des mineurs migrants non accompagnés en Europe ['Protecting the rights of unaccompanied migrant children'], Nisrine Eba Nguema, 2015: https://doi.org/10.4000/revdh.1147
(12) Belgium has set up a fast-track system for appointing legal guardians. All unaccompanied minors are assigned a guardian, which may be an individual (following a selection procedure and training of the person concerned), who will support them through all the procedures: see https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne. As the legal representative responsible for monitoring the general well-being of the minor, the guardian is the person on whom the child can rely to ensure they develop the necessary skills to be an active member of society: https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/tuteur/missions_du_tuteur
4. Specific comments

4.1. Article 1 of the UNCR C defines a child as any person below the age of 18. The particular legal status of children means that they enjoy a set of rights that must be guaranteed by the States Parties to the convention. The right to protection is dependent on minority status, which poses the practical question in all the Member States of determining the migrant's age.

4.2. The EESC notes that under the ‘presumption of minority’ principle, a young person who presents themselves as a minor must be considered a minor until a final court ruling has been delivered on the matter. They must therefore be offered immediate protection in decent conditions that are compatible with their particular vulnerability.

4.3. The Committee also points out that third-country civil status documents submitted by the young person to prove that they are a minor must be presumed to be valid and must be the first pieces of evidence to be considered when deciding whether or not the person is a minor. Only a formal challenge to the authenticity of the civil status documents submitted should allow that presumption of validity to be overturned.

4.4. The EESC points out that under Article 8 of the UNCR C, ‘Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity’ (13).

4.5. In principle there should only be a procedure to assess a migrant’s age if they do not have official administrative documents proving their age or in case of serious doubt (14).

4.6. The EESC again notes that the Member States use different methods for evaluating the age of unaccompanied minors, and that none of those methods has been proven reliable.

4.7. The EESC asks the Member States to assess age based on a body of evidence, starting with declarations by the person concerned, civil status documents presented, interviews with the person, and if appropriate verifying the authenticity of the civil status documents. The Committee emphasises that a medical opinion on the person’s age should not be given except in cases of continuing doubt and as a last resort.

4.8. The EESC believes that in view of their particular vulnerability, unaccompanied minors should always be given the benefit of the doubt.

4.9. The EESC notes that the scientific reliability of bone maturity tests, used in many countries, is highly contested by international experts and organisations (15). This practice is also criticised for breaching children’s right to privacy and for its potential health risks (radiation exposure) and the wide margin of error.

4.10. Given that such tests are not really reliable, the EESC calls on the Member States to just stop them. We do not think that methods known to be approximate should be employed just because no reliable verification method is available.

4.11. The EESC urges the Member States to protect unaccompanied minors by giving them the time and proper means to prove their identity, for example through diplomatic cooperation (subject to the child’s agreement and provided this does not put them in danger) or by providing prima facie evidence such as psychosocial assessments, to confirm that the person is a minor.

4.12. As a last resort, in the absence of documentary evidence and in the case of serious doubt about the person’s age, we would suggest that age be evaluated on the basis of a multidisciplinary approach led by independent professionals with appropriate expertise and knowledge about the person’s cultural and ethnic origins. The procedures used in England could serve as a model.

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(13) See also Article 24 of the 1966 International Covenant on Civil and Political Rights (ICCPR) and Article 7 UNCR C.

(14) Both the UN High Commissioner for Human Rights and the Parliamentary Assembly of the Council of Europe have stated (in July 2010 and on 15 April 2011, respectively) that an age assessment should only be carried out in cases of doubt.

(15) The scientific reliability of such tests has been questioned for example by the European Parliament (in a resolution of 12 September) and in recommendations of the Committee on the Rights of the Child of 12 June 2009. Both the Belgian Register of Physicians and the French Medical Association have challenged the reliability of these tests (the former in an opinion of 20 February 2010). The French Defender of Rights (constitutional rights ombudsman) has condemned the use of bone maturity tests (26 February 2016). See also the report of the Belgian Plateforme Mineurs en Exil [Unaccompanied Minors Platform] on l’estimation de l’âge des MENA en question: problématique, analyse et recommandations [‘Estimating the age of unaccompanied minors: problems, analysis and recommendations’], September 2017.
4.13. The EESC calls on the Member States to set up a European supervisory commission to devise a standard holistic age assessment procedure for all the Member States and to oversee age assessment protocols and practices.

4.14. Such procedures are unlikely to be effective unless their conclusions are substantiated and it is possible to quickly lodge an appeal against them with suspensory effect.

5. Comments with specific reference to COVID-19

5.1. The COVID-19 pandemic will certainly increase the risks faced by unaccompanied minors, whose state of health is often already fragile. They may be unable to comply with the lockdown measures, have inadequate access to food, hygiene facilities and water, lack appropriate information about personal protective measures and precautions they should take, and find it difficult to access healthcare.

5.2. The EESC calls on all the European institutions to do whatever is necessary to ensure that the rights of all children guaranteed under international treaties are upheld during the COVID-19 health emergency and that they are protected and their dignity respected during the economic crisis that is looming.

5.3. The EESC welcomes the recent relocation of unaccompanied minors from Greece to Luxembourg, Portugal, France, Finland and Germany, and urges the Member States to prioritise and continue moving minors living in unacceptable conditions, including in Greece, as a matter of urgency (16).

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Public procurement as a tool to create value and dignity in work in cleaning and facility services’

(own-initiative opinion)
(2020/C 429/05)

Rapporteur: Diego DUTTO
Co-rapporteur: Nicola KONSTANTINOU

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion
Body responsible Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI 2.9.2020
Adopted at plenary 18.9.2020
Plenary session No 554
Outcome of vote 192/7/18

1. Conclusions and recommendations

1.1 The European Commission (EC), the European Parliament and the Member States must develop the necessary support instruments to promote the use of strategic public procurement to advance the systematic use of sustainable, transparent, ambitious and enforceable strategic criteria to ensure higher social and quality standards in public procurement.

1.2 To ensure that the focus of cleaning services is put on quality and not on price, the principle of transparency must be upheld for both client and contractor. Contract specifications have to be defined and itemised, including frequency, time, occupational health and safety (OSH) and financial costs of cleaning (1). Assessing the application of these criteria during the entire contract life is key for the evaluation of the quality of the cleaning services provided.

1.3 The social partners should be involved in the training and professionalisation of public buyers as stipulated in the EC recommendation of 3 October 2017 (2).

1.4 The EC and Member States should take the initiative to fight undeclared work and to further improve employment conditions in the cleaning industry. Strengthened regulation and stronger enforcement mechanisms such as wage criteria and sectoral collective bargaining can contribute to fair competition, higher social standards and quality employment.

1.5 The EESC calls on the EC, the EP, the Member States and regional and local authorities to use daytime cleaning in all public procurement wherever possible.

1.6 Ensuring fair competition can be achieved by focusing on quality aspects and respect for the jurisprudence of the ECJ and national rules concerning the possibility of making respect for collective agreements a condition for awarding public contracts. Member States, together with social partners and according to national practices, should promote the coverage of collective agreements in the national cleaning industry at the sectoral level and ensure that they are enforced.

1.7 The sector’s workforce is predominantly composed of women and non-EU nationals. They may therefore be more directly affected by the purchasing policies of public administrations. Thus, the EESC believes that in addition to collective agreements, additional safeguards should be developed to uphold the principles of non-discrimination and equal treatment of workers. The EESC suggests introducing additional points, in tender award criteria rewarding forms of integration such as dedicated training courses, family support services such as after-school assistance for minors and other forms of corporate welfare with a social content.

1.8 The EESC recommends, when revising the 2014 EU Procurement Directives, that the costs of mandatory security and training be shown outside the area of competitive pricing, as an incompressible and verifiable element of the breakdown of the costs that make up the tender.

1.9 The EESC recommends that sustainability conditions, labour rights and generally applicable collective bargaining agreements be respected (by holding the contracting authority, the main contractor and the sub-contractors responsible, each for their immediate contractual partner) throughout the subcontracting chain and during the entire execution of the contracts.

1.10 The EESC calls on the Member States, if they do not already do so, to pay special attention to and effectively check respect for all statutory and contractual obligations and OSH aspects concerning social, environmental and sustainability aspects in the execution phase of public tenders in the cleaning industry.

1.10.1 With respect to the obligations incumbent upon Member States, contracting authorities and the EC established by Articles 83-85 of Directive 2014/24/EU of the European Parliament and of the Council (3), the EESC asks all these public bodies to make the corresponding data available without further delay, ensuring in particular that the award criteria and their relative weighting for cleaning contracts are provided. The EC is asked to financially support the sectoral social partners’ follow-up projects and research into the issue of public procurement in cleaning and facility services.

1.11 The EC should strengthen the legislative architecture and bargaining capacity of the social partners at national level, including by allocating funding for capacity-building actions especially in South-Eastern, Central and Eastern European countries (4).

1.12 The EESC recommends that, in the revision of the 2014 European Procurement Directives, for labour intensive services such as cleaning services, EU directives on public procurement should ask or require the Member States to exclude the use of the lowest price criterion for the award of tenders, to set a ceiling of 30% on the score to be awarded to the price compared to the score to be awarded to quality and to ensure, by means of specific social clauses, the employment stability of staff employed under the tender, albeit in accordance with the ‘TUPE’ Directive (2001/23/EC (5)) and interpreted by EU case law, the company’s work arrangements and in compliance with collective bargaining.

1.13 The EESC calls on the contracting authorities to use their own cost estimates for cleaning services, by consulting specialised sectoral tools such as the Best Value Guide and national examples to adequately assess the sector’s market, as well as setting aside part of these services for reserved contracts as stipulated by Article 20 of Directive 2014/24/EU, as transposed by the Member States into their own codes on public procurement.

1.14 The EC should encourage Member States to start an accreditation process or qualification system for contractors who wish to be considered for public cleaning contracts. This process should be supervised by an evaluation committee made up of a number of different stakeholders, including trade unions and a representative of sector contractors.

1.15 As the risk of COVID-19 still exists, the risk of contagion from COVID-19, or any other such disease, requires workers and the public to be protected. The EESC recommends that the EC and the Member States draw up binding protocols on OSH at work with the help of the social partners.

1.16 The EESC further calls on the Member States to take action and engage with the social partners to discuss practical temporary solutions for a quick return to fair and quality-oriented procurement practices.

1.17 In light of the COVID-19 crisis, the EESC recommends that the Member States advance the training and professionalisation of cleaning staff. Financial resources should be made available so that public authorities and contracting companies can invest in training and skills. Workers employed in cleaning and sanitation services should be encouraged to gain professional qualifications, laying the groundwork for improved job opportunities for vulnerable individuals.

1.18 The EESC advocates that the EU institutions, the Member States and local and regional authorities adopt a comprehensive approach to the purchasing of cleaning services. Such an approach does not envisage a trade-off between environmental and labour conditions, but advances social cohesion, labour standards, gender equality and the environmental goals proposed by the EC’s Green Deal.

2. General comments

2.1 The main purpose of this opinion is to propose recommendations for using public procurement to enhance good quality employment and dignity at work in cleaning and facility services.

2.2 Many of these recommendations are general in scope and can be applied across all sectors of the economy. This is particularly the case for labour-intensive service sectors such as private security and catering.

3. Background and context

3.1 ‘Every year, over 250 000 public authorities in the EU spend around 14% of GDP (around EUR 2 trillion per year) on the purchase of services, works and supplies.’ (*) Services such as cleaning make up the main part of public procurement. In 2017, the award value for services reached EUR 250 billion (*) .

3.2 Public procurement can support investment in the real economy, ensure and create good quality jobs and promote inclusion and better conditions for disabled and disadvantaged people as well as migrant workers (*). It can also encourage demand for innovative products, pursue industrial policy objectives and promote the transition to a resource and energy efficient circular economy (*).

3.3 In reference to EU Procurement Directive 2014/24/EU, the use of the ‘Economically Most Advantageous Tender’ (EMAT) criteria should incorporate all strategic criteria addressed in point 3.2 above. As the rules remain vague, the majority of public contracts continue to be awarded to the lowest bidder, sometimes even to an abnormally low tender (ALT) (*) .

3.4 The Public Procurement Directives are not being utilised to their full potential and application diverges between the Member States. Consequently, a public authority must decide on its priorities (*) .

3.5 This is first a political and then a technical issue. The decision of which services to purchase and which award criteria to use with which relative weighting is part of the political decision-making process. Such decisions set the frame and the fundamental parameters for the award procedure. Failing to take workers’, environmental and social rights into consideration would create an unequal playing field.

4. The COVID-19 crisis, the cleaning services industry and public procurement

4.1 The COVID-19 pandemic has underlined the fundamental value of cleaners’ work as a common public good. Contracting companies need to meet requirements of qualification, efficiency and specialisation. In their joint statement of 22 April 2020, the EU social partners EFCI and UNI Europa highlight the crucial role of the cleaning industry and its workers in preventing the spread of the virus (*) .

(3) The EC provides a series of support tools for public buyers, not only the one on social procurement, and all of these aspects should be taken into consideration: https://ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers_en
(4) This is addressed in the 2014 EU Directive on Public Procurement, Article 69.
4.2 In 2018, there were 4.11 million cleaners in the EU working across 283,506 companies. There has been a steady increase in turnover since the mid-2010s. At the same time, turnover per company reached EUR 393,000 in 2017. According to EFCI, ‘the average turnover per employee reached almost EUR 30,000’. Turnover per employee amounts to EUR 27,400 and workers earn a yearly average wage of EUR 12,200. The European cleaning industry has a large part of its workforce working on a part-time basis. Moreover, in a labour-intensive sector such as this, companies’ margins do not exceed 3%. Contracting companies incurred additional expenditure due to the COVID-19 pandemic, through the need to protect both their clients’ interests and their own workers. The proportion of part-time workers, women and immigrant workers is particularly high. The percentage of women employees is always over 50% (except in Denmark), with peaks of over 80% in Lithuania, Luxembourg, Portugal and the UK (15). Across the EU, 30% of cleaners are immigrants (60% in Belgium).

4.3 Barriers to entry in the cleaning and facility services market are low to non-existent. Cleaning services are labour-intensive, with nearly 80% of companies’ revenue accounting for labour costs and very tight margins for cleaning contractors. Thus, public or private, clients’ purchasing decision lead to downward pressure on prices, undermining social standards and the dignity of cleaning work.

4.4 During and subsequent to the COVID-19 crisis, cleaning and facility services can only ensure value and achieve high standards of quality employment if cleaners are sufficiently qualified and have the right technical equipment and there is a clear definition of the rights and obligations of employers and employees. This could require public authorities to pay a higher price for cleaning services. Indeed, due to the suspension of activities during the COVID-19 crisis, many business services providers faced severe cash-flow problems and sustained increased costs to implement the health and safety measures required to protect both workers and clients. These financial problems are exacerbated by bad contracting practices, from public and private buyers. In order to support companies in continuing to ensure the health and safety of their cleaning agents as well as maintaining and enhancing the quality of their employment conditions, the EESC calls on public and private buyers to ensure a quick return to efficient public procurement, fair contracting practices and better consideration of quality criteria (16). Cleaners often work in dangerous and hazardous circumstances that can put their own health at risk (17). Although some workers prefer to work part-time, some workers wish to work longer hours or full-time. It can sometimes, however, be difficult for employers to offer full-time contracts. Furthermore, despite the social partners’ commitment to daytime cleaning, cleaning services are frequently provided by workers who work alone during the night. This is often due to the requirements of the client. Such employment practices contribute to cleaners’ labour remaining invisible (18), under-valued and unrecognised (19). Unfortunately, zero-hour contracts still exist in some Member States. Public authorities bear responsibility insofar as they continue to manage the contract, monitor it and assess quality. The aim should be to increase the opportunities for workers to work during the day, in a single shift and be employed on full-time contracts to improve quality of life.

4.5 Using the lowest price as the only award criterion for public contracts undermines quality service provision and contributes to the deterioration of working conditions, to quality shading (lower quality) and to shirking (lower effort) (20). As cleaning is a heterogeneous task and not easily quantifiable, quality is difficult to assess both during the process and afterwards. That is why it is important to base quality on outcome and across the whole lifecycle rather than process.

4.6 The expression ‘lowest price’ has disappeared from the text of Directive 2014/24/EU, but the award based on ‘price only’ is allowed (Article 67.2 last paragraph). This means that some contracting authorities continue to award contracts to the lowest tender, and sometimes even to ALT. Countries wishing to use the EMAT criterion for labour intensive services will need to go one step further by directing administrations towards effective use of this criterion by defining a ceiling on

the weight of the price and using formulas that to not exasperate the price differences between offers. To this end, specific training for the professionalisation of procurement officers is required. In addition, the next review of the directives should introduce mandatory rules for (a) the identification of possible ALT by setting a difference of 20% from the next lowest tender for triggering the obligation to check, (b) a thorough check on whether the tenderer has objective and plausible reasons for their low tender and (c) the exclusion of such tenders if the tenderer did not provide such reasons.

4.7 Thus, the crisis is an opportunity for cleaning companies and their workers to enhance the value and fundamental importance of cleaning vis-à-vis the public and its direct clients. The Best Value Guide (19), developed by the EU cleaning industry’s social partners in 2017, can steer public and private organisations awarding contracts for cleaning services towards contracts offering the best value. Similar tools have been developed by some national social partners.

4.8 Digitalisation is creating opportunities and challenges for low-skilled workers in this sector, and the EU social partners believe that technologies can be used to enhance the recognition of the value of cleaners’ work, the relevance of cleaning at large, and create extra value for buyers of cleaning services (20). EFCI’s SK-Clean project will map the changing skills needs of the sector and become a tool to work towards increased professionalisation of cleaners (21).

4.9 The new context generated by the COVID-19 emergency requires that competent authorities ensure the dissemination of information on how to use PPE as well as the provision of appropriate PPE to protect workers and individuals. Businesses require financial support to cover the rising additional costs of organisational measures, risk assessments, analysis and the distribution of PPE to the workforce (22). Meanwhile, investments by contracting companies are fundamental to being able to offer their clients cleaning solutions which are innovative and more effective due to being based on chemical and biological research.

5. Public procurement and the Green Deal

5.1 The Green Deal proposes that public procurement can be used to reduce carbon emissions. A comprehensive approach is needed however.

5.2 The cleaning sector can contribute to a green transition and circular economy with green labels for green cleaning products, soap, toilet paper, paper towels and good waste sorting. This is also the aim of the Ecolabels for cleaning services (23) and cleaning products (24), even if their efficiency in practice is not evident. If the use of green products and procedures is not accepted by the client, it may result in cost increases which would create higher pressure on all cost elements. This might also lead to worsening social, labour and OSH conditions. In addition, all of this might also lead to more restricted access to procurement opportunities for SMEs (25). That is why a comprehensive approach to public procurement is needed.

5.3 Research suggests that the environmental criteria are too weak to actually incentivise suppliers to undertake changes (26). Private service contractors who are committed to the environment are prevented from using their full potential if contracting authorities are unwilling to pay the additional costs. Thus, it requires greater professionalisation of purchasers.

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(19) http://www.cleaningbestvalue.eu/
(21) SK-Clean Project.
(24) http://www.ecolabelindex.com/ecolabels?st=category,cleaning
6. Social and quality considerations in public procurement

6.1 Article 18(2) of Directive 2014/24/EU states that ‘Member States should guarantee that the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X.’

6.2 The EC's Buying Social Guide of October 2010 sets out various social considerations for contracting authorities such as the prohibition of child and forced labour, OSH requirements, minimum wage obligations, social security requirements and more generally decent work standards (27). As these are statutory obligations they have to be respected, whether they are mentioned in contract performance clauses or not.

6.3 According to recital 98 of Directive 2014/24/EU, the conditions for the performance of the contract may also be intended to facilitate the implementation of measures to promote equality between women and men at work and the reconciliation of work and private life.

6.4 In order to avoid labour costs being used as the main element of competition among bidders, all bidders (including subcontractors) must respect minimum standards established locally by law or by binding and generally applicable collective agreements regarding labour costs and standard clauses in public contracts. Binding and generally applicable sectoral collective agreements can ensure a level playing field.

6.5 While tools such as the Best Value Guide can alleviate in-work poverty and contribute to social cohesion in EU Member States, it does not strengthen the social partners at sectoral level or contribute to their capacity to establish binding sectoral collective bargaining systems. The Member States, which have competence in this area, will have to tighten up the rules on the application of collective bargaining in procurement.

6.6 Public institutions such as kindergartens, schools, care homes and hospitals have become brands and compete with other institutions for clients. In this competition, 'cleanliness' and quality in cleaning are thus considered a distinguishing factor, directly contributing to user-satisfaction and competitiveness.

6.7 The lack of use of quality and social considerations in public procurement also has negative implications for labour turnover, which represents a triple loss situation for employers, clients and workers (28).

6.8 Promotion of education and training in the workplace ensure superior quality and workers' rights in public procurement. Vocational Education Training, certification and official recognition of qualifications contribute to the recognition of the sector. The recognition of their importance in the tendering process would enhance their valorisation and allow for better understanding of the costs they entail for companies, which need to be sufficiently recognised both in the price and in wages. Responsibility for training workers lies with the cleaning company; accepting the lowest bid generates the risk that companies will not be able to afford to invest in training and safety (or in machinery, innovation and related training) other than the minimum required by law.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

(27) Buying social (fn.43), p. 47.
ANNEX

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussions:

Point 1.10

Delete the point:

The EESC calls on the Member States to pay special attention to and effectively check respect of all statutory and contractual obligations concerning social, environmental and sustainability aspects in the execution phase of public tenders in the cleaning industry.

Result of the vote:
For: 61
Against: 105
Abstentions: 9

Point 2.1

Amend as follows:

The main purpose of this opinion is to propose recommendations for using public procurement to enhance good quality employment and dignity at work in cleaning and facility services.

Result of the vote:
For: 61
Against: 107
Abstentions: 9

Point 4.3

Amend as follows:

Barriers to entry in the cleaning and facility services market are low to non-existent. Cleaning services are labour-intensive, with nearly 80% of companies’ revenue accounting for labour costs and very tight margins for cleaning contractors. Thus, public or private, clients’ purchasing decision lead to downward pressure on prices, undermining social standards and the dignity of cleaning work.

Result of the vote:
For: 61
Against: 108
Abstentions: 8
Opinion of the European Economic and Social Committee on ‘Digital Mining in Europe: New solutions for the sustainable production of raw materials’

(own-initiative opinion)
(2020/C 429/06)

Rapporteur: Marian KRZAKLEWSKI
Co-rapporteur: Hilde VAN LAERE

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion

Body responsible CCMI
Adopted in section 2.9.2020
Adopted at plenary 18.9.2020
Plenary session No 554
Outcome of vote 213/0/4

1. Conclusions and recommendations

1.1. The digitalisation of the EU raw materials sector is a singular opportunity to enhance the resilience of European industrial supply chains, to improve the environmental performance of the minerals sector and to increase transparency and dialogues with citizens and communities affected by mining activities.

1.2. Mining companies which started the digital transformation have seen improvements in safety, sustainability, productivity and margins. But the combination of enhanced connectivity, mobility, machine learning and autonomous operations raises ethical, social and regulatory questions that should be thought through by policymakers beforehand.

1.3. The EESC acknowledges that the digital transformation of the mining sector requires an ambitious effort to enact legal and regulatory changes, and that such effort should be made under the umbrella of supranational organisations/at international law level.

1.4. The EESC points out the importance of having a global, comprehensive minerals intelligence network structure to underpin the digital transformation and informed decision-making at the EU level. The EESC acknowledges the effort of the Joint Research Centre (JRC) in setting and maintaining an European raw materials information system.

1.5. The EESC considers that the digital transformation of the EU raw materials sector should be accompanied by data protection measures, and recognises the need for strictly enforced regimes to protect sensitive data.

1.6. The EESC recommends the development of an EU regulatory roadmap addressing the challenges created by the digital transformation of the raw materials sector, dealing with topics such as cybersecurity, artificial intelligence, automation, multi-level governance and sea and space mining.

1.7. The EESC recommends the definition and adoption of EU standards for the collection of data on mineral resources, and urges Member States to periodically collect and share comprehensive and verified data on the extraction, processing and recycling of raw materials with the JRC. This is important in assisting with the implementation of the EU Circular Economy Action Plan.

1.8. The EESC recommends setting up adequate social support measures designed to minimise the negative impacts that digital transformation will have on the mining workforce and to helping mining communities transition their economies to prevent the deepening of existing social inequalities between individuals and population groups.
1.9. The EESC recommends developing and supporting EU-based cloud infrastructure, in order to increase the level of security of 5G applications, cloud computing and Industrial Internet of Things platforms.

1.10. The EESC considers that the digitalisation of the mineral raw materials industry is crucial to tackle the economic crisis caused by the COVID-19 pandemic and to foster the implementation of the European Green Deal and the EU Recovery Plan. In this context, it is paramount to stimulate investments in the digitalisation of the extraction and processing of primary (mining) and secondary (recycling) mineral raw materials.

1.11. The EESC calls on the European Commission to ensure that the social partners in the extractive sector are involved and consulted by the European institutions in the policy-making process and on any EU initiative affecting the mineral raw materials sector.

2. Introduction

2.1. The EU is facing technological, societal and environmental challenges related to the supply of raw materials that underpin its industrial activity and the quality of life for its population. The EU produces less than 5% of world production of mineral raw materials (1), and EU industry represents approximately 20% of the global consumption of mineral raw materials (2). The EU dependency on imports is particularly high for rare metals and elements required for high-tech applications and for the green energy transition outlined in the European Green Deal (COM/2019/640). This substantiates the Raw Materials Initiative launched by the Commission in 2008 (COM/2008/699) and its successive efforts to assess the criticality of supply and list critical raw materials (the last list was published in 2017 (3); the updated list is part of the Commission’s Communication on Critical Raw Materials (4)).

2.2. Technological advances that boost the efficient use of materials and resources, and pushes towards waste reduction and recycling, in line with the EU Circular Economy Action Plan (COM/2015/0614 recently updated by COM/2020/98), are woefully insufficient to underpin societal needs and global population growth. In these circumstances, primary raw materials (5) will continue to play an essential role in the economy.

2.3. At the same time, public opposition to mining projects in many EU countries is increasing, and the industry’s efforts to reduce its environmental footprint have not changed its (bad) reputation. Negative environmental impacts, lack of transparency and dialogue, and shortcomings on the distribution of economic benefits at the local level are features commonly attributed to the mining industry (6).

2.4. More recently, rising resource nationalism in raw material-producing countries and the COVID-19 pandemic have shaken EU industry’s reliance on global supply chains. The EU governments and many industrial producers realised that the import dependency on raw materials could wreck the EU manufacturing industry (the raw materials sector provides about 350,000 jobs within the EU, but there are more than 30 million jobs in downstream manufacturing industries that depend on reliable and unhindered access to mineral raw materials (7)).

2.5. Technological and communication advances have been pushing forward the integration of digital technologies into all business areas, fundamentally changing how companies operate and deliver value to customers. This is a unique opportunity for the EU mining sector: mining companies which leverage digital tools can reach new levels of performance across the value chain, with long-lasting positive effects on the socio-economic, environmental and social dimensions.

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(1) Agricultural (e.g. potash) and energy minerals (e.g. uranium and coal) are not included in this assessment.
(3) COM(2017) 490 final.
(4) COM(2020) 474.
(5) Primary raw materials refers to materials (minerals/metals) that are extracted from the ground and processed. Secondary raw materials refers to materials that are obtained through recycling processes.
(6) Nevertheless, the mining industry has the support of mining communities and regions across Europe.
(7) For more information on the raw materials value added and jobs see the 2018 EU Raw Materials Scoreboard (available at LINK).
2.6. The digitalisation of the EU raw materials sector is a unique opportunity to enhance the resilience of supply chains, address radically different input economics and boost the operational, social and environmental excellence of the sector, advancing the concept of ‘digital mine’.

3. General comments

3.1. Digitalisation in the raw materials production refers to the use of information technologies improving the acquisition, organisation and communication of data with the aim of enhancing the performance of production facilities in terms of technical, environmental and societal indicators.

3.2. Digital technologies harness all the available knowledge and enable continuous improvements as well as step-change innovations. An accurate understanding of interactions throughout production steps, inside and across value-chains and workforces enables resource-efficient production, equipment monitoring and maintenance, monitoring of health conditions and risk prevention, and emergency preparedness and response, among many other aspects.

3.3. The digital transformation is identified in the ‘Technologies for primary and secondary raw materials production’ Priority Area of the European Innovation Partnership (EIP) on Raw Materials (COM/2014/297), in line with the EC’s communication on *A New Industrial Strategy for Europe*. It defines raw materials as one of the key enablers for a globally competitive, green and digital Europe.

3.4. The EESC appreciates the role of the European Innovation Council and the European Institute of Innovation and Technology, which aim to boost the output of new services and products by European institutions. Initiatives involving raw materials underpin a significant proportion of these and interlink with other targets such as the energy and mobility transitions, advanced manufacturing, security, food and health. In particular, they also relate to the digital advance of technological solutions.

3.5. The EESC supports the activities of the EU research group in creating a certification method for raw materials. This will be a push towards sustainable mining of minerals and metals, needed to underpin Europe’s clean energy transition.

3.6. Identifying opportunities created by the digital transformation for the EU mining sector is a crucial part of the EESC’s recommended approach to digital strategy. The identified opportunities should be assessed in terms of their potential value to organisations and society, and feasibility of implementation.

3.7. Social considerations

3.7.1. The digital transformation is already affecting traditional roles in the mining workforce, with the emergence of functions such as new technology specialists, data analysts and scientists, big data specialists, artificial intelligence (AI) and machine learning specialists and systems engineers, among others. As a consequence, routine tasks associated with roles such as plant operators, management and organisation analysts and extraction workers are expected to decline (8).

3.7.2. Due to the digitalisation of the sector and its transformation, employees must undergo appropriate training to be able to meet the challenges of Industry 4.0 and future technological changes.

3.7.3. Changes in the nature and composition of the workforce, alongside the implementation of a ‘work anywhere and anytime’ model enabled by the digital transformation will have a significant impact on traditional mining communities in Europe. This calls for a proactive approach based on inclusive social dialogues to help communities understand their underlying capacities and support the transition of their economies toward new areas.

3.7.4. The EESC believes that, faced with the challenges posed by the digitalisation of the mining sector and the threats to the sector caused by COVID-19, the European Commission should support the current demands of the social partners in the mining sector at European level through the existing Sectoral social dialogue — Extractive industries.

3.7.5. The EESC calls on the Commission to ensure that the social partners in the extractive sector are involved and consulted by the European institutions in the policy-making process and on any EU initiative affecting the sector.

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3.7.6. The EESC therefore believes that there is a need for the Commission, together with the social partners in the Sectoral Dialogue Committee, to set up as soon as possible at European and national level a network of Sector Councils for Skills and Employment in the extractive industries.

4. Breakthrough concepts and solutions for sustainable exploration, mining and/or processing

— Ground-breaking concepts and solutions for exploring, extracting and recycling mineral raw materials are necessary to enhance Europe’s position on the global stage. New approaches and technologies are expected to facilitate Europe’s access to sustainably produced raw materials, while also gaining the trust of society in clean and safe extraction and processing methods.

— Knowledge on geological endowments, mineral deposits and their exploitation is disparate and variable, and the complexity of material cycles, policies, market trends, technological trends, environmental issues and societal impacts requires the combination of many fields of expertise to harness the benefits of digitalisation.

4.1. Methods and tools for mineral intelligence

4.1.1. Establishing a geoscience data hub for Europe

4.1.1.1. The availability, accessibility and recoverability of minerals, metals, energy and other subsurface resources are more than ever a crucial issue in contemporary society. The European Parliament, the EC and several EU initiatives in policy areas, e.g. the Raw Materials Initiative (9), the Groundwater Directive (10) and the Carbon Capture and Storage Directive (11) need access to relevant subsurface data.

4.1.1.2. The Joint Research Centre of the European Commission is currently developing a raw materials information system including economic, socio-economic and environmental dimensions — the RMIS 2.0 (12). However, the information provided is incomplete and does not cover all the EU 27 Member States with the same level of detail.

4.1.1.3. Today, data are only partially available and most of the time are not harmonised and thus are not comparable between countries. There is a need for standardisation of data formats and the development of algorithms able to serve as a bridge between different data systems.

4.1.1.4. In the EESC’s view, the integration of a comprehensive mineral intelligence network structure, using harmonised reliable data, within the JRC RMIS is paramount; it would provide the EC and Member States access to information and knowledge to support the sustainable use of the EU subsurface in addressing Europe’s challenges.

4.1.1.5. The EESC urges all EU Members States to collect and share raw materials information data to feed the JRC RMIS periodically. To prevent misrepresentations and errors, the EESC considers that the data provided to the JRC should be screened for accuracy before being included in the RMIS. The JRC should be funded to maintain and regularly update this information system.

4.1.2. Process simulation

4.1.2.1. Emissions, reclamation, water resource protection, etc. can all be subject to simulations: these can involve multiple parallel simulations using different assumptions on boundary conditions and starting points to give probability estimates of different outcomes that could be used for control and to support decision-making.

4.1.2.2. Developments on computational techniques for process simulation and the availability of big data (data sets with sizes beyond the ability of common software tools to capture, curate, manage, and process within a tolerable elapsed time) boosted the accuracy of simulations that represent causal relationships between controlled inputs and corresponding outputs. Process simulations can prove especially relevant in environmental and safety assessments and could facilitate transparency and dialogues in permitting processes.

(12) See https://rmis.jrc.ec.europa.eu/
4.1.3. Remote sensing

4.1.3.1. The use of remote sensing data made available by, for example, the Copernicus programme, encompassing spatial data analytics and integration with geographic information systems (GIS) software can be a valuable input into advanced simulations and the creation of ‘digital twins’, that allow quick responses to changes and reliable decision-making. The combination of remote sensing data with field data collected by sensors and drones is increasingly common in the mining sector. Land and underwater surveying using drones, for estimating stockpiles and waste dumps, are routinely made in many mining operations.

4.1.3.2. The integration of remote sensing data with field data (from local sensors) in GIS software can be used to monitor groundwater levels, landmass movements, surface water contamination and many other real-time environmental data. If made public and protected against manipulation (e.g. by technologies such as blockchain), this data could boost trust in the mining sector and facilitate dialogues with stakeholders. Long-established data and information management practices in developed countries with a strong mining sector, such as Canada or South Africa, could be considered and serve as examples.

4.1.4. Virtual Reality

4.1.4.1. Virtual reality is becoming routinely used by many companies in the interpretation of 3D models of their mines. What may be more significant in the future is Augmented Reality in which geologists or engineers, while in the mine, can use a device to see the model superimposed on their view of the geology or the mine itself. This provides an advanced and powerful means of validating models as well as checking on the progress of mine development.

4.1.4.2. Virtual reality is increasingly being used by universities and training centres to immerse students and trainees in ‘real-life’ mining contexts. The possibility of running educational simulations designed to facilitate the construction of practical knowledge in areas such as response to accidents is one of the main advantages of this technology.

5. The ‘smart mine’

— Digitalisation is the catalyst that helps mining operations become ‘smarter’ by leveraging digital tools and processes that make operations instrumented, interconnected and intelligent.

— Mines will be, through digital transformation, designed differently for automation from inception with methods tailored and scaled to the orebody and variation in execution reduced by automation.

— The digital transformation will help eliminate fatalities and injuries from mining environments. It can result in a step-change in capital intensity and operating costs, provide access to resources from mineral deposits that could not previously be mined, and generate a lower environmental footprint through selective mining.

5.1. Intelligent mining prediction

5.1.1. Prediction means, among other things, forecast of environmental parameters in which miners work, with particular emphasis on hazards. Effective prediction systems already being used by the mining industry include predictive maintenance, to prioritise preventive action over repairs, by collecting data on machine use and process parameters.

5.1.2. Prediction can play a significant role in the safety of mine operations. The capture and integration of monitoring field data and equipment data can provide an accurate picture of the operations environment to be screened by process analysis tools. This would become a relevant enhancement of working conditions, especially for underground mines. The EESC believes that digitalisation can effectively contribute to the safety of mining operations and that a smart mine should include prediction systems.

5.2. Internet of Things

5.2.1. The development of standards and building blocks for an Industrial Internet of Things (IIoT) platform for the mining industry could boost the connection of cyber and physical systems in EU mines, in order to improve decision-making processes.
5.2.2. The IIoT platform should address health and safety aspects, environmental performance, resource efficiency and real-time coordination of operations. The design and promotion of an EU IIoT platform for the mining sector should be prioritised.

5.2.3. To avoid cybersecurity risks, the EESC suggests that the building blocks of the IIoT platform should be designed for local Intranets of Things, connected either through physical data transfer or through secure firewalls to the internet.

5.3. Blockchain technology. Supply chain transparency

5.3.1. Blockchain is an innovative solution that prevents data manipulation. Using blockchain in the mineral raw materials supply chain has the potential to improve supply chain transparency and traceability as well as reduce administrative costs. The EESC points out that blockchain technology facilitates compliance with the EU Regulation on Responsible Sourcing of Minerals (Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 (13)).

5.3.2. Other applications of blockchain include the collection and dissemination of environmental data. By enhancing the confidence in the data, blockchain could facilitate public outreach and engagement in the vicinity of mining communities.

5.4. 5G networks and cloud computing

5.4.1. Cloud storage of raw data is rapidly becoming impractical (and is actually unnecessary) as the volume of data increases to terabytes and more. Today, the speeds of data transfer limit its usefulness. However, the adoption of 5G networks will change this, allowing the rapid transmission, processing and cost-efficient storage and retrieval of big data.

5.4.2. There is a severe risk in using cloud storage: if a mining company uses a commercial cloud storage service, the level of security it can achieve is entirely a function of the trust it places in the service provider. Many providers use cloud servers located outside the EU, and this can jeopardise the system security. The EESC believes that the adoption of 5G in the EU should be accompanied by incentives to increase the offer of EU-based cloud providers.

5.5. Cybersecurity

5.5.1. The EESC is in favour of strictly enforced regimes preventing sensitive data from leaving security boundaries. Cybersecurity can be significantly enhanced by not connecting mine systems to the internet. The smart technologies can all be used in the ‘smart mine’, including an Intranet of Things — just not made accessible from outside. Anything that needs to be connected to corporate HQ or the outside world should be transferred securely from the mine network to a separate server that is connected to the outside world.

5.6. Artificial intelligence

5.6.1. Artificial intelligence covers a range of different technologies, including so-called deep-learning systems. So far it has found niche applications in areas such as image processing (such as for mineral exploration), and neural-network systems for mineral identification and classification. Other practical applications for the mining sector include analytics and machine learning algorithms being used in process simulations and prediction systems.

5.7. Integrated automation

5.7.1. The technology of driverless vehicles is being developed rapidly by actors unconnected to the mining industry (such as Tesla or Google). Still, because mines are controlled environments, it can quickly be deployed in mines as new capabilities are introduced. Other forms of automation may also be deployed rapidly, but usually take the form of remote human-controlled (and computer-assisted) operations rather than fully autonomous operations. Because of liability concerns (and prospective regulations), it is questionable whether development of full automation of all mining processes will be economically viable in the short-medium term.

6. Building sustainable and responsible strategic partnerships with third countries

— The EU criticality assessment shows that greater diversification of critical raw materials imports from third countries is essential.

— There is a need for enhanced strategic economic diplomacy at the EU level to diversify access to resources based on sustainable sourcing of raw materials.

6.1. Research and innovation

6.1.1. The EU research and innovation framework programmes already foster international cooperation with third countries in calls linked to mineral raw materials. However, a more prescriptive approach to further collaboration with resource-rich and technologically advanced countries on the digital transformation of mining (such as Australia, Canada, Japan, South Africa and the United States) would be instrumental in building connections that would favour EU economic diplomacy. The EESC recommends the adoption of such prescriptive approach in the coming Horizon framework.

6.1.2. Education should also be used as an instrument to support EU economic diplomacy on raw materials topics. Internationally recognised education programmes, made in Europe, delivering ground-breaking and innovative educational contents focused on mine digitalisation topics could become an effective instrument of EU economic diplomacy.

7. New frontiers

7.1. Recovery of metals and minerals from sea resources

7.1.1. There is much research on technological solutions for the extraction and processing of minerals and metals from sea resources, including seawater brines, and/or from the seabed. The EESC considers that the mining of minerals and metals from the sea should undergo a strict assessment of the corresponding environmental impacts.

7.2. Use of space resources

7.2.1. By 2025, the European Space Agency is planning the extraction of resources that can help sustain lunar stays and research. Potential lunar resources encompass processable materials such as volatiles and minerals (for construction, radiation and micrometeoroid protection), along with geological structures such as lava tubes that together might enable lunar habitation.

7.2.2. Space mining raises legal questions to which there is currently no clear answer, as the scarce body of international law applicable to outer space activities lags behind the advances in technology fuelling the space industry. The EESC considers that the EU should fill this gap and take the lead to define a stable and internationally accepted legal framework that ensures a fair, secure, responsible and sustainable use of space.

8. Beyond the COVID-19 crisis

8.1. The COVID-19 global pandemic is highlighting the importance of digital transformation. In these times of increasing instability and unpredictability, mining operations worldwide have had to grapple with the threat of total shutdowns or a reduced workforce, the likelihood of which continues to rise as the coronavirus spreads.

8.2. The EESC believes that, considering the challenges posed by the digitalisation and the threats to the mineral raw materials industry caused by the COVID-19 pandemic, the European Commission should promote comprehensive dialogues among social partners through the existing sectoral social dialogues (extractive industries) mechanism.

8.3. What will be a major question going forward is how the mining companies use and engage with digital technologies, which have become intertwined with how many companies are dealing with the pandemic. Entire labour forces are having to work virtually and embrace new technologies, while social distancing orders mean that remote monitoring of operations has never been more necessary.

8.4. The EU and the Member States must support the digital transformation of the EU mining sector actively. This is a crucial step to increase the resilience of the EU industry and the raw materials value chain. Mines using digital technologies, including integrated automation, cognitive network and use of real-time analytics are more efficient, clean and safe. Reduced environmental footprints and safer environments are easier to obtain in 'smart mines', and this is crucial to get the social licence to operate in Europe.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Towards structured youth engagement on climate and sustainability in the EU decision-making process’

(own-initiative opinion)

(2020/C 429/07)

Rapporteur: Cillian LOHAN (IE-III)

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(for/against/abstentions)

1. Conclusions and recommendations

1.1. The intergenerational aspect of climate and sustainable development policies and implementation mechanisms needs to be reflected in strong meaningful youth engagement at all stages of EU decision-making processes, from the drafting of legislative proposals and initiatives through to implementation, monitoring and follow-up.

1.2. Implementation of the Sustainable Development Goals through the European Green Deal requires a new approach to a more inclusive multi-stakeholder governance model that would put young people at the heart of the engagement process and go way beyond ad hoc meetings and mere calls for consultation.

1.3. The EESC proposes the establishment of Youth Climate and Sustainability Round Tables to be hosted by the EESC in collaboration with the European Commission and the European Parliament.

1.4. It also proposes the inclusion of a youth delegate in the official EU delegation to UNFCCC COP meetings. In addition, the EESC proposes including a youth delegate as an additional member of the EESC delegation which holds observer status at such events.

1.5. The EESC will endeavour to amplify the voices of young people and youth organisations through considered inclusion in opinions relating to climate and sustainability, by proactively seeking input from youth representatives and continued invitations to them as speakers at EESC events; it will also request that the same opportunities to be heard are granted to youth representatives in the other EU institutions, for example at the European Parliament.

2. Introduction

2.1. The UN 2030 Agenda for Sustainable Development and 17 Sustainable Development Goals (SDGs) (1) represent a turning point in the way the international community has decided to tackle global issues by bringing together economic, environmental and social dimensions in an integrated manner. The Agenda 2030 is a people-centred project designed to leave no group behind and intergenerational equity is a concept inherent to sustainability. The young generation should not be left to deal with the consequences of unsustainable policies they have not contributed to shaping.

(1) UN sustainable development goals.
2.2. The world today is facing a climate emergency. The response of governments to the climate crisis thus far has not been sufficient and the world is not on track to meet the objective of the Paris Agreement and the SDGs. Civil society has been calling forcefully for more ambitious and urgent climate action. The most dramatic demonstration of these calls are the youth climate strikes.

2.3. The first half of 2020 has been defined by the global pandemic induced by COVID-19. The unprecedented response to this virus will have a lasting impact on short- and medium-term economic forecasts. The design of the financial response packages cannot be ignored. As the youth of today enter the workforce they will continue to experience the financial impact of COVID-19 on their mental health, education and overall participation in society. The Sustainable Development approach of balancing financial, societal and environmental needs is even more relevant in this context.

2.4. The financial support announced for the economic recovery will place a burden on future generations. There should be fairness in how resources and opportunities are used between generations. The support given to sectors in post-COVID plans should take into consideration the demands of young people with regard to climate and their right to a healthier, more sustainable future.

2.5. The Recovery Plan for Europe (2), as announced by Commission President von der Leyen, has reflected the need to ensure that the economic recovery should be founded on the principles of the EU Green Deal, and deliver for both climate and sustainability. The recovery programme has the potential to be a transformative stimulus package.

2.6. David Boyd, UN Special Rapporteur on human rights and the environment made an appeal in mid-April, saying countries must not use the COVID-19 pandemic as an excuse to weaken environmental protection and enforcement, after several governments announced plans to lower environmental standards or reduce other related measures like monitoring and enforcing environmental requirements (3).

2.7. In light of the global environmental crisis that predates COVID-19, these actions are irrational and irresponsible and jeopardise the rights of vulnerable and marginalised people. Such policy decisions are likely to result in accelerated deterioration of the environment and have a negative impact on a wide range of human rights, including the right to life, health, water, culture and food, as well as the right to live in a healthy environment. COVID-19 has highlighted the importance of having a safe, clean and sustainable natural environment.

2.8. As the SDGs are now to be implemented via the European Green Deal, this should in principle open the debate on a paradigm shift towards a more participatory model of multi-stakeholder governance for sustainable development. Young people should be part of this new governance model and should be enabled to engage in the decision-making process at EU level in a structured and formal way going beyond mere consultation and ad hoc meetings.

2.9. Youth organisations play an important role in this context, as they represent the interests of millions of young people in Europe and globally through their wide networks. They are key actors in ensuring that young people are not only present in institutions, but are also enabled to contribute to the decision-making process in a meaningful way.

2.10. Youth organisations can play multiple other roles. Youth work and non-formal learning have a positive impact on sustainable development, as its purpose is to build empowered young individuals that actively contribute to our society. Youth organisations can also help to amplify youth voices to collectively push for sustainable development at local, national, regional and global level and to hold governments and institutions to account on their commitments.

2.11. Quality youth participation and representation mechanisms create an opportunity for a partnership between policy makers, young people and youth organisations to shape decisions that impact young people's lives. It is important to take this opportunity to also ensure the stability and resilience of our democracies for which participation of all groups of society in decision-making processes is a prerequisite.


2.12. All aspects of policy need to consider the impact on youth and their perspectives, including for future generations. From climate change investment to Farm to Fork, the role of youth is especially important when considering social aspects and future-proofing policies.

2.13. This opinion will look into the possibilities to engage with young people in a formal way at institutional level. It will provide the building blocks for a new structured approach to youth engagement at EU level. Lastly, the opinion will also propose recommendations to the EESC on how to better integrate young people into its working processes, in order to help voice their message and thus make the EESC’s message fairer in an intergenerational context.

3. The link between climate change and the need for youth engagement

3.1. Young people have the right to have a say on matters that concern them. The right to participate is anchored in the UN Sustainable Development 2030 Agenda, which acknowledges youth as ‘critical agents of change’, as set out in the Sustainable Development Goals.

3.2. No other issue has mobilised more young people around the world in the last years than climate change. Young people aged 15 to 24 represent 16% of the world population and will reach 1.3 billion people by 2030. The decisions on climate change and other environmental issues taken by political leaders today will affect generations to come. This principle is known as intergenerational equity.

3.3. Young people possess the energy, creativity and motivation to challenge current unsustainable models. Social change led by young people extends beyond generational, cultural and geographical boundaries. Less bound by ideological and institutional structures, young people have demonstrated the ability to think outside the box and develop innovative solutions for society as a whole.

3.4. Since climate change disrupts the basic necessities of life — shelter, food and water — it is regarded as the biggest global human health threat of the twenty-first century. Children and young people are amongst the most vulnerable when it comes to climate change impacts, with the World Health Organisation estimating that children will suffer more than 80% of the illnesses, injuries and deaths attributable to it. Children are also more susceptible to indirect effects of climate change, such as food shortages, intergroup conflict, economic dislocation and migration. The vulnerability of children has been highlighted by the COVID-19 pandemic, as their exposure as a dependent group has been clearly identified.

3.5. Moreover, the psychosocial impacts of climate change arise not only from directly experiencing its effects but also from vicarious experience and knowledge of the threat it poses for the future. There is clear evidence of widespread emotional reactions to climate change, even in high-income countries that are not yet suffering its direct effects. Surveys have found that many young people experience fear, sadness, anger and a sense of powerlessness.

3.6. Furthermore, the climate crisis causes the breakdown of our economic and social support structures. Young people must grapple with serious economic, social, cultural, political and environmental problems inherited from previous generations. Young people are disproportionately affected by economic crises and subsequent austerity measures. The most disadvantaged among young people experience precariousness and prolonged poverty. They face additional obstacles, such as difficult living conditions and barriers to jobs opportunities, due to their socio-economic background, sexual orientation, gender identity and gender expression, ethnicity or race, migratory status, disability and/or other status.

4. Learning from existing structures and processes

4.1. Over the last eighteen months, we have seen children and young people from all over the world striking and using their voices to demand change. Some are inspired by well-known activists at a global or national level; others are inspired by each other; others can no longer tolerate the continuing support for a ‘growth at all costs’ society or use of public money to support unsustainable practices, for example fossil fuel subsidies and other harmful subsidies. Since the FridaysForFuture movement began in August 2018, 13 million joined climate strikes in 228 countries (*)

(*) Source: Fridays for future: strike statistics.
Youth engagement at national level

4.2. Some EU countries have since created mechanisms to include the voice of youth representatives in policy-making on climate. The Youth Climate Council in Denmark is an independent youth-led advisory board to the climate minister. It gathers input from young people all over the country and formulates tangible policy proposals to the minister. The proposals are then included in the policy processes to give young people a channel for directly influencing the development of climate policies. Moreover, local level Youth Climate Councils exist in some cities in Denmark (5).

4.3. Many young entrepreneurs think of the ecological and social aspects of their activities right from the start. Business practices aiming to reduce environmental impact should be supported at national level, for instance, by tax exemptions and encouraged as positive trends mobilising young entrepreneurs’ energy to create sustainable business models.

4.4. Initiatives like the Green Students’ Parliaments in Hungary, which provide proposals on environmental matters to city administrations, are important, as they not only educate but also provide an opportunity for schools to strengthen links with city residents and between schools and parents.

Youth engagement at European level

4.5. The EU Youth Dialogue is an EU participatory process enabling young people to engage with decision-makers on a given topic by bringing their ideas and proposals on youth policy-related topics in the EU. It supports the implementation of the EU Youth Strategy 2019-2027 and is organised into an 18-month work cycle.

4.6. The Council of Europe Advisory Council on Youth is the non-governmental partner in the co-management structure which establishes the standards and work priorities of the Council of Europe’s youth sector and makes recommendations for future priorities, programmes and budgets. It is made up of 30 representatives from youth NGOs and networks in Europe and its main task is to advise the Committee of Ministers on all questions relating to young people. It promotes a co-management system in decision-making processes at all levels as good practice for youth participation, democracy and inclusion.

Youth engagement at UN level

4.7. At UN level, the Major Group for Children and Youth (UN MGCY) is the UN General Assembly-mandated, official, formal and self-organised mechanism for young people to meaningfully engage in the UN. UN MGCY has working and coordination structures responsible for different aspects of its work, as well as several formal mandated positions.

4.8. On climate, YOUNGO is the official youth constituency at the United Nations Framework Convention on Climate Change (UNFCCC). YOUNGO is made up of organisations and individuals who identify as young. It is not an organisation, but rather a unified open formal engagement mechanism for groups and/or individuals to provide an input into UNFCCC processes in a frequent, formalised, democratic and inclusive manner.

4.9. The need for greater involvement of young people was recognised in September at the Youth Climate Summit in New York on 21 September. The Kwon-Gesh Pledge, which calls on young people to hold their governments and leaders accountable, has been endorsed by over 50 countries since the Summit took place.

4.10. The UN Youth Strategy 2030 aims to address the needs, build the agency and advance the rights of young people, and to ensure their engagement and participation in the implementation, review and follow-up of the 2030 Agenda for Sustainable Development as well as other relevant global agendas and frameworks.

Learning from other platforms

4.11. The MSP on Sustainable Development Goals set up by the Commission in 2017, in which the EESC took an active part, played an important role, but also left much room for improvement in terms of resources for its work, frequency of meetings, ownership of the agenda setting, opportunities for extended debate and engagement amongst members and facilitation of more regular, transparent and accessible public consultations.

(*) Source: UN Youth Climate Council.
4.12. The European Circular Economy Stakeholder Platform (ECESP), which is run jointly by the EESC and the European Commission, provides a space for a wide-ranging group of stakeholders to exchange good practices and ideas and create valuable networks. Giving ownership of the platform to stakeholders is the main difference with the MSP on SDGs and is a good practice to follow in setting up other structured engagement mechanisms.

5. Vision for meaningful youth engagement

Principles

5.1. It is clear that youth organisations do not want to create new engagement mechanisms for processes that they do not deem meaningful in the first place. The climate crisis has deeper roots and proposing solutions to it means asking fundamental questions about what society we want to live in in the future and what vision of the economy we want to create to sustain our climate-neutral society. ‘If the goal is to change the underlying system, not the climate, it may be necessary to do more than just educate young people about climate change and encourage youth activism. Instead, it may be time to recognise the many facets, forms, spaces, and expressions of youth dissent’. Therefore, the horizontal issues that are closely linked with effective climate policy, such as monetary issues, should also facilitate youth engagement.

5.2. For the engagement to be meaningful, young people should be included throughout the entire institutional process: preparatory phases, implementation, follow-up and evaluation of the initiatives and policy processes. Many consultation channels already set the frame and lead to power imbalances. It is important that young people have ownership over their own engagement and are able to co-create the agenda with institutional stakeholders.

5.3. As a starting point, it would be beneficial to identify obstacles to young people’s participation, which could be legal or administrative in nature or due to lack of awareness or lack of access to information regarding youth participation and representation mechanisms. Social, economic and cultural obstacles hindering young people’s participation should also be addressed. The role of informal social and cultural conversations and information exchanges should not be underestimated, for example within peer groups or within families. Participation should be clearly understood to be for everyone.

5.4. It goes without saying that resources are needed to provide support to build necessary knowledge and skills and ensure equal opportunities for meaningful participation, as well as for young people who are taking part in youth participation and representation mechanisms. Governments and relevant institutions should provide sufficient, structural, reliable and sustainable resources and necessary political support for youth organisations to engage in youth participation and representation mechanisms.

5.5. The youth climate movement and its activists have a right to have their voices heard in the decision-making processes that will have an impact on their lives. This is also a clear component of the intergenerational aspect of Climate Justice.

5.6. The EU must continue to lead the way in innovative engagement with stakeholders. As the institutional home of civil society, the EESC is a natural conduit and partner for delivering on structured engagement.

Tangible proposal

5.7. At European level, the EESC has repeatedly stated (1) that structured involvement of civil society is necessary, and a clear mandate for civil society’s participation in the development, implementation and monitoring of policies and strategies aiming to achieve climate neutrality should be provided. The EU currently has an opportunity to create engagement mechanisms via a European Climate Pact. The youth engagement mechanism on climate and sustainability should be an integral part of this Pact, facilitated by youth organisations.

5.8. The EU decision-makers should create a space for regular and meaningful dialogue with young people on policy proposals and strategies in the area of climate and sustainability. Youth Climate and Sustainability Round Tables facilitated by the First Executive Vice-President of the European Commission should take place twice a year in Brussels.

5.9. These Youth Climate and Sustainability Round Tables should be hosted by the EESC in cooperation with the European Commission and the European Parliament.

5.10. Young people’s input to the Round Tables should be collated and formally sent to the EP and EC with both institutions providing a written response, which would outline which proposals can and cannot be implemented and why. The Round Tables must not become a ‘talking shop’ but rather demonstrate meaningful engagement and responses from policy makers.

5.11. In addition to meeting with the European Commission and the European Parliament, the relevant presidencies could also be invited. This will ensure that young people can enter into dialogue with the Council of the EU. The Round Tables could be timed to match the presidencies’ rotation so that young people can have a genuine impact on the presidency agenda.

5.12. To create a channel of communication with young people, a ‘Youth Climate and Sustainability Dialogue mailing list’ should be created and managed by the Youth Climate and Sustainability Round Table facilitators, building on the example of the UN youth constituencies’ organisation. The mailing list would be open to all young climate stakeholders and facilitate good communication and information-sharing amongst the group and with the institutions.

5.13. The EU decision-makers should ensure high-quality involvement of youth organisations in the development, implementation and follow-up of different mechanisms for structured youth engagement on climate and sustainability in the EU decision-making processes. It will help create engagement that fosters young people's creativity and ideas while at the same time making sure that these ideas are translated into policies.

6. Practical implementation of the vision by all EU institutions

EU institutions

6.1. Dozens of dedicated youth delegates from around the world participate in the annual climate conferences to make recommendations, urge on delegates, track progress, organise and attend side events and build their networks. Adding a Youth Delegate to the EU Climate Delegation for UNFCCC COPs would demonstrate that the EU institutions are serious about engaging with young people in a meaningful manner.

6.2. The Aarhus Convention, to which the European Union is a Party, should be fully enforced, granting opportunities for young people and youth organisations and supporting their access to justice before the Court of Justice of the EU with a view to safeguarding their right to receive environmental information from public authorities or the right to participate in environmental decision-making (*)

6.3. Young people and youth organisations should be involved in the EU’s continuing response to the COVID-19 crisis and working towards fundamental change in our social, economic and political systems, with sustainable development principles at the heart thereof. The over EUR 500 bn response package announced in April 2020 needs to ensure that these principles are at the core of its deployment. This is a once-in-a-generation opportunity to redress systemic inequalities and transition away from unsustainable practices.

6.4. It is important that youth organisations benefit from capacity-building efforts that help them navigate regulatory and administrative environments. Providing capacity-building, political and financial support, as well as facilitating networking and connections, will empower young people and facilitate their engagement in the decision-making processes.

The EESC

6.5. The EESC should lead by example by including the EU youth delegate in its UNFCCC COP delegation, which has observer status within the EU delegation. This youth delegate would be included in EESC bilateral meetings and side events. They could communicate on the process and outcomes with youth organisations and networks, including the Youth Climate and Sustainability Round Table network. They would benefit from secretariat support provided by the EESC for these missions.

(*) EESC Opinion on access to justice at national level related to measures implementing EU environmental law (OJ C 129, 11.4.2018, p. 65).
6.6. The EESC could commit to engaging with a youth representative on each EESC opinion relating to climate and sustainability. This person would provide the rapporteur with a contribution on the views of young people and would be invited to present input at a hearing, study group meeting or section meeting, as appropriate. The youth representative could be selected by the EESC rapporteur based on a recommendation from the Youth Climate and Sustainability Dialogue facilitators. This role could be described as an informal shadow-rapporteur-type arrangement.

6.7. The EESC has already started providing opportunities for youth representatives to regularly speak at public events focusing on climate and sustainability. In the next term, this practice should be extended to all public events that concern future-oriented issues and that would benefit from youth input.

6.8. The European Youth Climate Summit hosted jointly by the EESC with the European Parliament could become a yearly event for young people. This event can help enhance youth advocacy, contribute to capacity building and empowerment of young people and build connections between the EU institutions, which would be crucial for meaningful, structured and lasting engagement of young people in the EU decision-making process.

6.9. The EESC asks that the European Parliament also establish a formal consultation process with youth representatives when drafting their positions on policy proposals relating to climate and sustainability.

6.10. The EESC could future-proof its membership to ensure sufficient representation of youth organisations at the EESC and also ensure experience and knowledge is shared with youth branches of member organisations. Many EESC member organisations have youth divisions — more members should be actively encouraged to engage with potential future members from such sections of their organisations. The EESC continues to use the excellent Your Europe Your Say event to ensure youth engagement, and despite being postponed this year due to COVID-19, it will continue next year with a focus on climate and sustainability.

7. Embracing a positive vision for the future

7.1. The worst consequences of the climate crisis are still a number of years away for most Europeans. The COVID-19 pandemic gives us a practical example of what can happen when scientists and experts are ignored. It has also shown that creating policy based on accurate science can be effective in dealing with a crisis. This lesson must be applied to the climate crisis: we still have time to avert some of the worst consequences and to prepare for the rest.

7.2. The design and implementation of recovery from the economic impact of the pandemic must keep climate action and sustainability commitments at the forefront of policy. The UN Agenda 2030 and the Paris Agreement form the backbone of international multilateralism in dealing with these issues, and the European Green Deal must be strengthened to deliver the sustainable carbon-neutral future society that will honour intergenerational commitments.

7.3. The youth movement has demonstrated great adaptability during the pandemic lockdown. Their message has resonated through online mobilisation and innovative ways of spreading their message using all forms of communications from policy asks to humour. This innovative and ambitious approach to designing our future needs to be recognised and included.

7.4. A positive vision of the future has been glimpsed during the otherwise awful impact of COVID-19. The lowest paid workers in our economy have been recognised as essential. Our workforces are more flexible than anyone realised. Connecting with family and our immediate communities has been hugely rewarding and valuable. Appreciating the health and well-being benefits of having access to nature has been highlighted. We have an opportunity now to ensure that we take the positive lessons learned and apply them as essential elements of the new normal.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Towards an EU strategy on sustainable consumption’

(own-initiative opinion)

(2020/C 429/08)

Rapporteur: Peter SCHMIDT

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1. Conclusions and recommendations

1.1. The COVID-19 pandemic has exposed the fragility of supply chains. Rebuilding the economy after the crisis will be an opportunity to rethink our society and develop a new model of prosperity. It is no longer a choice, but a necessity, to shift priorities towards more sustainable modes of production, distribution and consumption and to make all actors in supply chains more resilient to crises. The resilience of farmers that grow our food, or workers that produce our clothes is equally important as the resilience of importing companies, manufacturers, wholesalers, SMEs or retail chains in Europe.

1.2. The EESC calls for a comprehensive EU strategy on sustainable consumption. The most sustainable choice should be the easiest choice for citizens. This requires a systemic change in the way we produce and consume. In particular, the responsibility of producers (*) to address unsustainable consumption needs to be better acknowledged. As markets will not deliver sustainable outcomes automatically, a strategy is necessary to create the regulatory context and strategic direction both for the private sector (including through circular and sustainable business models) and for public authorities (e.g. through public procurement).

1.3. The social dimension must be fully integrated in the strategy along with the economic and environmental dimensions, to achieve a much-needed policy coherence for sustainable development. For too long the EU has concentrated on market-based solutions and neglected the citizens’ and workers’ dimension. Improvement of working conditions, minimum wages, social protection, investment in public services, inclusive governance, fair taxation, etc. should be included as sustainability criteria. This would contribute to making our production and consumption systems fairer and more sustainable in the long run. It would also contribute to the implementation of the UN Agenda 2030.

1.4. An EU strategy on sustainable consumption should pay particular attention to the impact on vulnerable populations and low-income households, which have been — and will continue to be — particularly hit by the current crisis, while also looking at the impact on vulnerable actors in supply chains, including farmers and workers. Sustainable products and services should be made accessible and affordable to all.

1.5. In the short and medium-term, all relevant policy tools (e.g. public procurement, labelling, taxation, etc.) should be better coordinated and geared towards this vision. A more harmonised approach is necessary to overcome the current fragmentation of EU policies and the silo approach.

(*) Producers are responsible across sectors, but the specific situation of farmers must be recognised.
1.6. In the context of the post-COVID recovery, the EESC calls on the Commission, the Parliament and Member States to work closely with the EESC on developing a substantial and coordinated programme of integrated policies that will help Europe ‘build back better’ and create the conditions for a comprehensive EU strategy for sustainable consumption. The EESC recommends the following specific actions for implementation:

— Introduce product norms and bans fostering sustainability, i.e. those promoting product longevity and sustainability

— Prohibit Unfair Trading Practices (UTPs)

— Improve the competition rules for collective initiatives that promote sustainability in supply chains

— Make social and environmental clauses in trade agreements enforceable

— Improve corporate accountability and increase the awareness of companies on the environmental (e.g. EMAS) and social aspects

— Introduce tax shifts from labour to resource use

— Promote fair and green public procurement, with minimum mandatory criteria

— Improve transparency by introducing mandatory labelling rules on origin, sustainability and the social dimension

— Encourage bottom-up initiatives and pilot interventions

— Address advertisement and marketing

— Promote education on sustainable consumption.

2. Introduction

2.1. The COVID-19 pandemic has exposed the fragility of supply chains and the need for an urgent and systemic transformation. Underinvestment in the health and care sectors, over-reliance on global supply chains and economic systems dependent on linear processes of production and consumption incompatible with planetary boundaries have jeopardised the ability of governments to take quick and decisive action to protect public health. It is no longer a choice, but a necessity, to shift priorities towards more sustainable modes of production, distribution and consumption and to make all actors in the supply chains more resilient to crises (\(^2\)). The pandemic has brought social protection, public services, low-skilled workers, occupational health and safety as well as working conditions to the centre of the media and policy debate.

2.2. The EU has fully committed itself to the UN 2030 Agenda and its 17 Sustainable Development Goals (SDGs). Yet the implementation of SDG 12 on sustainable consumption and production is still challenging in Europe (\(^3\)), while being instrumental to the realisation of the Agenda 2030 as a whole. In fact, the ways in which most people consume today — large volumes at a high rate, along a linear trajectory and with significant wastage (take-make-dispose) — are not sustainable. Moreover, citizens have primarily been cast as individual consumers, which has put the burden of responsibility on people for their choices, without providing them with accessible or affordable alternatives.

2.3. The EESC has previously called for the EU to propose a new vision of prosperity for people and planet based on the principles of environmental sustainability, the right to a decent life and the protection of social values (\(^4\)). A systemic EU approach to sustainable consumption is one of the essential building blocks of the EESC’s strategic vision of a sustainable, wellbeing economy leaving no one behind.

2.4. The political momentum is high for the EU to take decisive steps towards this vision. The European Green — and Social — Deal has huge potential to rebuild the economy after the COVID-19 crisis on a more sustainable basis, contribute to creating a new prosperity model and ensure a just transition (\(^5\)).

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\(^2\) EESC Resolution on post-COVID recovery.
\(^3\) Eurostat, Sustainable development in the EU, 2020.
2.5. In particular, the new Circular Economy Action Plan (CEAP) includes a specific action on empowering consumers for the green transition and several initiatives that could help manifest the responsibility of regulators and companies. The CEAP should widen the scope of the 2018 ‘New Deal for Consumers’, which was mainly focused on protection and enforcement rather than empowerment. The implementation of the Farm to Fork and Biodiversity strategies is also doubly important as the COVID-19 crisis has made it more urgent than ever to increase the resilience and sustainability of EU and global food systems. The upcoming 8th Environment Action Programme should be an opportunity to address sustainable consumption more decisively.

2.6. This opinion will contribute to the reflection on the post-COVID-19 recovery by providing concrete recommendations for a comprehensive EU strategy on sustainable consumption, as part of the European Green Deal and as a complement to the new CEAP.

3. Challenges — analysis of the current situation

3.1. Europe is still far from living within the boundaries of the planet. Different studies applying different methodologies to assess the EU’s consumption patterns arrive at this same conclusion, including a recent report by the European Environment Agency (EEA) and the Swiss Federal Office for the Environment (FOEN).

3.2. Consumption of products and services is a direct and indirect driver of pressures such as land-use change, emissions and the release of toxic chemicals into the environment, in turn generating a range of environmental impacts, including climate change, freshwater depletion and pollution, and loss of biodiversity. This ‘ecological footprint’ of consumption is high in Europe; in fact it is one of the highest in the world. Data suggest that we would need almost three Earths to sustain the global economy if everyone on the planet consumed like the average European.

3.3. To maintain its high consumption levels, Europe is dependent on resources extracted elsewhere. Europe is thereby, to an increasing degree, externalising its pressures on key environmental issues onto other parts of the world. On the whole, this model is no longer compatible with a safe and sustainable future.

3.4. While exporting the EU’s environmental footprint through trade cannot be considered sustainable, it also needs to be recognised that trade with the EU plays an important role in the socio-economic development of many countries, in particular LDCs. In fact, the EU actively promotes trade as a tool to foster sustainability globally and within trade partner countries. Principles of fairness, circularity and more sustainable consumption therefore need to be carefully aligned with trade, creating opportunities for both the EU and its trade partners.

3.5. Current European consumption patterns also raise several questions regarding social equity. While parts of Europe have some of the highest material footprints in the world, other regions in Europe are not able to afford a standard of living that is generally considered acceptable. The level of material deprivation varies hugely across the EU, as does the level of economic strain. Consumption is thereby closely linked to political agendas on, e.g. nutrition, poverty and inequality. More sustainable consumption in Europe as a whole may entail an increase in resource use for some, and a decrease in resource use by others — overall a better balance of access to resources and strengthened resource justice.
3.6. Unsustainable consumption is driven by a complex interplay between a range of different factors. The dominant business model is linear, with most companies’ growth still based on more people buying more stuff. The effective lifetime of many consumer products is shrinking (17). While repairing them is becoming increasingly (often intentionally) difficult (18). Alternatives to the linear take-make-dispose economic model, such as those based on material circularity, servicing or sharing, could contribute to a reduction in overall material consumption but remain peripheral and are often not able to compete with linear solutions under current conditions (19). In fact, secondary (reused/remanufactured/recycled) products are often sold in addition to primary (new) products, resulting in environmental impacts from both the primary and secondary production (20). Promoting circularity without promoting wider systemic changes in production (in particular product design), consumption and waste prevention would therefore only be addressing part of the problem. Consumers should benefit from a true ‘right to repair’.

3.7. Price is one of the most important determinants and drivers of demand (21) and as long as the price of products and services does not reflect more accurately their true costs, an overall shift to sustainable consumption patterns will not be possible. The economic costs of environmental and social externalities of production and consumption are currently usually borne by tax payers and by future generations, not by the companies who market the products and services in question. Products and services offering alternative solutions with lower impacts are still often more expensive and cumbersome to access, despite proven impacts of less negative externalities by more sustainable consumption options, such as organic and Fair Trade products (22).

3.8. Meanwhile, increased attention is being paid to true-cost accounting methods and studies have proliferated since economist Pigou coined the term ‘externality’ costs (23). The EC published in 2008 a strategy on the internalisation of external costs (24), identifying taxation, tolls (or user charges) and, in certain circumstances, emissions trading, as the main economic instruments for internalising external costs. However, the long-term trend in Europe is that revenue from ‘environmental’ taxes as a share of total tax revenue is decreasing (25).

3.9. Another challenge is posed by the currently dominant interpretation of competition law, adopting a very narrow concept of consumer welfare, which prioritises cheap shelf prices for the consumer over the sustainability of products and how they have been produced. In 2013, the Dutch competition authority (ACM), in the ‘Energy Agreement’ case, ruled that a multi-stakeholder Energy Agreement for Sustainable Growth with employers, trade unions, environmental organisations and others for energy conservation, boosting energy from renewable sources and job creation, was not in line with competition law requirements. In 2014, ACM, in the ‘Chicken of Tomorrow’ case, found that a multi-stakeholder agreement to increase the welfare of chicken, such as less antibiotics and more space, and additional environmental measures, was restricting competition.

3.10. The Commission guidelines on Article 101(3) state that the objective of Article 101 is to protect competition ‘as a means of enhancing consumer welfare and of ensuring an efficient allocation of resources’, without any indication on whether or how non-economic considerations can be taken into account. Many operators would like to step up their sustainability projects but investments are too high to take them on by themselves. Competition law guidelines should provide more clarity to operators on how to engage in sustainability cooperation.

3.11. A recent study by the Fairtrade Foundation presents evidence that ‘an unclear legal landscape around potential collaboration in relation to low farm-gate prices restrict[s] progress towards working collaboratively to secure living wages and incomes across supply chains.’ The report notes ‘further clarity from competition authorities on how a pre-competitive collaboration on the issue of low farm-gate prices would be assessed under competition law would greatly aid progress’ (26).

(18) EEB (2019) Cool products don’t cost the earth.
(19) OECD (2019).
(21) Eurobarometer, food safety, June 2019.
(22) The external costs of banana production.
(25) Eurostat.
3.12. An obstacle to a coherent approach to sustainable consumption is the current fragmentation of EU policies. E.g. regarding the implementation of the 2014 EU Public Procurement Directive (**27**), several Commission DGs work separately on providing guidance documents to contracting authorities (‘Buying Green’ Handbook by DG Environment (**28**), ‘Buying Social’ led by DG GROW (**29** — in the process of being updated) while there is a separate EC notice ‘Guidance on Innovation Procurement’ (**30**). This can be highly confusing for contracting authorities in the EU that wish to take an integrated approach to sustainable procurement, as laid down in SDG 12.3.

4. **Vision — Towards a comprehensive EU strategy on sustainable consumption**

4.1. Policies addressing the sustainability of production processes (e.g. ecodesign), products and services, and dealing with materials that become waste, have long been a cornerstone of EU policy and there is a relatively well-established policy framework in place. However, this approach is no longer enough to achieve the scale of change required in the time available — more attention needs to be paid to the role of consumption in pursuing sustainable development.

4.2. EU-level policies targeting consumption have so far focused on citizens’ roles as consumers and on using information-based policy tools to try to influence consumers’ behaviour. Key examples include product eco-labelling, awareness-raising campaigns and voluntary green public procurement criteria.

4.3. These policy tools have had a limited effect on unsustainable consumption. In fact, there is little evidence to suggest that improved information about products’ environmental performance, such as eco-labels, result in real-life changes in purchasing behaviour, let alone at the scale required. This is due to various rebound effects, subconscious routines and habits (**31**). Our choices as consumers (be they household, private-sector or public) remain largely driven by price and convenience (**32**). However, it is important to highlight that the responsibility for such choices in the existing system does not lie with consumers, but rather with producers (**33**). It is the capitalist logic and the imbalance of power in the supply chain that lead to a ‘race to the bottom’, prioritising price over sustainability.

4.4. It is also problematic to hold citizens responsible for delivering more sustainable consumption, while most products and services do not reveal their true costs and market and societal levers remain set on encouraging increased material consumption. The responsibility of the private and public sectors to address unsustainable consumption needs to be better acknowledged and tools adopted to help ensure — in a balanced and transparent manner — that the healthier, more sustainable and safer choice is the easier and more affordable choice for citizens. The EC should continue supporting civil society-led pan-European campaigns on sustainable consumption, focusing not only on individual decisions by consumers.

4.5. Part of the reason for the nature of EU-level policy to date is the balance of policy responsibilities between the EU and its Member States. Policy tools that can be used to try to regulate demand, such as taxes, largely fall under Member State competence. Nevertheless, the EU has a central role in ensuring that Europe lives within the boundaries of the planet and has several means by which to act on unsustainable consumption. Some Member States could also benefit from further guidance (toolkit) from the EU.

4.6. Single approaches, e.g. fair or circular, are important but not sufficient to achieve sustainability. Furthermore, there is a risk that developing policy responses to unsustainable consumption in isolation of each other may create unforeseen issues down the line. A comprehensive and coordinated approach is necessary, reflecting the complexity of the issue at hand and delivering a coherent contribution from diverse policy areas, ranging from research, innovation, sectoral and industrial policies to education, welfare, trade and employment (**34**). Importantly, an EU strategy needs to complement — not compromise — ambitious regulatory interventions where these are necessary.

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(**27**) Directive 2014/24/EU.

(**28**) EC Buying Green Handbook.

(**29**) EC Buying Social.


(**31**) I.e. concrete behavioural changes, as opposed to people’s stated willingness to change behaviour (research on the latter has been summarised by LE Europe et al. (2018).)


(**33**) See footnote 1.

(**34**) EEA.
4.7. An EU-level strategy on sustainable consumption should provide an ambitious framework for Member States and for the private sector to address both household consumption and public-sector consumption. Markets will not deliver sustainable outcomes automatically. A strategy is necessary to create the regulatory context and strategic direction that is conducive to ambitious front-runner initiatives both for products and for services (as the service economy is not necessarily sustainable).

4.8. An EU strategy would also resonate with the requests from European consumers for the EU to ensure structural changes and the creation of new infrastructures to allow consumers to adopt more sustainable lifestyles (35).

4.9. Mainstreaming the role of consumption at EU level may also help avoid rebound effects and other unforeseen effects of revised and/or new policy and support a longer-term cultural shift in how we view the concept of sufficiency and the role of consumption in achieving Agenda 2030.

4.10. An EU strategy on sustainable consumption should include targets for an absolute reduction of the material footprint of European consumption. EU-level targets can provide direction, momentum and coherence both for other governance levels and for private and public innovators to help deliver the wellbeing economy (36).

4.11. Further, the justice aspect of resource use is crucial and one that has long been overlooked in EU policy (37). A strategy on sustainable consumption must be a people-centred strategy, aimed at making sustainable consumer choices accessible, affordable and appealing to all. The strategy should pay particular attention to the impact on vulnerable populations and low-income households. High-spending social groups should also be addressed accordingly.

4.12. Workers and farmers have a key role to play in promoting sustainable consumption as they are both consumers at the end of the chain but also producers at the start of the supply chain. It is essential that sustainable consumption policies therefore include a balanced approach to sharing value in and across the value chain, such as promoting living wages for workers and living income for farmers, both in the EU and in the Global South, rather than exclusively aiming to obtain short-term cheap prices for consumers. Workers, trade unions, farmers’ groups and civil society organisations can also have a key role to play in monitoring compliance of sustainability and human rights standards in global value chains.

4.13. Retail can also play an important role in fostering sustainable consumption by nudging consumers towards healthier and more sustainable choices. Within this sector, the consumer co-operative business model is particularly worth noting because of its specific entrepreneurial form, which puts the figure of the consumer-member at the core of its business and democratic governance structure.

4.14. An EU strategy should include initiatives to ensure transparent and reliable information flows to support sustainable consumption, making use of the opportunities created by new and emerging digital solutions. This could also support companies who are willing to innovate but currently lack metrics and data to allow for a reliable assessment of the ecological and social impacts of everyday consumption. SMEs, start-ups and cooperatives, which are essential innovators and pilot platforms, are facing this challenge in particular. Notably, the EU also has an important role in the harmonisation and verification of green claims made on the internal market. Currently, the high volume of such claims, with various degrees of evidence to support them, is creating confusion and possibly eroding consumer confidence in the legitimacy of any of these claims. The EESC therefore welcomes the Commission’s ambition, under the implementation of the new CEAP, to make a legislative proposal aiming to ensure that companies substantiate their environmental claims.

4.15. An EU-level strategy on sustainable consumption should acknowledge and foster synergies with other policy areas. E.g. 45 % of Europe’s total carbon emissions come from how we make and use products, and how we produce food (38). Food systems can be the source of restoration and enhanced resilience, if food is grown, processed and consumed differently. This almost certainly means feeding cattle as appropriate to the species, and consumers eating a balanced diet with less meat, which has both climate and health gains (39). Consumption and demand play a crucial role in our ability to

(35) BEUC (2020).
reduce greenhouse gas emissions. Similarly, the main challenge for addressing biodiversity loss and ecosystem degradation in Europe is our multiple-planet lifestyle (\textsuperscript{40}). The EESC also repeats its call for a recognition of the rights of nature to ensure parity with the rights of individuals and of corporations (\textsuperscript{41}).

5. From Vision to Implementation — Opportunities for action at EU and Member-State level

5.1. In the context of the post-COVID recovery, the EESC calls on the Commission, the Parliament and Member States to work closely with the EESC on developing a substantial and coordinated programme of integrated policies that will help Europe ‘build back better’ and create the conditions for a comprehensive EU strategy for sustainable consumption. Green recovery plans should kick-start the necessary systemic change in the mobility, nutrition, housing, leisure, energy systems and high-impact product groups (\textsuperscript{42}), looking at the impact of EU consumption both in the EU and in the Global South. The following proposals are offered as the starting point for this exercise.

5.2. Legal or regulatory instruments

5.2.1. Introduce product norms (regulation) and product bans (prohibitions) fostering sustainability, i.e. those promoting product longevity. The EESC was a forerunner and already called for a total ban on planned obsolescence in its 2013 opinion (\textsuperscript{43}) on product lifetimes and consumer information, and in later opinions. It highlighted that it would be useful to establish a system that guarantees a minimum lifetime for purchased products. A recent report prepared by the EP IMCO Committee goes in the same direction (\textsuperscript{44}). In this context, the implications of increasing E-commerce, e.g. during the COVID crisis, should also be looked at.

5.2.2. Prohibit Unfair Trading Practices (UTPs), not only in food supply chains, as done by the new Directive against UTPs in food supply (\textsuperscript{45}) chains, but also in other sectors, such as textiles, counting with high widespread UTPs, aggravated by the COVID-19 crisis (\textsuperscript{46}). The EESC calls for a balanced implementation of the UTP Directive to avoid protecting large brand manufacturers that are misusing their bargaining power to generate generous profit margins.

5.2.3. Competition law. Allow collective bargaining between suppliers and buyers on the price (and delivery conditions) of essential commodities, specifically at the interfaces which display great differences in the concentration levels of successive elements in the value chain (e.g. fragmented suppliers vs. concentrated buyers). In the on-going revision by the EC of the Horizontal Agreement Guidelines, a section on sustainability sectoral agreements should be reintroduced, following the model set forth in the section on environmental agreements in the former 2001 Guidelines (\textsuperscript{47}), and adapting them to the current context, including consideration being given to the European Green Deal, the Paris Agreement and SDG 12.

5.2.4. Trade rules. Make social and environmental clauses in trade agreements enforceable, with sanctions (such as targeted increased tariffs aimed at strategic sectors, excluding sectors where imposition of tariffs could lead to increased poverty in LDCs) in case of non-compliance.

5.2.5. Corporate accountability. Mandatory duty of vigilance for purchasers along their whole supply chain (creates an obligation) for sustainable supply chains as part of ensuring corporate accountability. Rather than a ‘check list’ approach, companies should review their purchasing practices, as advised by the OECD (\textsuperscript{48}), and be bound by more stringent laws on lobbying control. Action should be taken against greenwashing.


\textsuperscript{41} OJ C 81, 2.3.2018, p. 22.

\textsuperscript{42} IEEP & FEPS.

\textsuperscript{43} OJ C 67, 6.3.2014, p. 23.

\textsuperscript{44} IMCO report.


\textsuperscript{46} Reports by OECD, civil society and trade unions.

\textsuperscript{47} OJ C 3, 6.1.2001, p. 2.

\textsuperscript{48} OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.
5.2.6. Mandatory usage of a standard tool to track and trace information regarding the operations performed along the value chain — who, when, where, under what social and environmental conditions (gives the technical means to fulfil the obligation). Civil society and trade unions should be involved in the development and monitoring of environmental and social standards.

5.3. Economic and financial instruments

5.3.1. Tax shift from labour to resource use. Use the on-going revision of the VAT Regulation to provide clear criteria on how Member States can introduce reduced VAT rates for sustainably produced products and for services that can reduce the negative impacts of consumption, such as repair or sharing services. Promote measures to prevent fiscal competition and a ‘race to the bottom’ among Member States and fairer taxation of the most profitable sectors and capital.

5.3.2. Polluter pays principle (PPP). The EC has started to take the approach of internalising external effects more seriously, e.g. acknowledging that renewable energies are disadvantaged as long as the external costs of fossil resources are not fully reflected in the market price or trying to implement the PPP into the transport sector. It should be acknowledged meanwhile that these approaches are reconciling the ecological with the economic dimension of sustainability, but they do not incorporate the social dimension (49).

5.3.3. Fair and green public procurement (GPP). SDG target 12.7 mentions the importance of coming up with actions plans on sustainable PP. Various national actions on the UN guiding principles on Human Rights plans refer to PP, and several good practices exist at national level. E.g. Denmark has seen the transition in their public kitchens towards a high level of organic produce, where budget constraints are taken into account. ICLEI is currently promoting an initiative to push for mandatory, progressive sustainable food procurement in all European schools and kindergartens. In the new CEAP, the EC announced that public buyers will be encouraged to take part in the upcoming ‘Public Buyers for Climate and Environment’ initiative, which will bring together buyers committed to implementing GPP. The EESC calls on the EC to include broader sustainability criteria, such as social and fair trade considerations. The EESC also supports the EC’s plans to propose minimum mandatory GPP criteria and targets in sectoral legislation, and phase in compulsory reporting to monitor the uptake of GPP.

5.3.4. Development cooperation policies supporting small-scale farming, SMEs and consumer cooperatives.

5.4. Voluntary or information-based instrument

5.4.1. Product labelling can help pull the sustainability efforts of certain companies upwards, but labels should never be used as an excuse not to regulate behaviours and practices that are not acceptable. E.g. one of the options being considered by the EC as a follow-up to the EU communication on stepping up EU action to protect and restore the world’s forests is putting in place a deforestation-free label. However, this could lead to the perception that the EU is actually tolerating products on the EU market that are not forest-friendly, which would be highly confusing. The EESC calls on the EC to develop further existing labels of environmental excellence that cover the whole life cycle, such as the EU Ecolabel, and extend them to cover the social dimension. In particular, implementing a clear labelling system on the origin and means of production would facilitate consumers’ choices (50).

5.4.2. Bottom-up initiatives and multi-level governance. Decentralising the action at the local level through trusted actors, such as city administrations and associations, is an effective way to design local actions, getting closer to citizens and engaging them in a meaningful way. There is a growing number of local authorities that have serious sustainability strategies, which the EC incentivises through awards such as the European Green Capital, the Green City Accord or the EU Cities for Fair and Ethical Trade City Award. These patterns and trends are likely to be influenced by the current responses to the COVID-19 crisis. Pilot interventions in real-life contexts can be very instrumental in informing the design and implementation of the EU strategy on sustainable consumption and should therefore be supported.

5.4.3. Advertisement and marketing. The role of advertising and marketing should also be addressed, with a view to moving away from its highly consumerist orientation and focusing on product durability and new use possibilities, while forbidding misleading advertising.

5.4.4. Education. Proposals should be put forward to incorporate education on sustainable consumption into school curricula from an early age and to encourage private-sector education initiatives (e.g. those promoted by consumer cooperatives), to foster citizen engagement and cultural change.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘An integrated approach for the EU’s rural areas, with particular emphasis on vulnerable regions’

(Own-initiative opinion)

(2020/C 429/09)

Rapporteur: Josep PUXEU ROCAMORA

Co-rapporteur: Dilyana SLAVOVA

1. Conclusions and recommendations

1.1. European policies should promote the harmonious development of the Union as a whole, paying particular attention to rural areas, areas of industrial transition and areas with severe and permanent handicaps such as islands and mountainous and Arctic regions. This is a cross-cutting principle that must underpin all the actions of the EU and was embodied in the Europe 2020 strategy (1), which is based on the belief that the required coordination between territories is a prerequisite for inclusive economic growth.

1.2. The EESC fully endorses the nine objectives proposed by the European Commission for the Common Agricultural Policy (CAP) 2021-2027: ensuring a fair income for farmers, increasing competitiveness, rebalancing power in the food chain, taking climate change action, protecting the environment, preserving landscapes and biodiversity, supporting generational renewal, maintaining vibrant rural areas, and protecting food and health quality. The CAP must also ensure that agricultural production is maintained in vulnerable areas.

1.3. The Committee also fully endorses the European Green Deal, aimed at boosting resource efficiency, restoring biodiversity and reducing pollution. It is precisely for this reason that the EESC takes care to point out that environmental degradation takes two equally severe forms: excessive pressure on air, water and soil due to the concentration of economic activity in urban areas, and the abandonment of large areas of territory, whose biological and landscape diversity declines irreparably without respectful management to maintain and enrich it.

1.4. The European Union must furnish a considerable share of the necessary funding and ensure that implementation is in line with the best existing practices. The CAP should operate in close conjunction with regional and cohesion policies to ensure balanced territorial development as both a consideration and a requirement for any political decision that has a local impact. A comprehensive strategy for these territories requires greater budgetary funding and precludes institutions working in isolation; coordination, integration and policy alignment are therefore key.

1.5. The centralisation of social and professional development opportunities in cities tends, in rural areas, to sideline the most disadvantaged sections of society. The EESC recognises the potential for territorial innovation and the need to consolidate local strengths, reduce disparities in development and boost competitiveness. This requires the construction of innovation support ecosystems which boost the diversification of the economy and enable living, creative, smart and responsive territories to exist, allowing people to choose where they want to live and work in a dignified way, in both urban and rural areas.

1.6. The increasing prevalence of epidemics is an additional argument in favour of more balanced territorial development. The rapid contagion rate linked to the inevitable overcrowding on urban public transportation during rush hour, tragically exposed by the COVID-19 pandemic, should prompt reflection at the highest level on the future we aspire to for our societies and the change of direction needed to move towards it. The greater resilience of rural areas should in this case serve as a source of inspiration, and should not be used in any way to justify the insufficient provision of healthcare services in these areas.

1.7. Following the huge increase in teleworking during the lockdown, the post-COVID recovery plans are opening up opportunities to consolidate a paradigm shift that is no longer utopian, in which jobs with high added value are relocated to rural and mountainous areas.

1.8. If the EESC wants to take part in this process and lead by example, it should systematically apply a holistic view to all its future opinions on territorial, urban and rural policies. To this end, an ad hoc administrative structure should be set up, composed of an equal number of members from the ECO and NAT sections.

2. Introduction

2.1. Economic, social, environmental and territorial cohesion has been one of the main pillars on which the construction of the EU has resided. However, despite past and present efforts to achieve territorial cohesion, and despite what has been achieved at different stages and points in time, the reality is that European territories currently present territorial imbalances at various levels and of very different types. For example, in the rural areas of Bulgaria, Romania, Spain, Hungary and Poland, there are many significant imbalances with regard to income, communication, health, access to services, etc.

2.2. Evidence shows that the EU’s territories are not developing in a consistent way across the board. Areas characterised by economic growth, social cohesion and environmental sustainability coexist with areas threatened by stagnation, depopulation and desertification. These disparities are not only visible between NUTS-3 regions: they also exist between different parts of the same region.

2.3. The impacts of climate change, technological, regulatory and institutional changes and natural, industrial or epidemiological disasters have a particularly strong impact in rural areas. Although disadvantaged and intermediate areas were more resilient during the last financial crisis, cities are closer to achieving the employment, education and poverty-reduction objectives set by the Europe 2020 strategy.

2.4. Remote mountain and rural areas and peripheral, outermost and Arctic regions are the most vulnerable. These areas are subject to objective constraints such as a lack of critical mass (demographic or economic), difficult accessibility, etc. Conversely, congestion and pressure on natural resources (air, water, soil) are at the same time increasing in urban areas.

2.5. The importance of rural areas for the EU as a whole lies not only in the numbers associated with them (they amount to 55% of the population, produce around 45% of gross added value and generate 50% of jobs) but also in their ties to each country’s culture and identity. The purpose of this opinion is to lay the foundations for a holistic approach that will facilitate more balanced territorial development.

3. Proposals for action

3.1. A territorial contract between cities and their extensive hinterland is the best — if not the only — way to pursue harmonious economic development that avoids the twin pitfalls of congestion and depopulation. Although the initial political impetus should come from regional authorities, decisions must always be taken from below, with permanent participative structures that include all public, private and organised civil society actors present in the territory. A key aspect in correcting asymmetries is co-design and co-implementation. The EESC calls for the funding of a pilot programme to experiment with solutions tailored to the specific characteristics of each territory.

(2) From the French nomenclature des unités territoriales statistiques, nomenclature of territorial units for statistics.
3.2. In order to have an impact on rural areas in the EU, with a special focus on vulnerable regions, action should be taken in relation to five aspects:

— the spatial aspect: fostering balanced development that streamlines flows between rural and urban hubs in each area,

— the economic aspect: encouraging decentralisation and diversification as drivers for rebalancing income,

— the social aspect: ensuring access to essential education, health, transport, cultural and other services,

— the environmental aspect, with a view to a future based on agroecology (3) and placing value on the defence of biodiversity undertaken in the EU,

— the institutional aspect: creating an accompanying ecosystem to facilitate progress with regard to the other aspects.

3.3. Risk management, uncertainty scenarios, contingency plan design, inclusion mechanisms for conflicting interests and the establishment of synergies between global and local visions should be considered. These are all indispensable mechanisms in the design and management of a strategy aimed at reducing territorial vulnerability.

3.4. A Common Strategic Framework ensures that the various ESI Funds (4) operate jointly. At regional and sub-regional level, multi-fund integrated territorial investments can adapt interventions to the characteristics of each individual territory and can be based on local specificities in order to exploit synergies between different sectors, such as biodiversity conservation, land management (mainly agriculture and forestry) and tourism.

3.5. We propose introducing greater flexibility with regard to policy options for Member States and regions so that they can align and focus policy in terms of their specific needs, and therefore also in relation to the design and implementation of interventions.

3.6. We also propose the preparation of a holistic strategy that precludes policies and institutions operating in isolation, for which institutional coordination, integration and alignment are key. With regard to the design of strategies and interventions, opportunities derived from the current institutional context will necessarily be considered. These will include, from a global perspective, the 2030 Agenda and the Sustainable Development Goals (SDGs) and, from a European perspective:

— the European Green Deal, which includes a number of strategies that will provide the reference points for the years ahead, some of which (the ‘Farm to Fork’ strategy, the biodiversity strategy) will have a major impact on the rural environment,

— the Multiannual Financial Framework for the period 2021-2027 and the European Union Recovery Instrument, which will determine the available budget,

— the EU’s commitment to moving towards carbon neutrality in the second half of the 21st century,

— the New Circular Economy Action Plan,

— together with the Smart Specialisation Strategies, Cohesion Policy, the Digital Single Market, etc.

3.7. Historically, the rural world has long been ‘circular’ in its use of resources, although this should not prevent the development of new energy models that are economically and environmentally sustainable and which foster a circular economy in rural areas. The EESC also supports short supply chains and the further development of urban-rural trade.

3.8. Historically, farming has been able to offer employment to vulnerable people who experience difficulties in finding work, especially those with added needs in terms of accommodation and personalised care. This role can today be played by social farms.

(3) ‘The EESC considers that agroecology is the horizon towards which European agriculture should work: farming inherently depends on conserving natural resources for its development’ (OJ C 353, 18.10.2019, p. 65).

(4) European Structural and Investment Funds.
3.9. Digitisation processes allow for the development of new work and business opportunities. The improvement of communications in rural areas should be linked to the territory and not exclusively to the population, taking advantage of initiatives based on satellite technology and the development of local connectivity networks so that they can be implemented in most rural communities, and so that the areas where the agricultural activity takes place have the capacity to make the most of new technologies. Digitisation generates expectations for young people and leads to a shift in depopulation rates.

3.10. The EESC sees the benefits of the ‘EU Action for Smart Villages’ as a tool for facilitating the exchange of innovative ways to create more vibrant, sustainable and attractive rural areas and exploring how Rural Development Programmes (RDPs), EU Cohesion Policy and other funding instruments can be put to better use.

3.11. The EESC recognises the important role played by Local Action Groups and their networks in boosting rural development processes across EU territories, creating new governance mechanisms, diversifying the economy of rural areas, preserving historical and cultural heritage and supporting entrepreneurship.

3.12. The development of territories needs to be evaluated and monitored and indicators for each of the identified areas need to be set out so that decisions can be made regarding the future.

3.13. The various policies affecting an area must be aligned with the aim of combining spaces with different potential uses, always bearing in mind the stakeholders present, and should be implemented on an appropriate scale, i.e. regions below NUTS-3 level, in order to take into account sub-regional specificities. The following measures could be considered:

— concluding territorial contracts that will require public and private commitments to be made and that will develop interinstitutional cooperation mechanisms,

— identifying innovation potential and focusing on local strengths,

— promoting smart territories, providing them with a networking system that improves economic and political efficiency,

— fostering a catalyst entity that can bring together civil society organisations active in local and territorial development,

— developing measures to combat depopulation that actually lead to a new trend in territorial occupation patterns,

— improving quality of life in areas relevant to young people (education, leisure).

3.14. In order to reverse the current demographic trend, each young person from a rural area needs to decide individually not to migrate to the city. The main factor in that decision, although not the only one, is the possibility of pursuing decently paid, gainful employment that has future prospects. Portraying young people’s lives in rural areas as attractive and interesting, through media and audiovisual productions with public support, would help to consolidate their legitimate pride in their roots.

3.15. This assertion is doubly true for women. The immense contribution of rural women to agricultural and non-agricultural economic activities must be properly recognised and valued, primarily by ensuring equal pay and, where appropriate, through access to co-ownership of farms.

3.16. Rural areas are home to all kinds of businesses, although the principal ones are involved in the processing of agricultural products. Where the necessary telecommunication, transport, energy, etc. infrastructure is easily accessible, rural areas are often the most cost-effective option when it comes to choosing the location of new business projects. Sufficient tax incentives can be the trigger that tilts the balance.

3.17. In the majority of towns and villages, the largest business is the agricultural cooperative, which in addition to directly productive activity may also have warehouse or credit sections. Given their social nature, cooperatives should always receive differential tax treatment and should be supported in various ways by public administrations.

3.18. Agriculture is often the cornerstone of the local economy and facilitates the development of other sectors such as the agri-food industry and tourism. Land abandonment, on the other hand, results in the loss of landscapes and environmental services that carry out active land management. Agricultural and forestry activity helps to maintain the population, combat erosion, reduce the frequency and spread of fires and prevent desertification. The CAP must also ensure that agricultural production is maintained in vulnerable zones.
3.19. In mountain areas, extensive livestock farming enables marginal land without agricultural value to be put to good use. Well-managed grazing activity provides multiple benefits: environmental (increase in biodiversity), cultural (conservation of tangible and intangible heritage) and landscape-related (opening of spaces for tourism). It also prevents natural risks such as forest fires, landslides and floods. However, livestock production in mountain areas is increasingly threatened by the extremely low profitability of dairy and meat products, meaning that specific support measures are absolutely necessary. The re-introduction of large carnivores (such as wolves and bears) further increases production costs. Coexistence is feasible only in certain areas, in a carefully considered and immediately accessible way, and with adequate compensation.

4. Monitoring and evaluation

4.1. A detailed guide to the actions to be taken must be drawn up. Territorial contracts must set specific, tangible and auditable objectives, as well as setting out the planned timeframe for achieving these. The positive development of the following critical indicators, among others, should be closely monitored:

4.1.1. With regard to population dynamics:
— qualitative and quantitative characterisation of emigration and immigration movements,
— characterisation of the population pyramid at different territorial scales.

4.1.2. With regard to quality of life:
— access to food: the preservation and development of local shops and efficient distribution channels to ensure permanent access for everyone to high-quality food, preventing the creation of so-called ‘food deserts’,
— access to funding: extension of the operating hours of banking institutions and agents and of the availability of cash-dispensing machines,
— access to education: reduction of journey times to the nearest primary and secondary schools;
— access to healthcare: reduction of journey times to the nearest emergency clinics and hospitals,
— use of videoconferencing technology for home and health care,
— improved access to communication technology: telephone, broadband,
— preservation of historical and natural heritage (protected areas) and increased access to culture.

4.1.3. With regard to available funds:
— increased budget allowance for local authorities: EUR per inhabitant and per square kilometre,
— increased budget for private and public partnerships and, where appropriate, intermediate administrations,
— provision of grants conditional on a verified benefit to the community.

4.1.4. With regard to income:
— gradual reduction of the gap between rural and urban areas, not only in terms of total income, but also with regard to income per hour worked,
— gender and age mainstreaming.

4.1.5. With regard to employment:
— reducing the unemployment rate, in particular for young people,
— increasing the occupancy rate, particularly for women,
— providing incentives for job creation in municipalities with low population density,
— creating jobs with flexible or alternative working hours,
— creating jobs that facilitate social inclusion.
4.1.6. With regard to public employment:
— maintaining services in health, education, public order, access to justice, etc. across the whole territory and expanding these by means of mobile services,
— territorial decentralisation of public bodies, entities and jobs,
— incentives for public employees to settle with their families in the area in which they work, reducing daily commuting.

4.1.7. With regard to public investments:
— increasing total public investment per inhabitant and per square kilometre,
— improving the availability of accessible transport infrastructure in an efficient way: average distance from population centres to motorway entry and exit points and railway stations,
— increased use of rail transport and intermodal strategies.

4.1.8. With regard to private investments:
— increasing total private investment per inhabitant and per square kilometre,
— providing tax or other incentives for investment in municipalities with low population density,
— ensuring favourable tax treatment for the provision of passenger transport services in rural areas.


The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Compatibility of EU trade policy with the European Green Deal’

(own-initiative opinion)

(2020/C 429/10)

Rapporteur: John BRYAN

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Outcome of vote (for/against/abstentions) 216/1/3

1. Conclusions and recommendations

1.1. The EESC welcomes the European Green Deal, in particular the Farm to Fork (F2F) and Biodiversity Strategies, which are ambitious, will have a major impact on EU farming and the agri-food sector, and will play a central role in future trade deals.

1.2. The EESC is of the opinion that the EU must respond to the COVID-19 crisis with the urgent implementation of the European Recovery Plan, to get the EU economy back up and operating fully again, as quickly as possible taking account of health and environmental risks. The Green Deal should be an integral part of the recovery.

1.3. With the world economy facing an unprecedented recessionary challenge from the COVID-19 crisis, fair and rules-based level playing field trade was never more important to drive economic recovery. A well-functioning open EU single market and international trade are essential. The EESC is of the view that the EU cannot allow its trade policy to slip into a defensive position.

1.4. Fundamental lessons that the EU must take from the COVID-19 crisis include:

1) The critical importance of the one health concept, food security and food sovereignty for Europe;

2) The need for a strong CAP and a sustainable and resilient supply chain for food and essential health-related products;

3) The need for the EU to have a strong well-funded own resources budget to deal with crisis;

4) The importance of trade and protecting the EU Single Market to prevent renationalisation and a repeat of developments like Brexit.

1.5. The EESC requests that the impact of the Green Deal F2F and Biodiversity Strategies for EU trade agreements, farming and the agri-food sector must be fully assessed with a detailed impact assessment.
1.6. It is well recognised that trade in agriculture plays a core role in realising most, if not all, SDGs and that the WTO has an important part to play in achieving the SDGs, and that this would be far harder without an effective multilateral trade mechanism.

1.7. The EESC proposes that all future EU trade deals incorporate the Green Deal F2F and Biodiversity strategies as global standards on sustainability, recognising that incorporating and implementing Sustainable Development Goals (SDGs) and higher standards into Multilateral trade deals is extremely challenging. Greater progress on SDGs and essential environmental and social standards seem possible in bilateral trade deals in the shorter term.

1.8. The EU has to guarantee that trade deals will not externalise the problem and increase deforestation in other countries.

1.9. The EESC considers it essential that the viability and competitiveness of EU farming and the agri-food sector is not eroded by the imposition of higher costs and standards through the Green Deal F2F and Biodiversity strategies, which competitors are not willing to adopt and implement.

1.10. The EESC believes that there needs to be much greater coherency and coordination between and across EU policies like the Green Deal F2F and Biodiversity Strategies, CAP, trade policy and social policy.

1.11. Farming, in line with the EU family farm model, has a vital role to play in the implementation of the Green Deal F2F and Biodiversity Strategies and it is essential that there is an adequate CAP budget to cover the additional demands on farmers.

1.12. In relation to conversion of land to organic production, the impact of the resultant drop in production must be assessed. Research must be intensified to better define ‘organic’ and assess the real net contribution of organic farming to global sustainability, including biodiversity.

1.13. All EU trade deals must respect EU SPS provisions and adhere to the precautionary principle.

2. Background

The European Green Deal

2.1. The European Green Deal (1) is an ambitious communication and commitment to tackling climate and environmental challenges.

2.2. The Green Deal is a new growth strategy that aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases by 2050 and where economic growth is decoupled from resource use.

2.3. The Green Deal aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environmental-related risks and impacts. This transition must be just and inclusive. It must put people first, and pay attention to the regions, industries and workers.

2.4. The EU Commission has said the Green Deal is an integral part of the Commission's strategy on trade policy to implement the UN 2030 Agenda and the SDGs (2).

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(2) SDGs.
2.5. The main objectives set out in the European Green Deal are illustrated in the figure (*) below:

**Farm to Fork (F2F) and Biodiversity Strategies**

2.6. In the Green Deal, the aim of the F2F Strategy (*) is to make the EU food system a global standard for sustainability.

2.7. The EU Biodiversity strategy (**) aims to reverse biodiversity loss and restore nature.

2.8. Some of the key objectives of the F2F and Biodiversity Strategies include:

- Reducing the use of chemical pesticides by 50 % by 2030;
- Reducing nutrient losses by 50 % and the use of fertilisers by 20 % by 2030;
- Reducing sales of antimicrobials for farmed animals by 50 % by 2030;
- Revising and improving animal welfare legislation based on scientific evidence;
- Increasing organic farming to 25 % of EU land area by 2030;
- Clarifying competition rules for collective initiatives to strengthening farmers' position in the supply chain;
- Developing a green-based model rewarding farmers for carbon sequestration through the CAP or the market;
- Planting 3 billion trees by 2030;
- Reversing the decline in pollinators;
- Restoring 25 000 km of the EU's rivers to a free-flowing state;
- Protecting 30 % of the EU's land and sea areas;
- Stimulating sustainable food consumption and promoting affordable healthy food for all.

(*) COM(2019) 640 final — Figure 1.
(**) F2F Strategy.
(*** Biodiversity strategy.
2.9. In summary, the strategies aim to ensure affordable and sustainable food for Europeans, tackle climate change, protect the environment and preserve biodiversity.

2.10. The EESC welcomes the Green Deal F2F and Biodiversity strategies and the objectives set down (6).

**EU Trade Policy**

2.11. In the Commission President’s mission letter to Trade Commissioner Phil Hogan in December 2019, a level playing field for all is the key message on EU trade policy and Europe’s place at the heart of the rules-based multilateral system (7). The President sets out that the Trade Commissioner will ensure the delivery of the SDGs, requiring every new trade agreement to have a dedicated chapter on sustainable development.

2.12. The EU outlines that it will support the global transition to sustainable agri-food systems, in line with the F2F objectives and the SDGs. Through its external policies, including trade policy, the EU will pursue the development of Green Alliances on sustainable food systems with all its partners in bilateral, regional and multilateral fora. It will ensure full implementation and enforcement of the trade and sustainable development provisions in all trade agreements, including through the EU Chief Trade Enforcement Officer.

3. **Key areas of discussion**

**Importance and Value of Trade**

3.1. The EU is the largest economy in the world, with a GDP per head of EUR 25 000 for its 450 million consumers (8). It is the world’s largest trading block. The EU is the top trading partner for 80 countries.

3.2. Trade and investment are fundamentally important for the EU. The ‘Trade for All’ Communication emphasised that over 36 million EU jobs, one in seven, depend on exports outside the EU and that 90% of global economic growth over the next 15 years is expected to occur outside Europe.

3.3. Internal and external trade operating in the EU Single Market and under a free, fair and rules-based policy on the world market is critically important for the EU and its 450m citizens (8). The EU’s trade in goods with the rest of the world was worth EUR 3 936 billion in 2018.

3.4. EU agri-food trade statistics (9) show that 2019 was a record year. The export value of agri-food products came to a total of EUR 151,2 billion, while imports accounted for EUR 119,3 billion, bringing the overall value of trade for the year to EUR 270,5 billion. The trade surplus grew by EUR 10,9 billion from 2018 to reach an all-time high of EUR 31,9 billion. The food processing industry plays a vital role in trade and exports.

3.5. The EESC has previously highlighted the importance of agricultural trade for the future development of farming and the agricultural economy in the EU in the context of global food security (11).

3.6. The EESC adopted an opinion on the Role of Agriculture in Multilateral, Bilateral and Regional Trade negotiations in the light of the Nairobi WTO Ministerial meeting (12). The opinion argues that the WTO remains a viable and effective forum for trade negotiations, particularly in agriculture.

3.7. The failure of the WTO to advance multilateral trade and the crisis in the dispute settlement mechanism poses serious threats to multilateralism and rules-based trade.

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(6) See EESC opinions From farm to fork: a sustainable food strategy and 2030 biodiversity strategy on F2F and biodiversity (see pages 51 and 259 of this Official Journal).

(7) See letter.


(9) Eurostat.


(11) EESC opinion on The importance of agricultural trade for the future development of farming and the agricultural economy in the EU in the context of global food security (OJ C 13, 15.1.2016, p. 97).

(12) EESC opinion on The Role of Agriculture in Multilateral, Bilateral and Regional Trade negotiations in the light of the Nairobi WTO Ministerial meeting (OJ C 173, 31.5.2017, p. 20).
3.8. However, this should not diminish the role of a properly functioning WTO in the context of global trade and the importance of a rules-based multilateral system, promoted by the EU.

3.9. In the opinion on ‘Reforming the WTO’ to adapt to developments in world trade, the EESC is convinced not only that urgent reforms should be implemented as soon as possible, particularly for the functioning of the Appellate Body of the DSB, but also that WTO members should be committed to more ambitious and systemic changes. These proposals supported by the EESC mainly cover three areas: labour standards and decent work, climate change objectives and the achievement of the UN’s 2030 SDGs (13).

3.10. The EESC is of the view that the EU cannot allow its trade policy to slip into a defensive position. In the context of the COVID-19 crisis and the drive for economic recovery across the EU and the world, the importance and value of trade has never been more essential.

3.11. The EESC believes the EU must adopt an ambitious approach to driving and facilitating economic recovery through the Green Deal and the European Recovery Plan.

3.12. The Green Deal has to successfully balance maintaining strong trade with protecting jobs and the environment while also maintaining European competitiveness. Likewise, the strategy cannot result in a competitive advantage to non-EU imports onto the EU market, including non-EU organic products to be imported in the EU, which must be produced according to the same EU regulations that apply to EU producers (14). It would be necessary to introduce an EU traceability and organic quality certification system and to label separately, in readable size, the products produced in EU as ‘EU organic’ and the ones produced internationally as ‘non-EU organic’. An independent and dynamic accreditation system at EU level, now performed by one single national accreditation body that acts under public authority, would also be necessary to deal specifically with matters regarding accreditation of control bodies and organic fraud prevention when dealing and operating in the organic sector.

3.13. The effective and proper functioning of the EU single market is paramount. The EESC is very strong in the view that there must not be any renationalisation of EU markets.

3.14. The EESC recognises the importance and value of rules-based trade operating on a level playing field and the major contribution it will make to economic recovery post COVID-19.

Trade and Sustainable Development

3.15. Sustainable development means meeting the needs of the present, while ensuring the future generations can meet their own needs. The UN Agenda 2030 sets out 17 key SDGs and 169 targets.

3.16. The F2F and Biodiversity Strategies go a lot further than the SDGs and set down a whole new set of criteria with the objective of creating ‘a new global standard on sustainability’.

3.17. EU law requires all relevant EU policies, including trade policy and competition policy, to promote sustainable development. EU trade policy aims to ensure that economic development goes hand in hand with: social justice; respect for human rights; high labour standards; and high environmental standards while protecting EU phytosanitary provisions and adhering to the precautionary principle.

3.18. The EESC has produced several opinions over the years on various aspects of trade and sustainable development including opinions on the trade and sustainable development chapters in EU Free Trade Agreements (15) and the core role of trade and investment in meeting and implementing the SDGs (16).

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(16) EESC opinion on The core role of trade and investment in meeting and implementing the sustainable development goals (OJ C 129, 11.4.2018, p. 27).
3.19. In the former opinion, the EESC urges the Commission to be more ambitious with respect to strengthening effective enforceability of the commitments in Trade and Sustainable Development (TSD) chapters and highlights the narrow approach to TSD when it comes to consumer interests. It also highlights the financing and resource issues around operating DAGs (Domestic Advisory Groups) and the use of sanctions.

3.20. In the latter opinion, the EESC believes that the SDGs, together with the Paris Agreement, will fundamentally change the global trade agenda, especially trade in industrial goods and agriculture. However, the EESC points out that the SDGs are not legally binding and there is no dispute mechanism. The opinion underlines the role of Responsible Business Conduct in helping realise the SDGs and highlights that the impact of the private sector will be crucial. In addition, a call is made for a full impact assessment of the likely effects that implementation of the SDGs and the Paris Agreement will have on EU trade and competition policy including agriculture.

3.21. It is well recognised that trade in agriculture plays a core role in realising most, if not all, SDGs and that the WTO has an important part to play in achieving this and that this would be far harder without an effective multilateral trade mechanism (17).

3.22. Key questions arise in relation to the Green Deal F2F and Biodiversity Strategies, EU Trade Policy and Sustainable Development including: How realistic is it that the EU can set and implement a new set of higher standards above and beyond the levels of the SDGs? Can the EU get their trading partners to buy into implementing the TSDs? Can the EU go another step and get trading partners or even EU Member States to buy into another higher level of sustainable development through the Green Deal? How far will the EU push the SDGs and/or the F2F and Biodiversity Strategies in future trade negotiations? What costs will the Green Deal impose on European farmers and the agri-sector? What impact will it have on EU trade competitiveness?

3.23. The EESC is of the opinion the EU should implement legislation imposing due diligence on companies throughout their supply chains to identify, prevent and mitigate environmental and social risks, as well as human rights violations.

Enforcement

3.24. The EU needs to strengthen its focus on the enforcement and implementation of SDGs and standards in FTAs. Proper and strong monitoring, implementation and enforcement of all the aspects of trade deals as they become more detailed and inclusive is very important, and particularly as they extend into the economic intangible sustainable development areas such as the environment and climate change. The latest technology such as that available to the Joint Research Centre (JRC) (18) should be used to monitor key issues like deforestation.

3.25. Monitoring and enforcement procedures need to be clear, fast, efficient and financially transparent; the costs must be shared fairly, taking into account what is affordable for small farmers.

Transport and Energy

3.26. The Green Deal needs a much greater focus on transport and energy policy. Transport accounts for 24 % of global CO₂ emissions (and is predicted to reach 40 % of total emissions by 2030 (19)). Wider energy usage will also come under intense scrutiny and the need for greater incentives for renewable energy.

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(17) Idem footnote 12.
(18) https://ec.europa.eu/info/departments/joint-research-centre_en
(19) EESC opinion on The role of the EU’s trade and investment policies in enhancing the EU’s economic performance (OJ C 47, 11.2.2020, p. 38) – in particular Chapter 5 which covers trade and sustainable development, in particular with regard to the SDGs and Paris.
The Green Deal F2F and Biodiversity Strategies

3.27. The Green Deal F2F and Biodiversity Strategies need to strongly support the economic sustainability of European farmers and the agricultural sector, and improve the functioning of the markets while contributing to a more economically, environmentally and socially sustainable agri-food sector. This is in line with the EESC vision for the ‘sustainable economy we need’ (20).

3.28. The EESC opinion on a comprehensive food policy in the EU (21) calls for a more sustainable food policy with the aim of providing healthy diets from sustainable food systems, linking agriculture to nutrition and ecosystem services, and supply chains which safeguard public health for all sections of European society.

3.29. The F2F Strategy reflects a lot of the ideas in these opinions and the EESC has contributed to creating the momentum for this.

3.30. On the specific proposal of reducing pesticide use, farmers need to be able to replace these products with safe and sustainable alternatives that protect yields and any threat to food security. Research and innovation based on sound science are key to implementing alternative sustainable pest management solutions.

3.31. Reducing fertiliser use must be based on solid science around nutrient management plans, soil testing, meeting the nutrients needs of the crop, precision application and maintaining the nutrient balance in the soil.

3.32. Reducing the use of antimicrobials is critically important in terms of human health and safety (‘One Health’ (22) approach).

3.33. Improving animal health and welfare is an important and desirable objective but unfortunately it is not always rewarded in the marketplace and the costs involved are not often recovered. The CAP has a very strong policy which guarantees that European animals are raised in compliance with the highest standards of traceability, animal health and welfare and environmental standards in the world. In terms of international trade, reciprocity on animal welfare standards should be one of the key requirements in trade agreements with third countries.

3.34. In the context of the reduction targets set out in the F2F strategy for antimicrobials, pesticides and fertilisers, account must be taken, using benchmarking, of the progress already made in many Member States in recent years.

3.35. In relation to the conversion of more land to organic production, the impact of the resultant drop in production must be assessed. Research must be intensified to better define ‘organic’ and assess the real net contribution of ‘organic’ to global sustainability. In addition, the costs of production can be higher for organic farming, which again may not be reflected at retail level. This can leave the higher cost organic farming unsustainable. The EU must also access the market impact in terms of price premium/viability of a fourfold increase in organic production.

CAP and the Green Deal F2F and Biodiversity Strategies

3.36. The current CAP reform process commenced in 2018 with legislative proposals in June 2018 (23). The new CAP outlines higher ambitions, particularly with regard to the environment and climate change.

3.37. The new CAP proposals set down the following specific objectives:

— Support viable farm income and resilience across the EU territory to enhance food security;

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(20) EESC opinion on The sustainable economy we need (OJ C 106, 31.3.2020, p. 1).
(21) EESC opinion on The Civil society’s contribution to the development of a comprehensive food policy in the EU (OJ C 129, 11.4.2018, p. 18).
(22) https://onehealthjp.eu/about/
— Enhance market orientation and increase competitiveness including greater focus on research, technology and
digitalisation;

— Improve farmers’ position in the value chain;

— Contribute to climate change mitigation and adaptation, as well as sustainable energy;

— Foster sustainable development and efficient management of natural resources such as water, soil and air;

— Contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes;

— Attract young farmers and facilitate business development in rural areas;

— Promote employment, growth, social inclusion and local development in rural areas, including bio-economy and
sustainable forestry;

— Improve the response of EU agriculture to societal demands on food and health, including safe, nutritious and
sustainable food, as well as animal welfare.

3.38. It is a specific requirement under the new CAP that direct payments will be conditional on enhanced
environmental and climate change requirements. Member States will have to offer eco-schemes to support farmers in going
beyond the mandatory requirements.

3.39. The new CAP proposals specify that at least 30% of each rural development national allocation will be dedicat
ded to environmental and climate measures. 40% of the CAP’s overall budget is expected to contribute to climate action (24).

3.40. Under the CAP, Member States are required to produce Strategic Plans setting out how to deliver on the specific
objectives of the CAP. Member States will set targets on what they want to achieve in the programming period using
commonly defined result indicators.

3.41. Over the last two years, EU institutions have already made considerable progress in advancing the CAP proposals
and it is very important that the Green Deal proposals do not reverse this progress. Aligning the CAP strategic plans with
the EU Green Deal will prove difficult but must be accommodated.

EU Market Direction and a Fair Price

3.42. The Green Deal F2F and Biodiversity Strategies set out very clearly that the average EU farmer currently earns
around half of the average worker in the economy as a whole.

3.43. To have a sustainable income, it is important that European farmers receive a fair price for food from the market,
above the costs of production. The F2F Strategy must provide direction to the marketplace that high food production
standards of European farmers matter and must be paid for. The F2F strategy must deliver this through initiatives to ban
unfair trading practices (25), avoid below-cost selling and ensure that the market price is fairly distributed across the supply
chain..

Budget

3.44. The proposals on the Multiannual Financial Framework (MFF), including reducing the CAP budget by 9% in real
terms, are not compatible with the ambitions of the Green Deal F2F and Biodiversity Strategies.

3.45. To deliver on the objectives of the strategies there must be no reduction in the CAP budget. The budget needs to be
increased to take account of the additional demands on farmers and to take account of inflation, protect farmers’ basic
payments and the farm schemes within the Rural Development Programme.

3.46. Any reduction in output and income for farmers derived from the delivery of this strategy must be compensated for.

3.47. The EESC reiterates its support that the EU budget should be increased to provide adequate funding for the CAP and the new policy objectives and challenges identified (26).

Science Based

3.48. Climate action must be based on accurate measurement of farm-level activity. At present, the way methane is accounted for does not reflect the up-to-date science (27) and farmers are not getting credit for the carbon sequestered in their pastures and hedgerows. These issues must be addressed in the F2F and Biodiversity Strategies, to ensure that all emissions emitted and sequestered by the sector are fairly and accurately accounted for.

Just Transition

3.49. A just transition for all is of paramount importance under the new green policy. The costs for implementing a new policy must be borne by all, from farmers and processors to retailers and consumers. We need to establish the ‘leave no one behind’ (28) concept and protect the most vulnerable from unintended consequences of the new policy.

Ensuring equivalency of standards

3.50. The 1995 WTO SPS Agreement covers the application of food safety, animal and plant health regulations. Article 5(7) covers the Precautionary Principle, now enshrined in the Lisbon Treaty. Any attempt to alter this other than at multilateral level would have profound implications for the world trade order and for the future credibility of the Agreement itself (29).

3.51. The EU must insist on much stronger equivalent social, environmental, animal welfare and phytosanitary standards from third countries exporting into the EU similar to those they demand of European farmers. Substandard imports into the EU cannot be used to displace high standard European produce, produced under the higher F2F and Biodiversity strategies. Equally, Europe cannot externalise its ambition on achieving climate change targets through carbon leakage.

3.52. The EU must also avoid any temptation to make major concessions in agriculture that would undermine domestic production. The EU must also eliminate the application of double standards in agriculture, notably in connection with the SPS and TBT Agreements, in partner countries.

Labour

3.53. Research shows that FTAs are a suitable instrument to improve the labour situation in partner countries (30). The ILO, in a study on labour provisions in 76 out of more than 260 FTAs in 2016, concluded that the combination of technical cooperation, verification mechanisms and civil society participation has contributed to improving the labour rights situation in various sectors.

Impact Assessment

3.54. Good legislation is legislation which is properly scrutinised, in advance of being introduced. Any measures proposed as part of the Green Deal F2F and Biodiversity Strategies must include a detailed Regulatory Impact Assessment (RIA) including benchmarking before any political or regulatory decisions are taken.

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(28) EESC opinion on Leaving no one behind (O) C 47, 11.2.2020, p. 30.
(29) Idem footnote 12.
(30) Innovation in the social pillars of sustainable development by Dr Evita Schmieg (German Institute for International and Security Affairs — SWP).
Forestry and Deforestation

3.55. Increasing the area of forestry in the EU is a positive move and will have a very beneficial impact on climate change. It must be matched with strong funding so that farmers are at no income loss considering the length of investment.

3.56. EU trade policy needs to be very conscious, in line with achieving the targets set in the Green Deal and F2F, that EU imports do not increase deforestation in non-EU trade partner countries. Some examples of this problem include beef and soya imports from Mercosur countries (Brazil), beef and sheep meat imports from Australia, and palm oil from Indonesia.

3.57. The EESC calls on the Commission to better inform and raise awareness among European consumers of the challenges of deforestation by improving the environmental labelling of products, and by establishing a European deforestation observatory and an early warning mechanism.

3.58. The EESC requests the Commission to support, in conjunction with local populations, the reforestation of deforested areas and afforestation, in particular in Latin America, sub-Saharan Africa and emerging countries. The Commission also has to set up financial support and technical assistance to third countries (including State and non-state actors), in particular to preserve ‘ancient’ forest ecosystems.

3.59. The EESC requests the Commission to improve the quality and credibility of the ‘zero imported deforestation’ labels by encouraging the convergence of tools and the extension of existing certifications, by relying on land-use mapping by remote sensing, by supporting producers in the implementation and by strengthening controls throughout the supply chains.

4. Impacts of COVID-19

4.1. The Coronavirus crisis reveals our vulnerability to globalised production chains and just-in-time international trade, which prevents us from having essential goods in the event of a shock: masks, essential medicines, etc. Crises like this will happen again. The relocation of activities in industry, agriculture and services should make it possible to establish better autonomy in the face of international markets, to regain control over modes of production and initiate an ecological and social transition of activities.

4.2. The pandemic has reminded us of our strong relation with nature and the need to protect biodiversity and prevent deforestation.

4.3. The impact of the ongoing COVID-19 crisis on the world economy is so severe that the International Monetary Fund (IMF) warned that the world faces its worst economic recession since the Great Depression of the 1930s.

4.4. The IMF is forecasting world GDP to contract by 3% in 2020, with others putting the global slowdown at between 2.3% and 4.8% and costing between USD 2 and 4 trillion. The IMF has forecast that the US will contract by 5.9% and the euro area by 7.5% in 2020 (31). EU GDP for the second quarter of 2020 fell by 15% and overall the economy is expected to shrink by 7% in 2020 (32).

4.5. One of the major fallouts from the Great Depression of the 1930s was the lack of food security and sovereignty resulting in food shortages and famine in some EU countries and US states, which in turn led to civil unrest and the development of extremist political groups.

4.6. A key lesson from the COVID-19 emergency is the importance of food security and food sovereignty for the EU and once again highlights the critical importance of a well-funded CAP to the EU.

4.7. The COVID-19 emergency should reinforce the importance of the CAP to the EU (33) and strengthen the original policy objectives of CAP set down in Article 39 TFEU, particularly:

— To ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;

— To ensure that supplies reach consumers at reasonable prices.


4.8. The importance of a strong economic response from the EU to the COVID-19 emergency cannot be overemphasised. The Commission’s response in terms of agriculture has so far being disappointing with emergency market measures involving funding of a mere EUR 78m.

4.9. In terms of revitalising the European economy following the COVID-19 crisis, the EU has launched the Next Generation Recovery Plan, involving an additional EUR 750bn and together with the EU budget for 2021-2027 will amount to EUR 1.85 trillion.

4.10. The importance of a strong economic response from the EU to the COVID-19 emergency cannot be overemphasised. The EU Commission’s response must help to restore and strengthen the economy, food security, sustainable supply chains, provision and, linked to a one health approach, availability of medical devices, and farming and the agri-food sector so as protection of the environment.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Energy: women as equal players in the 21st century’

(own-initiative opinion)
(2020/C 429/11)

Rapporteur: Laure BATUT
Co-rapporteur: Evangelia KEKELEKI

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion
Section responsible Transport, Energy, Infrastructure and the Information Society
Adopted in section 23.7.2020
Adopted at plenary 18.9.2020
Plenary session No 554
Outcome of vote 208/4/2
(for/against/abstentions)

1. Conclusions and recommendations

The EESC recommends that the Commission encourage all decision-making authorities to:

1.1. create the conditions for access to energy for all, reduce energy poverty, and gather qualitative and gender-specific data with appropriate indicators;

1.2. strengthen and enforce existing legislation on equality at both EU and national level;

1.3. provide for a targeted policy on gender equality in energy professions because women’s talents matter;

1.4. create a level playing-field for training in energy-related careers in the Member States and at European level — set up a European STEM College;

1.4.1. encourage Member States to develop ‘little polytechnic schools’ for young children to familiarise them with STEM subjects;

1.5. create a level playing-field on the labour market in the energy sector:

1.5.1. present gender-specific data for all parts of the sector, including renewable energy and energy poverty; consider the opportunities for women, but avoid the energy and digital transitions trammelling women’s careers and salaries;

1.5.2. introduce binding measures regarding the transparency of salaries and remuneration because this is a prerequisite for real equal pay across the board;

1.5.3. enforce equality on company boards;

1.6. develop social dialogue and collective agreements throughout Europe on equality in companies in the energy sector;

1.7. change the mindsets of women themselves by means of role models, and create a network of EU outreach teams;
1.8. change men’s mindsets and management training approaches.

2. Introduction: The energy sector and women

2.1. **Equality** is a core value of the EU, a fundamental right and a principle of the European Pillar of Social Rights. It is part of the UN’s Sustainable Development Goals. Article 8 of the Treaty on the Functioning of the European Union (TFEU) makes it a horizontal clause, mainstreaming equality in all policies.

2.2. In 2020 — the 25th anniversary of the Beijing Declaration (1)— the EU is aiming to eliminate inequalities and to promote equality between men and women by means of a new strategy. A number of documents have been drafted on this subject in recent times; the **EESC does not propose to duplicate or paraphrase** these, but it supports their conclusions, for example those of the study requested by the European Parliament’s FEMM Committee on the role of women in the energy transition (2), of the Commission’s very recent communication on its gender equality strategy 2020-2025 (3) (COM(2020) 152 final), and of the studies carried out by the European Institute for Gender Equality (EIGE) (4).

2.3. **The Commission believes that** ‘in business, politics and society as a whole, we can only reach our full potential if we use all of our talent and diversity. Gender equality brings more jobs and higher productivity — a potential which needs to be realised as we embrace the green and digital transitions and face up to our demographic challenges’.

**All of the challenges** facing the energy sector are mentioned in this quote: potential and productivity, employability and thus skills and work-life balance, gender equality, demographics, and the shock of the green and digital transitions.

2.4. **The rate of employment for women** in the EU is (or was, before the impact of the coronavirus crisis) higher today than ever before, yet many women are still experiencing barriers to joining and remaining in the labour market. The question ‘Where are the women?’ is becoming a commonplace in all sectors of activity, which is a step forward in comparison to the old days when the question was a sarcastic ‘What, women?’ This does not mean that the gender gap in the workplace has been bridged. Like many sectors with a certain technical dimension, energy has been slow in moving towards parity: in Europe it would seem that an average of only 22% of its employees are women. This is the case in Croatia, for example (5). Data on renewable energy should also be broken down by gender.

2.5. **Energy is a huge segment of the economy:** it covers raw materials, finished products and services, including mining, production, sales, transport and distribution, diplomacy, and physical and geopolitical security, thus using coal, wood, oil, gas, nuclear energy, wind, the sun, water, etc. to ensure that citizens, consumers and businesses have access to electricity, heating and independent transport. One particular feature of this sector is that it is a key lever for other economic sectors. It needs all available talent.

2.6. **All aspects of the energy sector are very stereotyped in terms of gender,** with men in a dominant position, which leads to major career imbalances between men and women in both the public and private energy sectors, with no widespread willingness to take action to ‘en-gender’ the value chain as a whole (6).

2.7. **The number of women in leadership positions** in the energy sector is very low. Back in 2012, an EIGE study showed that, across Germany, Spain and Sweden, 64% of the 295 businesses in the sector had no women at executive level. The situation was better in the renewable energy and oil sectors, and a little better in the Nordic countries, but throughout the EU women are absent from top positions in the technological areas of the energy sector. In 2019, gender inequalities remained a concern in the sector (a Gender Equality Index score of 51.9 (7)), though EIGE notes that almost all Member States have made progress in recent years.

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(1) https://beijing20.unwomen.org/en/about
(4) European Institute for Gender Equality (EIGE), Vilnius, Gender and energy.
(6) UN SDGs 5, 7 and 8; Joy Clancy, University of Twente, Give women a chance: engendering the energy supply chain.
(7) EIGE, Gender Equality Index.
3. General comments: the need to reduce the gulf

3.1. In order to speed up the pace of change, it is important to take simultaneous action in a number of areas and to narrow the gaps, which are cumulative and interconnected.

3.2. The energy access gap

3.2.1. It is clear that the transformation of the energy system is not just a purely technical issue but also a profoundly social one. In this regard, particular attention needs to be paid to ensuring access to energy for all. There are still households in the European Union that have difficulty accessing energy (8), either because of their ability to connect to the networks or due to poverty. The women responsible for managing these households are the first to suffer, often having to make a difficult choice for themselves and their children between putting food on the table or heating their home (‘heat or eat’). Energy policies do not take into account problems related to the division of responsibilities in households, which is why energy poverty should be considered from the point of view of gender (9). Lack of access to energy also means they cannot access digital technologies, which makes their life much more complicated and isolates them in relation to society, work, education and culture. Lack of access to energy thus goes hand in hand with the digital divide, which is often compounded by the age gap. It is important to acknowledge all of these aspects and to take specific account of the gender most disadvantaged by them.

3.2.2. Gathering data on household energy use would provide a more accurate picture of the reality of households’ poverty, which will have to be tackled through a comprehensive approach. In addition to a social tariff for energy, remedies for energy poverty are sought in urban policy, housing policy, access to work, wage levels, and the sales practices of businesses selling to end users. According to OECD studies, sustainable development is an issue of concern to women as consumers. Because of their responsibilities in the home and their roles as educators, and as they are the ones that raise awareness of the sensible use of energy and recycling, they have a key role to play in changing behaviour patterns (10).

3.3. The policy gap

3.3.1. European energy policy is based on five closely interlinked dimensions:

— security of supply;
— a fully integrated market;
— energy efficiency to reduce demand;
— decarbonisation of the economy;
— research and innovation for competitiveness.

To succeed, the Commission aims to:

— anticipate change by securing transitions;
— promote mobility;
— increase job creation;
— improve data quality;
— improve skills.

3.3.2. The position of women is never considered as an issue in itself, even though women are in a weak position in the energy sector and are always first in line for redundancies during crises, regardless of the nature of the crisis. The policy gap cannot be closed without taking specific measures in their favour in all policy areas — especially given that this is part of the UN’s Sustainable Development Goals (11).
3.3.3. The EESC stresses that policies developed in the energy sector are compromised from their inception by a failure to take account of the gender dimension. The Committee calls for the Define, Plan, Act, Check methodology set out in the EIGE’s publication Gender and Energy (12) to be disseminated widely in the form of a recommendation to Member State governments and to management training schools and businesses in the energy sector.

3.3.4. Like the EIGE, the EESC feels that the gender dimension can be integrated in all phases of the energy policy cycle. After analysing the situations, consulting stakeholders and analysing budgets, the implementation phases should start by raising awareness levels and boosting capacities and thus skills; the ‘gender toolkit’, a training module on energy funded by FP7, demonstrates the relevance of gender within the energy sector and how energy research can address gender issues (13); and finally policies and programmes must be evaluated after they have been implemented. The Committee welcomes the intention to move in this direction demonstrated by the Commission in its most recent communication on equality.

3.4. Labour market gaps

3.4.1. Employment

3.4.1.1. In France, EDF prides itself on the fact that 25% of its staff and 27% of its executives are women — and yet French law requires a ratio of 40% women. Nonetheless, the company has launched a digital campaign looking for ideas to discuss, guide, persuade and ‘develop women in the industry’ (14). As it stands, it is often women themselves mobilising to make their voices heard. For example, in Spain in 2018, 57 associations in the energy sector published a joint manifesto entitled En Energía NO sin Mujeres (15) [No to an energy sector without women], declaring that it was time to have female experts in the public sphere in order to make the energy transition fairer and more sustainable. The European Commission emphasises that ‘the promotion of equality between women and men is a task for the Union, in all its activities’, and thus for all Member States, where the average gender equality index score is just 67.4. In Austria, energy distribution companies have also developed programmes to attract women, often in cooperation with schools and universities (16).

3.4.1.2. In the nuclear sector, the exclusion of women is perceived as having a degree of legitimacy, ‘given the dominance of scientific and technical professions, where there are still few women’. The percentage of women at France’s Nuclear and Alternative Energy Agency (CEA) is growing slowly: in 2018, they made up 33.8% of the total workforce, compared with 30% in 2008, accounting for 30.3% of managerial staff (26.5% of senior scientists) and 39.4% of other staff.

3.4.1.3. Women are still under-represented in the oil and gas industries, where they make up only 20% of employees, 17% of managers and 1% of CEOs (17). They are gradually starting to be seen as ‘untapped reserves’; diversity could one day be a creative asset in technical professions and a solution to the generational and demographic divide. Stereotypes die hard, but they must be abandoned in favour of rebalancing employment. The effort still needs to be made by women, who must first engage in technical training.

3.4.1.4. Women in the energy sector, like other workers, have different statuses. They are also less well paid than men and more likely to be made redundant; in the EU, women are still disadvantaged by the fact that the social system relies on women giving up their personal time to carry out non-professional social and care tasks (e.g. looking after children and older people).

3.4.2. Skills

3.4.2.1. There is still a geographical factor and social pressure in the EU that prevents girls from accessing higher education. In some rural areas in southern Europe, certain sections of the population continue to feel that a girl’s place is in the home. Their digital illiteracy permanently excludes them from energy-related professions, representing an overall loss of skills for society.

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(14) https://www.edpulseandyou.fr/autres-themes/industrie-feminin/
(15) #EnEnergiaNoSinMujeres, manifesto signed by 57 associations in Spain.
(16) See Chancengleichheit zwischen Frauen und Männern in der Energiebranche [Equal opportunities for women and men in the energy sector], a study conducted by the Austrian Society for Environment and Technology (OGUT) for the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, October 2016.
3.4.2.2. Everything starts with training and skills. According to EIGE, there is persistent segregation of male and female students across fields of study. Boys are more likely to go into the sciences, and girls with science degrees are often not working in technical professions a few years after graduation. Starting work at a company can be problematic: ‘I was treated the same as everyone else during my engineering studies, but everything changed when I started working. The plant hadn’t been built with the idea that a woman might work there one day, and there was no appropriate radiation protection gear and no women’s changing room’ (18), said one woman reporting her experience in a nuclear power plant at the start of her career. This is an experience that many can relate to. In 2017, although Croatian women obtained 60 % of master of science degrees and 55 % of doctoral degrees, they still suffered the effects of the glass ceiling when working in the energy sector, where the percentage of women in management structures continued to be between 13 % and 16 %, and 19 % in listed companies.

3.4.2.3. In France, where less than 30 % of those studying engineering are women, gender diversity is difficult to achieve in the EGI (19) sector. In 2017, women’s representation in the purely technical part of this sector was just 14 %, whereas they were in the majority in the commercial and tertiary sectors. What is the added value of women? Is it to be social, a human face, capable of filing and making the coffee? Or is it to be technicians, engineers, researchers? Women need genuinely equal opportunities if they are to enter the energy industries, and recognition of their abilities if they are to stay and develop careers there. Spain has noticed that, despite the introduction of measures to increase accessibility for women, some are not geared towards technical sectors (20). The stereotypes that mathematics and physics are for boys must be abolished by modifying the structure of studies, altering the attitudes of teachers and educating parents as soon as children start primary school so that women change the way they think about themselves. There are some inspiring examples: in Poland, the ‘Steel women’ initiative.

3.5. Careers and salaries

3.5.1. It is not always easy for women to maintain a satisfactory work-life balance in these demanding careers. Due to a lack of role models, women sometimes drop out of their own accord. They need the solidarity of female sponsors and mentors — exceptional women who can show them the way and boost their confidence. The EESC believes that training for human resource managers in the sector should prepare them to be sensitive to and inventive for everyone — men and women — in managing their jobs and careers, so that careers now seen as exceptional become commonplace. In Croatia, women set up a network in 2019 inspired by CIGRE, a collaborative global community, to help each other develop their careers in energy (21). The Committee believes that introducing quotas to achieve equality on company boards would send a much-needed signal.

3.5.2. In their efforts to develop a STEM-based career (in science, technology, engineering or mathematics) in the energy sectors, women still face too many internal obstacles within their companies, in both the public and private sectors. The Commission calls for everyone to be ‘free to pursue their chosen path in life’, in full equality. It needs to provide additional resources for women in a sector where physical strength is no longer of primary importance, but where this is still used as a yardstick of capacity. It must be possible to measure equality using qualitative indicators on career opportunities enjoyed, and by salary levels for the same qualification and grade. This should include basic salaries and bonuses. The EESC fully supports the objectives of the Equal Pay International Coalition in this respect (22). It recommends introducing binding measures regarding the transparency of salaries and remuneration because this is a prerequisite for real equal pay.

3.6. The role of national and European social dialogue

The EESC believes that agreements reached should be incorporated into the governance of industries and businesses.

3.6.1. Collective agreements

Social dialogue has a crucial role to play in developing suitable working conditions, keeping women safe at work and providing them with job security in the energy sector. EGIs in France have signed a 4-year sectoral agreement with the trade

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(19) EGIs: electrical and gas industries.
(20) 'Steel women' initiative.
(21) https://www.cigre.org/GB/community/women-in-engineering
unions, covering all areas in which action needs to be taken to make progress towards professional equality (23). The CEA has a company-level agreement. It is very important, in all Member States, for such measures adopted by the social partners to be included in collective agreements, so that they have full legal force.

3.6.2. CSR, ‘soft law’
Électricité de France is an example of a company that signed a CSR agreement with its trade unions in 2018 aiming to ensure gender diversity at all levels in the company and undertaking to promote female managers to key positions. This is based on making technical careers more attractive to young women, and on ensuring that men and women in the group are guaranteed equal opportunities throughout their careers. That is a fine commitment, but this is still ‘soft law’, i.e. non-binding, requiring constant vigilance, particularly on the part of women, to ensure implementation and the necessary legal compliance.

4. Is the energy transition an opportunity or a risk for women?
4.1. Progress towards a zero-carbon economy is shifting modes of production towards smaller entities and short supply chains, and changing the balance between fossil fuels or nuclear power and renewable energy. Smart buildings that can store energy, smart grids, etc. make use of state-of-the-art techniques and information technologies, and artificial intelligence. In the pre-COVID-19 period, when oil prices were high, companies headed by women tended to invest in renewable energy and take into account threats to the environment (24). Women’s participation in this sector was increasing, although it was still low in engineering (28% according to the International Renewable Energy Agency, IRENA). The destabilisation of energy markets caused by carbon energy losing value due to the crisis is likely to affect this trend.

4.2. The energy world is seeing, in these new, less ‘heavy’, activities, a real need for diversity, novel skills, and profiles that are as representative as possible of society at large. It is recognised that society needs to take ownership of the transitions, with the energy transition feeding off the digital transition, and of their opportunities and, above all, their costs in terms of jobs and restructuring (25), and that we need women for this, but there are not yet many of them in this sphere.

4.3. Overall career profiles have not yet been established in the renewable energy sector. The Committee would like to warn against two temptations:

1) creating reverse inequality, with more women than men in the renewable energy sector;

2) using the energy and digital transitions to create low-wage traps in an overly ‘feminised’ sector, and career traps whereby women find that doors are closed to them so that they cannot develop their careers in traditional energy sectors.

The Committee again calls for sectoral and company-level agreements on equality to be included in binding contractual law.

5. Specific comments
5.1. Maximising potential is an individual and collective challenge in a European society that is ageing and facing fierce competition from talent from other major trading powers. Men and women need to combine highly diverse skills in a more cross-cutting energy context that makes use of platforms and networks. Management methods are changing as a result. However, digital illiteracy persists and an effort must be made to eradicate it across the EU. Work done these days is carried out within the framework of already established rights. It must deliver results quickly. Women’s talents matter.

5.2. Where to develop? ‘Women would broaden the pool of available expertise’ and ‘diversity is a key element in competitiveness’ (26). Are artificial intelligence and the use of Big Data gender-specific? This field is wide open: we do not yet know all its applications, and it is an absolutely key area for Europe’s international competitiveness, for both women and men. Women should be trained and encouraged to invest in the sector, and energy-related careers using it should be promoted among girls in schools and colleges, and in workplaces.

(24) https://escholarship.org/
(25) These lines, written in the middle of the coronavirus crisis, may no longer be relevant after the crisis.
(26) Cercle InterElles.
5.3. **Giving women the energy and the means to be decision-makers.** Businesses both small and large have increasingly high ethical expectations. And in this, too, the focus will be on women, because the structures being developed — geared towards decentralised energy production systems — would tend to increase gender equality in decision-making. It is recognised that women are likely to be motivated by different things from men, and that soft skills would be valuable in running a business. In the EESC’s view, this realisation could be positive, but it could also be a trap perpetuating the status quo. Women must remain vigilant. In any case, equality is a right and must be reflected in women’s careers and pay, regardless of crisis situations or demographic problems.

5.4. **Creating a European STEM College modelled on the college in Bruges, but with incremental quotas**

The EESC strongly urges the Commission to establish, as soon as possible, a post-graduate college in Brussels to be called the European STEM College ([27]), including an energy faculty with an initial quota of 80% female students on opening, with a view to achieving parity after a few years. Rather than waiting to find a team with the same tenacity as de Madariaga, Churchill, Spaak and De Gasperi who thought up the College of Europe in Bruges, the Committee recommends proposing the idea to the Council as soon as possible.

5.4.1. As with the college in Bruges, the Member States would be responsible for the initial selection of students and for funding them via scholarships. However, this would not prevent the Council from granting a budget to this centre of excellence. The training provided should be almost exclusively geared towards the knowledge and know-how involved in STEM-related activities, with practical programmes and courses that can be made multi-disciplinary, including one focusing on energy.

This flagship college would offer a European image of ‘de-gendered’ excellence in energy-related careers, and would provide European added value to all national higher education institutions, and could thus serve as a role model and as a key lever in feminising the energy professions and bringing together all types of talent.

5.4.2. Like the College of Europe, which has branches in Bruges and Natolin (Poland), the European STEM College should have a number of branches across the EU, working in a network with existing structures at European level. These could include scientific clusters, for example the NGO Euro-CASE ([28]), which brings together national academies of engineering, applied sciences and technologies in 21 European countries, or the EIT (European Institute of Innovation and Technology) InnoEnergy ([29]), which is part of the Horizon 2020 programme and focuses on promoting innovation, entrepreneurship and education in the field of energy transition and sustainable energies, linking academia, entrepreneurs and research institutions ([30]) all along the value chain.

5.4.3. In conjunction with the EU Open Data Portal ([31]), which provides free, re-usable data, this would give the EU a powerful and enviable tool for gender integration and bridge-building with industries and research centres. All schools of excellence add value to the regions where they are located. European added value would have an even bigger influence.

5.5. **Developing European energy outreach teams**

There are already associations ([32]) actively working to change the mindsets of young women so that they can see themselves in energy-related careers. Women in leadership roles in the sector are meeting and organising activities for girls and young women in schools and universities where they present their jobs and the range of energy-related professions. In Poland, an experiment called ‘Girl at the Polytechnic’ ([33]) has achieved very good results. It aimed to encourage women to study at technical secondary schools and break with stereotypes through various activities, including open days at these institutions.

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([27]) Science, technology, engineering and mathematics. See *Energy, a networked Europe* by Michel Derdevet, lecturer at Sciences Po, Paris.
([29]) EIT-InnoEnergy, innoenergy.com.
([30]) See *Energy, a networked Europe* by Michel Derdevet, lecturer at Sciences Po, Paris, and secretary-general (2013–2019) and member of the managing board of Enerdis.
([32]) The *Énergies de femmes* network at EDF; women4energy.eu (innoenergy/EIT, led by Steinbeis 2i GmbH); ellesbougent.com; http://www.interelles.com/colloques-interelles/actes-complets-du-colloque-2019: conference on LTA a-t-elle un sexe? [Does AI have a gender?]
([33]) The programme started in 2007: the percentage of girls at polytechnics increased from 30.6% to 36%. http://www.dziewczynynapolitechniki.pl/pdfy/raport-kobiety-na-politechnikach2019.pdf
The EESC believes that it is crucial to systematise this approach by means of a direct exchange at European level through EU energy outreach teams. When the euro was introduced, teams of volunteers in all Member States, under the aegis of the Commission’s local representations, went out to talk to the public and explain what would change with the advent of the single currency.

5.5.1. In the same way European energy outreach teams could talk to female students to explain how research, technology, supply, trans-European networks, pricing, regulatory systems and energy markets work, and all of the roles those students could play in these areas.

5.5.2. The task of the teams would be to tell young women at school and university about engineering and technical careers and generate enthusiasm for such careers. The teams should be made up of women who can act as role models and show that these (stereotypically ‘masculine’) careers are accessible to girls.

5.5.3. At a professional level, the teams could share good practices and promote links and exchanges with other networks and associations in the EU. Men would also be involved, in particular by providing mentoring, but women would have more impact as role models. A European network of women could be created, as part of an EU-funded project, and would act as a conduit to the European STEM College.

5.6. At the European institutions and bodies, the development that has already begun needs to be stepped up by increasing women’s participation so as to achieve parity among energy regulators (34).

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Between a trans-European super grid and local energy islands – the right mix of decentralised solutions and centralised structures for an economically, socially and ecologically sustainable energy transition'

(own-initiative opinion)

(2020/C 429/12)

Rapporteur: Lutz RIBBE
Co-rapporteur: Thomas KATTNIG

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion
Section responsible Transport, Energy, Infrastructure and the Information Society
Adopted in section 3.9.2020
Adopted at plenary 18.9.2020
Plenary session No 254
Outcome of vote 216/2/2
(for/against/abstentions)

1. Conclusions and recommendations

1.1. The question of how centralised or decentralised the EU’s future energy system will be has not been settled politically. Neither the Commission nor the Member States have made any clear statements on this. The only thing that is clear is that it was only the emergence of renewable energies that made decentralised structures possible in the first place.

1.2. The European Economic and Social Committee (EESC) has pointed out in many opinions how important it is to recognise that the energy transition is not just a technological issue but also a profoundly social and political challenge. Workers, trade unions and consumers must be involved in the energy transition, as promised by policy-makers and strongly called for by the EESC. However, here too, the Commission and the Member States leave more questions open than they answer. Moreover, current energy policy initiatives will prevent rather than encourage broad participation from the public.

1.3. The EESC firmly believes that Europe’s future energy system will have both centralised and decentralised elements. However, how this is organised must not be left to chance. A clear vision is needed as to whether priority should be given to decentralisation or centralisation. After all, Europe’s energy transition first and foremost requires investment certainty for both public and private sectors, which can only be achieved if clear fundamental decisions are made.

1.4. System costs for decentralised and centralised energy systems are similar. However, the costs are incurred for different components: large facilities and transmission grids in centralised systems, compared to smaller generation facilities in decentralised systems and, primarily, flexibility options, which are also located where the consumers are. Moreover, distribution grids and, in particular, smart grids play a larger role, with the latter being prerequisites for smart markets and therefore for individual players adopting behaviour in the interests of the system. This technical development allows for more autonomy and for self-regulating decentralised network units.

1.5. This goes hand in hand with differences in how the creation of value is distributed and thus also with different economic and social policy ramifications. In a centralised system, value creation is typically concentrated on a small number of players. In a decentralised system, consumers can contribute to value creation as active customers, citizen energy communities, farmers, SMEs and municipal companies.
1.6. Therefore, the question of how the new energy system will be organised is much more than just a technical question, it is a highly political issue. In a just and fair transition, it is about who can (and should) play what role and thus — in a nutshell — who will be able and allowed to earn money through energy in the future and, consequently, who will be able to take part economically in the energy transition. This question will also determine the extent to which the energy transition will stimulate innovation.

1.7. The Clean Energy package sets out important indications as to the direction in which the development should go. It mentions an energy union intended to, among other things, reduce energy imports and ‘with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market’ and become active producers and market participants.

1.8. However, in the EESC’s view, the Commission and almost all Member States have failed to provide real clarity over the last five years as to future structures and division of tasks.

1.9. The Council has also so far contributed little to developing a sufficiently clear energy policy. In this regard, the EESC finds it regrettable that the German Presidency focuses only on technologies (such as offshore wind and hydrogen derived from renewable energies) but completely ignores the important structural issues involved. The EESC would like to strongly emphasise that the consequences of such technological preferences must be considered: a concentration on a small number of players and significant investment in transmission capacities, thus in natural monopolies.

1.10. A prerequisite for the full participation of new market participants is that they have access to all relevant electricity markets, particularly flexibility markets. This is not the case in almost all Member States. Member States are therefore urged to adapt their regulatory frameworks to fully reflect the basic ideas of the Clean Energy package and establish equal opportunities. This will also enable regional markets to achieve high-efficiency solutions thanks to digitalisation and, if they are smartly connected, contribute to stable and resilient security of supply.

1.11. With regard to the economic and social policy consequences, the EESC reiterates its position that decentralised energy systems provide major impetus for regional development and can lead to the creation of new, high-quality and skilled jobs in the regions (1).

1.12. Policy-makers may partly address the problems of vulnerable consumers and energy poverty, but no solutions have been identified and the issues have not been connected with the future design of the energy system. The EESC asks the Commission to propose introducing common criteria for the definition of energy poverty and common indicators at EU level to better measure this phenomenon. The Member States must develop more statistical tools to effectively target disadvantaged households. At the same time, it should be ensured that low-income households can implement energy efficiency measures to reduce their energy consumption as well.

1.13. As this critical power grid infrastructure is a natural monopoly, the fundamental question is whether it should not belong to the public sector in the interests of sustainable security of supply, particularly as it was created and expanded using a considerable amount of public funds. This issue should be further clarified in an EESC opinion.

1.14. Hundreds of billions of euros are now being invested in energy infrastructure and technologies through the recovery plan and the 2021-2028 multiannual financial framework (MFF). It must be ensured that these investments are used effectively to fund an energy transition focused on citizens rather than those who have so far been involved in the fossil-based energy system. The EESC calls on the Commission, the Council and the European Parliament to enter into broad-based structured dialogue with civil society and local and regional authorities as soon as possible to provide clarity on the issues raised in this own-initiative opinion.

2. Background to this own-initiative opinion

2.1. Europe is in the middle of the difficult process of moving towards climate neutrality, which is expected to be achieved by 2050. This will require a major transformation of the energy system, encompassing fundamental technological changes, but also structural issues in production, trade and marketing, as well as social policy changes. However, the exact nature of the changes, and how far they should go, has not yet been fully spelt out. It must be recognised that the energy transition is not just a technological issue but a profound social challenge. Workers, trade unions and consumers must be involved in the transition.

2.2. In recent years, the Commission has issued a large number of political declarations of intent and adopted new rules. The EESC has commented on them and, in most cases, welcomed and supported them. At the same time, however, it has taken issue with the fact that many of these statements are too vague and imprecise.

2.3. Clearly, it was only the emergence of renewable energies that made it possible to discuss the issue of centralised or decentralised structures in the energy sector at all. Renewable energies (solar, wind and biomass) are decentralised, they are widely available and investments are relatively limited, whereas nuclear and coal power plants are large centralised structures.

2.4. It is unclear how the issue of renewable energies will be handled. In particular, it remains unclear whether the Commission is aiming to integrate renewable energies into the existing system or redesign the market.

2.5. The EESC has pointed out that, in its view, it cannot primarily be about ‘integration’ of renewable energy into the existing electricity system, and that ‘a fundamental transformation’ means far more than merely linking up national systems to a European network and significantly boosting renewables’ share; which also implies that the current conventional energy sources (including natural gas) will play a bridging role only.

2.6. A completely new energy system will involve a much larger range of stakeholders. In particular, distribution grids take on a much more important role and must in any case become ‘smart grids’: information on the relevant grid situation must be made available to market participants in a reliable, clearly understandable and very precise way, both timewise and, where appropriate, locally too. Smart grids are the prerequisite for smart markets that effectively incentivise behaviour in the interests of the system.

2.7. In its Energy Union package, the Commission speaks of a new role for the current ‘passive’ consumer: ‘Most importantly, our vision is of an Energy Union with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market, and where vulnerable consumers are protected’ (2).

2.8. What this actually means, though, is left open. This is not least due to the fact that no distinction is made between industrial and commercial consumers and private households, and in turn between those private consumers who are socially and thus also technically better placed and households that are less well equipped. One thing is clear: in future, consumers should no longer be only (paying) recipients of energy, They should not only be able to switch suppliers more easily and/or respond more flexibly to market signals. They should have access to all relevant electricity markets. Terms have been coined such as ‘active’ customers, self-consumers, citizen energy communities and ‘renewable-energy communities’ and these new players have been given certain rights, but without it being clear how they should actually participate in the market, i.e. how open and liberal the market should truly be and how to deal with consumers without the financial or legal means to participate in it (see point 5.6).

2.9. Likewise, the issues of vulnerable consumers and energy poverty may have been touched upon, but no real solutions have been identified. Moreover, the EESC asks the Commission to propose introducing common criteria for the definition of energy poverty and common indicators at EU level, which would be a first step towards better measuring this phenomenon. To adapt this definition to different national contexts, the Member States must develop more statistical tools to effectively target disadvantaged households.

2.10. In the EESC’s view, the Commission has thus provided very little clarity over the last five years as to future structures and division of tasks. Above all, however, the Member States have also only adapted their regulatory frameworks very slowly, or not at all. In many Member States, consumers, as well as small businesses and citizen energy communities, still do not have access to electricity markets.

2.11. However, since the Commission — with its Green Deal — has put climate neutrality at the top of the agenda and is going to invest hundreds of billions of euros through the recovery plan in rebuilding the economy and in creating and safeguarding high-quality jobs in Europe, the EESC believes that it is imperative, in the short term (2), that a broad public and political debate be held to clarify how much ‘centralised structures’ are needed and to what extent decentralised structures, where appropriate, seem possible and useful. The aim of this own-initiative opinion is to provide input in this regard.

2.12. The COVID-19 crisis teaches us that it is essential to take the right action quickly before a situation escalates. The Commission estimates that meeting the current climate and energy targets by 2030 alone requires additional investments of up to EUR 260 billion per year. This will not be possible without a massive expansion of public investment in the development of renewable energies, storage systems, thermal renovation, public transport, research and development, and so on, and without being organised in a socially just way. Here, the COVID-19 crisis points to new approaches. The temporary suspension of the European debt and deficit rules must also apply to the management of the climate crisis. However, the funds must be used in such a way as to achieve the goal of putting citizens at the heart of the energy transition, thereby also boosting the regional economy.

2.13. In order to avoid bad and misguided investments, existing ambiguities and inconsistencies concerning the new energy system's basic structures, market architecture, market roles and market rules need to be addressed, and in particular the social impact on workers and consumers needs to be resolved immediately. A fair distribution of the investment burden plays a central role in this regard; the same applies to a fair distribution of any profits.

3. The importance of a clear preference for or against decentralisation for the sake of investment certainty

3.1. The new energy system is likely to include both centralised and decentralised elements, partly because categorising something as centralised or decentralised is not always clear-cut. For example, it is unclear whether an onshore wind farm with installed capacity of more than 30 megawatts can still be considered 'decentralised'. Nevertheless, if the transformation of the energy system is to be efficient, the question of whether the new energy system should be based on a decentralised or centralised approach is of considerable importance.

3.2. Depending on the answer to the question posed in point 3.1, different investment decisions must be prioritised and implemented by both public authorities and private capital providers and investors. The risk of ’stranded investments’ can only be prevented if policy-makers take a policy decision early and clearly on whether the energy transition should be based primarily on a centralised or decentralised approach.

3.3. The basic idea behind the current centralised energy system is the following: there should be no bottlenecks in the transmission of electricity and all market players should be able to act as if transmission within the system is possible without restrictions. This gives transmission grids a crucial role in the system. As well as the idea of a European ‘copper plate’, i.e. a Europe-wide power grid without physical restrictions, it has even been suggested that Europe's interconnected grid be connected to South or East Asian grids.

3.4. As this critical power grid infrastructure is a natural monopoly, the fundamental question is whether it should not belong to the public sector in the interests of sustainable security of supply, particularly as it was created and expanded using a considerable amount of public funds. This issue should be further clarified in an EESC opinion.

3.5. In a centralised system, the place where production and flexibility options are located should therefore be irrelevant to how the market actually operates. Neither the place of production nor the place of consumption should in any case be determined by the transport infrastructure. Rather, the transport infrastructure follows the structure and places of production and consumption.

3.6. A decentralised energy structure, on the other hand, entails a system where the generation (and storage) of energy used for electricity, heat and mobility applications is located as close as possible to where it is consumed: renewable energy sources allow this. As a result, the transport of electricity is largely minimised — something that is inherent in the system — with fewer transport losses. The volatility of electricity generation from renewable sources poses new challenges for power grids. As a result of decentralisation, distribution grids will thus play an increasingly important role in maintaining stability and security of supply.

3.7. In a decentralised system, bottlenecks in the network infrastructure are not, in principle, regarded as problems to be dealt with as a matter of priority. Rather, a decentralised system relies on local flexibility options that help to directly offset fluctuations in production. In addition to storage and measures to shift the burden from high-consumption to low-consumption periods, these flexibility options also include the generation of heat through electricity and e-mobility. Sector coupling plays a much greater role in a decentralised system than in a centralised one. Moreover, flexibility markets will play a much more important role than in a centralised electricity system.

3.8. In a decentralised energy system, there is more independence from the grid infrastructure, which, according to studies, also leads to greater resilience against external attacks, such as cybercrime, at least where stand-alone capability is achieved. Increasing investment in distribution grids would therefore ensure a stable supply and greater resilience against cybercrime.
3.9. The European energy policy must therefore answer the following questions:

— Should investors assume that the new energy system is built from the bottom up? This means that surplus local electricity and local shortages are balanced out primarily through local flexibility options. It is only in cases where this is not economically or technically possible that electricity is transported over longer distances.

— Or should investors assume that there is to be a top-down structure? This implies that development of transmission grids has priority. Virtually every kilowatt-hour produced must be able to be transported using this model. If fluctuations have to be offset, then the grid infrastructure indicates the location of the flexibility options. In essence, this means continuing the existing grid expansion policy while replacing fossil and nuclear power plants with alternative production sites that are as large as possible (examples: Deserter, offshore wind farms, very big onshore wind farms).

There is an urgent need to clarify these issues, as both approaches require massive amounts of investment but in different areas: money is primarily needed for transmission grids in a centralised system and for smaller, distributed flexibility options in a decentralised system.

3.10. Implicitly, the questions in point 3.9 address the structure and design of the new energy market. This is also recognised in Regulation (EU) 2019/943 of the European Parliament and of the Council (3) on the internal market for electricity. However, it does not take a decision in this regard, but leaves it to the Member States.

It is highly questionable whether this is sufficient for a European energy transition to be effective. After all, in many Member States, the legal framework has so far not been clearly in line with the objectives underlying the Clean Energy package.

3.11. Behind the questions raised in point 3.9 is a highly political question: it is about who can and should earn money in the future in the new energy system, and who therefore can participate economically in the energy transition. For example, the German Presidency focuses only on technologies (specifically offshore wind and hydrogen derived from renewable energies). It does not take into account the fact that these technologies will lead to the market for producers being concentrated on a small number of players, will require significant investment in transmission capacities, thus in natural monopolies, and may also maintain or even increase Europe's energy dependence. However, the question of how to put citizens at the core of the energy policy is not on the agenda.

4. Decision-making criteria for or against a centralised or decentralised approach

4.1. The point made in 3.10 is central to social policy decision-making. However, it is not made openly and honestly in the political debate, but is always in the background hidden behind supposedly ‘rational’ arguments:

4.1.1. The energy transition requires major energy companies to change their business models. However, many of these companies are evidently finding it easier to replace their old (centralised) large-scale power plants with renewable facilities that are nevertheless just as centralised and sometimes hardly have less capacity. This means that the associated distribution structures can also be kept. Decentralisation, on the other hand, would entail a lot of radical changes, making it much more difficult for major energy companies, unlike SMEs and municipal utility companies.

4.1.2. The same applies to transmission grid operators: they have no interest in transporting less electricity across Europe; ultimately that is how they earn their living.

The cost argument

4.2. How to achieve the greatest possible security of supply at the lowest cost is rightly seen as a key criterion. It is plausible to conclude, and modelling shows, that transport costs are higher in a centralised system than in a decentralised system. On the other hand, the costs of generation, storage and load shifting and redispatching in a centralised system are lower than in a decentralised system.

4.3. A number of studies have compared these cost differences. However, they do not produce clear results, as the differences between the cost benefits in a decentralised system and those in a centralised system are not particularly significant and, on a detailed level, depend on the underlying assumptions. It should be pointed out that, back in 2016, the EU's Joint Research Centre found that around 80% of Europeans could supply themselves with self-produced PV electricity more cheaply than electricity supplied from the grid; and since then there has been a huge fall in PV prices.

4.4. Simply looking at system costs, therefore, cannot answer the key question of whether investments should be prioritised in centralised or decentralised energy system projects and which guiding principles should be set by the regulatory system accordingly.

4.5. The question therefore arises as to which alternative criteria, beyond a mere consideration of cost savings, can be used in order to take the key decision — essential from the point of view of investors — in favour of a new energy system that is primarily decentralised or centralised.

**Different types of value creation**

4.6. The creation of value differs structurally: in a centralised system, it tends to benefit larger installations and natural monopolies. In a decentralised system, it is more likely to go to smaller installations and, above all, to be used for flexibility options, which are often employed in a decentralised system, e.g. battery storage, heat pumps, mini combined heat and power plants and bidirectional charging electric cars ('Vehicle-to-Grid'). Flexibility options will therefore very often be found in households. And electricity generation installations are often in the hands of private individuals, farmers, start-up SMEs, energy cooperatives, municipal companies, municipal utility companies, and so on. Thus, in a decentralised energy system, those who contribute to value creation are different from those in a centralised system: active consumers play a much bigger role here.

4.7. A decentralised energy system is barely feasible without such broad public participation. A more active role for the consumer, including the prosumer, is therefore characteristic of a decentralised system and makes sense not least for reasons of public approval and regional economic growth.

4.8. As the Commission seeks to create an Energy Union with citizens at its core and wants new jobs to be created at regional level and a boost to the economy via the energy transition across many regions of Europe, it must opt for a decentralised energy system. This is also important for dealing with the COVID-19 crisis.

5. **Economic and social policy implications of a centralised vs a decentralised approach**

5.1. A decentralised system means the following in terms of value creation: consumers go from being payers to actors who participate in the value creation of the energy industry, i.e. they earn or save money. This is the reason why the question in point 3.11 — who in future may earn money from energy — must be openly and honestly debated.

With the broadening of the understanding of prosumption, both the concept and definition of prosumption were expanded in the Clean Energy package: henceforth, it is no longer only consumers with their own land and properties who can become prosumers. For example, prosumption is also becoming an issue for tenants or residents of apartment buildings, as well as for supplies to individual buildings and neighbourhoods, including commercial areas and industrial parks. It is precisely in these cases that smart networking of individual generation and storage capacities and of individual consumers in a virtual power plant or via a smart micro-grid is essential. This means that the requirements for local and regional distribution grid operators are constantly increasing.

5.2. Prosumers will only be an integral part of the energy system when they actually have access to all relevant electricity markets. Active consumers must be able to make the flexibility they gain from battery storage, demand-side management, electric cars, heat pumps and so on available to the system too. This requires specially configured markets, which most Member States do not yet have.

5.3. An energy transition leading to a decentralised energy system is often referred to as a social-ecological transformation, not just an ecological one. After all, a decentralised energy transition will provide an important boost to the local and regional economy, jobs in small and medium-sized enterprises and increased local purchasing power. In light of this, it is even more significant that many Member States continue to have structures in their energy systems that hinder these positive effects. At the same time, it must be ensured that the jobs created are of high quality and have a high level of social protection.

5.4. In order for this impetus to really benefit all people in their regions and not just the resource-rich ones, priority should be given to projects leading to energy consumer communities where people with little capital, income or property can participate (see also EESC opinion TEN/660 (4)). Ideas for this already exist. However, their implementation needs to be promoted much more decisively in the Member States than is currently the case. This is a very urgent matter, as decentralisation must not lead to a two-tier energy society. To the extent that people on low incomes and with few

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resources are able to access energy-consumer communities, including through direct support, participation can be an effective means of combating energy poverty, as those who have so far been suffering as a result of high energy costs will be significantly relieved of the burden thanks to the rapid drop in the costs of renewables.

5.5. Vulnerable consumers and energy poverty are serious problems and are unlikely to be fundamentally solved in either a centralised or decentralised energy system. However, they can be mitigated more easily in a decentralised system than in a centralised one due to the decreasing costs of renewable energy facilities and electricity storage systems. After all, using renewable energies and storage systems as part of neighbourhood solutions can lead to a lasting reduction in energy bills and put an end to consumers’ price dependence on energy companies and grid operators. However, this requires an active policy that supports the development of appropriate concepts. At the same time, it should be ensured that low-income households can implement energy efficiency measures to reduce their energy consumption as well.

5.6. Furthermore, extended participation options must not be used as a pretext to undermine consumer rights. They need to be strengthened and, where appropriate, adapted to new business models.

5.7. Finally, attention should be paid to consumption centres — big cities and large industrial consumers of electricity. In order to be able to supply them safely and at fair prices, they should be brought together with their immediate surroundings to form energy regions. The same applies to energy islands. The energy regions will take the form of concentric circles around the consumption centres. In order for the surrounding area to fulfil its full renewable energy potential, targeted incentives are needed. They may, for example, consist of reduced grid charges that apply when the energy region supplies itself. The positive consequence of this system architecture is the strengthening of regional economic structures — an aspect that could be particularly important for the post-COVID-19 economic system.

6. The energy system of the future

6.1. The new energy system should no longer be conceived ‘from top to bottom’ (from large power plants to consumers) but rather ‘from bottom to top’) as a network of multiple production and supply islands for renewable electricity and heat (building energy), in which electricity and heat distribution and demand-side management (including storage) play a major role.

6.2. In this way, a sufficient and secure supply for all regions in Europe can be achieved (5). In connection with the desire for a new range of stakeholders, this will mean that, alongside established (wholesale) trading structures, there will be completely new decentralised forms of marketing and energy management systems.

6.3. Waves of innovation in the IT sector, in production and storage technology, in the distribution system and in buildings technology have given rise to many such ‘production and supply islands’, which even a few years ago seemed inconceivable. Individuals, businesses, associations (such as energy cooperatives) and municipalities (municipal utility companies) have created their own self-sufficient or partly self-sufficient solutions, which means they are much less dependent on traditional supplies and trade flows. It is important to see the parallels between technical and social developments. Both are pointing in the same direction, namely towards greater autonomy and self-regulating decentralised network units.

6.4. Increased local production and direct marketing should therefore be welcomed because they can reduce grid losses. On this point, the German Federal Network Agency explains that (6): ‘It is obvious that the transformation of the energy system can best succeed by close cooperation among all those involved. (...) We should welcome approaches maximising energy consumption at the source (...) as it keeps grid losses to a minimum.’

6.5. The Commission therefore needs to think about the trading system in terms of the desired energy infrastructure without attempting to make the necessary changes to energy infrastructure compatible with the current trading system.

\(^{(5)}\) OJ C 82, 3.3.2016, p. 13; OJ C 82, 3.3.2016, p. 22.

\(^{(6)}\) ‘Smart Grid’ und ‘Smart Market’ — Eckpunktepapier der Bundesnetzagentur zu den Aspekten des sich verändernden Energieversorgungssystems [Smart grids and smart markets: Key issues paper of the Federal Network Agency on the changing energy supply system], December 2011, p. 42.
6.6. Account should also be taken, however, of the experience of many countries where some market players, such as strategic investors, have cherry-picked the most lucrative market segments merely to maximise their profits, whilst refusing to invest in security of supply, innovation and maintenance, passing these costs on to their customers.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'Universal access to housing that is decent, sustainable and affordable over the long term'

(own-initiative opinion)

(2020/C 429/13)

Rapporteur: Raymond HENCKS
Co-rapporteur: András EDELÉNYI

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1. Conclusions and recommendations

1.1 The health, economic and social crisis of COVID-19 has intensified the severity of the affordable housing crisis that Member States have been facing for years (1), particularly for homeless people, overcrowded households, residents of working class neighbourhoods and seasonal workers and immigrants — victims of housing conditions that have directly affected the infection rate in society. Although housing policy remains the competence of the Member States, the shortage of decent and affordable housing in the European Union (EU) requires a European action plan on housing that includes a comprehensive set of measures, which are easy for people to understand, to help Member States, regions and cities in Europe to sustainably boost the supply of social and affordable housing and effectively combat homelessness.

1.2 The EU must, first of all, ensure that a real universal right to housing is enshrined, particularly acting by means of a sector-specific regulation under the ordinary legislative procedure, to establish the principles and set the conditions for providing, commissioning and funding affordable and decent housing, in accordance with Article 14 TFEU.

1.3 In this regard, the European Economic and Social Committee (EESC) welcomes the Commission's initiative to establish a link between the European Pillar of Social Rights and the European Semester, which, in the area of housing policy, should lead to better monitoring of social housing reform, of the accessibility and affordability of housing and of the effectiveness of housing benefits. It insists that the representatives of organised civil society should be consulted before country-specific recommendations on housing policy under the European Semester are adopted. The EESC calls for greater leeway in long-term investment in social infrastructure and for it to be excluded from public administration accounting when calculating the public deficit.

1.4 The creation of a 'European fund for investment in affordable, decent and suitable housing', aimed at creating and maintaining low-cost housing, would enable the EU to make its actions and policies clearer and more consistent for Europeans, particularly in the context of the buildings plan to be rolled out under the Green Deal, and the future European Pillar of Social Rights action plan.

(1) See the Housing Europe report State of Housing in the EU 2019.
On the basis of the report that Member States will have to submit to the European Systemic Risk Board (ESRB) in 2020 concerning the indicators of potential overvaluation of house prices and measures taken following the ESRB’s recommendations, or their explanations for failure to act, it is essential to detect vulnerabilities that may lead to financial, economic and social crises early on and react accordingly.

The European Commission will have to carry out a review of the Decision on Services of General Economic Interest (SGEI) regarding the target group for social housing as soon as possible, and specify that housing policy must not be restricted to assisting people at risk of poverty, but must ensure decent housing that is accessible and affordable over the long term for everyone, especially the homeless, young couples, single-parent or large families, workers and the middle classes more broadly, who are affected by the European housing crisis. In this context, the Commission should propose a common definition of excessive housing costs, a harmonised method for assessing those costs, a statutory regulation against speculative hoarding of empty dwellings and residential land and a framework for the practice of converting affordable housing into short-term tourist accommodation.

Finally, the EESC calls on the Commission to organise an annual EU summit on affordable housing bringing together all those involved in implementing and monitoring this European action plan on affordable housing, based on an annual report on the state of housing in the EU.

2. General comments

Although access to housing assistance is enshrined in the EU Charter of Fundamental Rights and access to social housing or housing assistance of good quality features in the European Pillar of Social Rights, the EU’s texts have still not given full recognition to the ‘right to decent housing’ insofar as it does not have real effect in practice. This is illustrated by the sharp increase in the number of homeless people and people living in poor accommodation or households faced with excessive housing costs. In practice, European citizens do not enjoy a real right to decent and affordable housing, but rather are limited to housing assistance, social housing or temporary emergency accommodation when they are deemed to be in need, in accordance with the legislation and practices of the Member States and on the condition that appropriate housing is available.

Market forces in residential housing are not able to meet the full spectrum of needs. The continued rise in the cost of residential property has led to rising inequality across Europe. This means that more and more households are allocating more than 40 % of their budget to housing, which constitutes excessive housing costs; 11 % of European citizens are in a situation where more than 40 % of their disposable income (net of housing benefit) is spent on housing, while one in twenty people lives in an overcrowded dwelling that lacks basic necessities (2).

The economic and demographic structures and the price levels vary widely from one Member State to another. There is also a significant price gap between capital cities, secondary towns and everywhere else.

The housing markets of a large number of major European cities and peri-urban areas in the EU are marked by strong growth in demand as people move in search of work, combined with a supply of housing that is constrained by land scarcity, increasing construction and densification costs, and speculative investor practices. Land is a scarce resource, the use of which is associated with increasing competition between various uses: housing, public infrastructure, agriculture, forestry, commercial or industrial use, transport, biodiversity, irrigation land, leisure, etc., to the extent that the price of land is often the most unaffordable aspect of housing. Rising housing costs in metropolitan and peri-urban areas have led to a rise in housing exclusion, homelessness, and poor-quality housing that is now affecting young people, single-parent and large families, workers and the middle classes more broadly, who are being driven out of major European cities by excessive housing costs and forced to relocate to rural areas.

This in turn is leading to an increase, to varying degrees, in the cost of housing in rural areas, with consequences such as social segregation, the emergence of exclusively residential areas (dormitory towns), increased mobility, changes in the landscape, land take, and an increase in infrastructure and costs for the community.

(2) Eurostat housing cost, March 2017.
2.5 Member States enjoy broad discretion to define, organise and finance their social services of general interest, including housing. However, this competence does not exempt them from complying with the EU’s values (human dignity, equality, non-discrimination, human rights, etc.) and with the EU rules on housing, notably Protocol No 26 on services of general interest, appended to the TFEU, which calls on the Member States to ensure ‘a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.’ The Commission, as guardian of the Treaties, thus has an important role to play here and is required to intervene when Member States do not meet their obligations.

However, under the rules on state aid, the Commission has drastically reduced the powers of Member States by deciding that social housing must be exclusively reserved for the poorest households, when the housing crisis is affecting a much wider section of the population. Similarly, residential land sold by a public authority under a programme for creating affordable housing may only be sold at market price and only after this price has been established through a comprehensive procedure.

2.6 Moreover, the sharp contraction in public investment in social and affordable housing by the Member States — following the withdrawal of commercial banks from the financing of these investments, and subsequent to the economic and fiscal crisis and the Stability and Growth Pact — has prevented the growing demand from being met by a supply of demand linked to international migration and the growth of global tourist accommodation platforms, which in the most attractive cities has led to the removal of affordable housing from the market as housing is converted into short-term accommodation. Then there are also strategies by international companies (pension funds, insurance companies, private equity funds, etc.) which, given the very low level of financial returns (interest rates, dividends, etc.), are investing heavily in real estate, which is further increasing prices.

2.7 Internet platforms have fed into these stressed conditions on local housing markets through a concentration of demand linked to international migration and the growth of global tourist accommodation platforms, which in the most attractive cities has led to the removal of affordable housing from the market as housing is converted into short-term accommodation. Then there are also strategies by international companies (pension funds, insurance companies, private equity funds, etc.) which, given the very low level of financial returns (interest rates, dividends, etc.), are investing heavily in real estate, which is further increasing prices.

2.8 In its recommendations of 31 October 2016 (1), the European Systemic Risk Board (ESRB) states that past financial crises have shown that unsustainable developments in property markets can have severe repercussions on the stability of the financial system and of the economy as a whole. In 2019, the ESRB issued warnings to nine Member States on medium-term residential real estate sector vulnerabilities.

2.9 The COVID-19 pandemic has paralysed the property market. There is a risk of serious consequences in the residential housing sector in the wake of the health crisis. On the supply side, support for households and investment in social housing by public authorities and bodies may be subject to substantial reductions as a result of economic and social costs involved in fighting the consequences of the pandemic, which will have a significant impact on future public budgets. On the demand side, the number of households that will no longer have the income needed to obtain housing on the property market will increase in proportion to the increase in unemployment and precarious employment.

2.10 The Green Deal’s buildings plan and the European Pillar of Social Rights should be used as an opportunity, with due regard for the policies and practices of the Member States to give concrete and clear form to the EU’s housing policies, notably by inviting all its financial institutions (ECB, EIB, EIF) and the InvestEU scheme to revitalise long-term public investment and substantially increase favourable long-term loans and guarantees for investors and for the buildings sector for the benefit of end consumers.

3. Excessive housing costs

3.1 It is undeniable that many households are faced with excessive housing costs, with housing being their main item of consumption expenditure and an excessive burden, to the detriment of other basic needs. This is putting many European citizens at a high risk of over-indebtedness, a loss of social status or social exclusion (2).

3.2 There is no unanimity at EU level on the definition of excessive housing costs and elements thereof. Eurostat considers that expenditure on housing that constitutes more than 40% of disposable income is excessive, whereas in various Commission documents this rate is set at one third of disposable income. Furthermore, the health crisis is forcing households with modest resources to dig into their savings when paying their rent, thus putting them at greater risk of over-indebtedness.

3.3 Moreover, within the EU itself, the definition of excessive housing costs is regularly discussed with regard to methodology; not all national statistical institutes use the same assessment methods. It is essential to take socio-economic realities into account when developing common guidelines.

(1) ESRB/2016/14.
(2) Eurostat (housing cost, March 2017).
3.4 Excessive housing costs are no longer affecting only the most disadvantaged members of society, hovering around the poverty line, but also people whose income is too high to qualify for social housing but too low to be able to afford accommodation under private market conditions. Decent housing in or around a town or city close to their place of work has often become unaffordable for them. These people are being relegated to areas located some distance from their place of work and thus, though they may benefit from lower housing costs outside large urban centres, face additional costs, mobility problems, environmental requirements and other additional constraints. The middle classes being pushed out of city centres leads to functional imbalances which increase demand for housing, cause rents to become more expensive and lead to additional pollution caused by commuting between home and the workplace.

3.5 Member States’ housing policies must not therefore be restricted to helping vulnerable people ‘put a roof over their heads’, but must ensure that housing is appropriate for a family’s situation, and promote good-quality living environments, mainly through improving existing housing, i.e. ensure decent and affordable housing for everyone, in the places where the need is, in terms of both quantity and quality.

4. Social housing

4.1 Given the diversity of approaches and concepts adopted by Member States, there is no European model of social housing. Nevertheless, common trends can be seen in most Member States: decentralisation to regional and local authorities, a focus on the most vulnerable groups, reduced public investment in the supply of social housing and upgrading of the existing housing stock through the sale of social rental housing, sometimes because the social landlords could no longer ensure they were in line with standards or carry out renovations.

4.2 In the EU, social or low-cost housing is about making the right to housing a reality, and thus ensuring that everyone in need has access to decent housing at an affordable rent/pr ice, while also fulfilling the obligations of the Member States and the EU arising from a multitude of conventions, declarations, charters and treaties signed at both European and international levels.

4.3 In its understanding of social housing, the European Commission, acting as the European competition authority, is very restrictive (5). It has decided that social housing benefiting from the exemption from notifying state aid should be reserved exclusively for ‘disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions’. This restrictive definition of social housing no longer corresponds to the scale of the European housing crisis or the public service obligations imposed on social landlords by Member States, ranging from ‘housing first’ for homeless people to affordable or mid-range housing for the middle class in European cities.

4.4 In a 2006 Communication (6), the Commission classified social housing as one of the social services of general interest to which the principle of subsidiarity applies and which (in principle) allow the Member States wide discretion to define, organise and finance them.

4.5 However, in exercising this freedom, Member States must take into account the case law of the Court of Justice of the EU, according to which almost all services provided in the social field (with the exception of solidarity-based social security schemes) can be considered economic activities.

4.6 Consequently, in the absence of a specific legal framework for social housing, the EU provisions dealing with services of general economic interest, in particular Article 14 TFEU and Protocol No 26 appended to the Treaty of Lisbon, apply to social housing.

4.7 Thus, the EU and the Member States, each within their respective powers and within the scope of application of the Treaties, have to ensure that the provision of social housing operates on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their duties.

(5) Commission Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

4.8 Substantial European funding to co-finance the construction or energy-efficiency renovation of social housing and housing adapted for marginalised communities is accessible to social housing providers, notably through EU funds (7), the EIB, the Council of Europe Development Bank, the Juncker Plan II for strategic investments, the investment fund to be set up under the European Green Deal and the Next Generation EU recovery plan, particularly the Just Transition Fund, REACT-EU and InvestEU.

Thus, the European Investment Bank (EIB) and the European Investment Fund (EIF) grant long-term loans aimed at supporting social housing providers, public-private partnerships (PPPs), aggregation structures, intermediary banks and special purpose vehicles. In some cases, the higher level of risk involved requires support from the European Fund for Strategic Investments (EFSI). These long-term investments in social infrastructure should be made clear for everyone.

4.9 The Green Deal’s draft buildings plan and its aim of sparking a ‘renovation wave’ to enhance the energy-efficiency of buildings, and in particular of social and private housing, will also require a specific investment fund, as well as support for the structuring of local energy-efficiency renovation sectors that can create local jobs and economies of scale, following the example of the EnergieSprong project co-financed by the EU.

4.10 The Member States have put in place a whole range of measures to promote a sustainable living environment, including by constructing low-cost housing and by introducing individual assistance schemes that help people build up the deposit needed for a mortgage loan, aim to reduce monthly mortgage repayments, help the most disadvantaged households rent suitable housing, and promote the energy refurbishment of residential buildings and the use of renewable energy. However, at the Member State level, incentive or tax policies are not coordinated and do not always promote the social mix in the living environment. Additionally, each Member State should provide an independent service providing as much information and advice as possible on all types of questions regarding housing support for individuals and State aid for public and private developers in connection with constructing subsidised housing.

4.11 However, all of these initiatives and forms of support still do not solve the shortage of affordable and decent housing. This is why the EESC believes that the Commission should put forward an EU action plan on decent and affordable housing, including a consistent and clear set of measures to help the Member States and the EU’s regions and cities to sustainably boost the supply of social and affordable housing in the local housing markets concerned, while stepping up their energy performance.

5. A European action plan on decent and affordable housing: a long-term investment in a Europe that is closer to its citizens and regions

5.1 While housing policy remains within the remit of the Member States, the shortage of appropriate housing that the EU is currently facing requires a European action plan for decent and affordable housing, including a consistent and clear set of measures to help the Member States and the EU’s regions and cities to sustainably boost the supply of social and affordable housing in the local housing markets concerned, while stepping up their energy performance.

5.2 At European level, there is no universal definition of ‘a real right to housing’ insofar as any person or family experiencing particular difficulties is entitled only to social assistance in order to gain or retain access to decent housing. Additionally, in the absence of a sufficient supply of housing, a right to housing, even if enforceable, remains theoretical. The EESC therefore calls for a real right to housing to be enshrined in EU law.

5.3 The Commission must ensure that such a right is accompanied by a proactive policy to support the long-term investment needed to deliver a public programme aimed at increasing the supply of social and affordable housing with a social mix and minimum quality standards as a rule. The EESC calls on the European Parliament and the Council of the European Union, acting by means of a sector-specific regulation under the ordinary legislative procedure, to establish the principles and set the conditions for providing, commissioning and funding affordable housing, in accordance with Article 14 TFEU.

5.4 The European Commission will have to carry out a review of the Decision on Services of General Economic Interest regarding the target group (beneficiaries) of a right to social housing, and specify that housing policy must not be restricted to assisting people at risk of poverty, but must ensure decent housing that is accessible and affordable over the long term for

(7) ERDF, ESF, Interreg.
everyone, including the homeless and people affected by Europe’s shortage of appropriate housing. Furthermore, provisions should be introduced to regulate speculative hoarding of empty dwellings and land as well as a framework for holiday rental practices, by separating ownership of housing from its use, which is a matter of the common good, the public interest, and must come under a specific framework in order to make it accessible.

5.5 Similarly, the Commission should propose a common definition of affordable housing and excessive housing costs and a harmonised method for assessing those costs.

5.6 On the basis of the report that Member States will have to submit to the European Systemic Risk Board in 2020 concerning the indicators of potential overvaluation of house prices and measures taken following the ESRB’s recommendations, or their explanations for failure to act, it is essential to detect at a very early stage vulnerabilities that may lead to financial crises. The EESC foresees that this report will have to be amended in 2021 through another supplementary report that will demonstrate the possible consequences of the COVID-19 crisis.

5.7 In this regard, the EESC welcomes the Commission’s initiative to establish a link between the European Pillar of Social Rights and the European semester, which, in the area of housing policy, should lead to better monitoring of social housing reform, of the accessibility and affordability of housing and of the effectiveness of housing benefits. However, it insists that the representatives of organised civil society should be consulted before country-specific recommendations on housing policy under the European Semester are adopted.

5.8 The proposal for a revised EU cohesion policy for the period 2021-2027, currently under discussion in the Council of the European Union and the European Parliament, aims to increase the budget for social housing from EUR 2.2 billion to EUR 4 billion. The EESC calls for greater leeway in long-term investment in social infrastructure and for it to be excluded from public administration accounting when calculating the public deficit. The EU cannot encourage Member States to ensure the required level of reinvestment in social infrastructure while imposing a cap on these investments under the Stability and Growth Pact.

5.9 The creation of a ‘European fund for investment in affordable housing’, aimed at creating and maintaining housing, would enable the EU to make its actions and policies clearer and more consistent for Europeans, particularly in the context of the buildings plan to be rolled out under the Green Deal, and the future European Pillar of Social Rights action plan.

5.10 The EESC calls on the Commission to organise an annual EU summit on affordable housing bringing together all those involved in implementing and monitoring this European action plan on affordable housing, based on an annual report on the state of housing in the EU.

5.11 Finally, the EESC considers that ‘social housing’ is often susceptible to prejudice if it does not go hand in hand with a general-interest objective of ensuring a social mix, diversity and social inclusion. It is worth remembering the contribution investing in social housing brings to employment and ecological transition.

Brussels, 16 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘The future of EU air transport in and after the Corona crisis’

(own-initiative opinion)

(2020/C 429/14)

Rapporteur: Thomas KROPP

1. Conclusions and recommendations

1.1 Aviation is one of the sectors most badly affected by the Corona crisis. Between March 2020 and May 2020 alone, the air passenger traffic market plummeted by 90%, with dramatic consequences for the revenues of all stakeholders and their employees in the aviation value chain.

Aviation plays a pivotal role for trade and tourism, as well as for connections inside Europe and with non EU countries. The tourism sector is a key contributor to national GDP in many countries and has suffered extreme losses. These are having an impact on EU countries, but their impact is even greater on developing countries, where the sector accounts for significant shares of GDP. For these countries, the shutdown of tourism activities threatens to undo important humanitarian progress (Study by the Institut der deutschen Wirtschaft, August 2015: Entwicklungsaktor Tourismus; German tourists alone spent EUR 13,5 billion at tourist destinations in developing countries. That is 5% of all tourist expenditure in these countries and creates 78,000 jobs there).

The EESC calls on the Commission to promote tourism as a cornerstone of its development cooperation.

1.2 The EU Member States are willing to assist all economic sectors in the recovery process. Nonetheless, because of an unprecedented global recession, as well as the uncertain duration of the pandemic, it is unlikely that global economic activities will regain pre-Corona levels in the near future. For this reason, the EESC calls upon the Commission to develop a comprehensive road map for the recovery of the entire European aviation sector; such an action plan should include dedicated resources to support all sub-sectors and their workforce.

1.3 All stakeholders and the social partners require planning stability. The Corona crisis requires a clear distinction between the recovery phase of the aviation sector in the short term, while securing the sector’s international competitiveness and a level playing field in the medium to long term.

In this context, the retention of quality jobs and appropriate working conditions are key requirements to retain a skilled workforce, without which sustainable competitiveness cannot be secured. The continued recruitment and training of a qualified workforce in the aviation value chain is, therefore, a prerequisite for ensuring the recovery of European aviation.

1.4 In the short term, the Commission should prioritise re-establishing passengers’ trust in aviation. The Corona crisis has created market conditions unforeseen in most of the relevant regulations. Passengers must receive reassurance of the conditions under which prepaid tickets will be refunded in the event of cancellations during this crisis; the Commission should also promote the understanding that travelling by air transport is safe, by encouraging binding international agreements on appropriate sanitary standards.
During this critical recovery phase, the Commission should also secure planning stability by imposing a moratorium on changes to the regulatory framework that would hinder effective recovery.

The EESC calls on the Commission to seek and maintain a good balance between the recovery measures necessary to overcome the Corona crisis and the desired adjustments to the financial regulations arising from the European Green Deal. The EESC urges the Commission to avoid imposing additional financial and/or regulatory burdens on the sector, particularly in a recovery phase, when the entire sector is financially extremely weakened. This includes, but is not limited to, the prolongation of the waiver of the ‘use-it-or-lose-it’ slot provision for the 2020-2021 winter season.

1.5 In the medium term, the Commission should review the EU’s Aviation Strategy (adopted in 2015) which should ensure a level playing field post-Corona, based on an assessment of the extraordinary fragility of the aviation system, and the changed parameters and market dynamics.

1.6 The EESC recommends that the Commission consider renegotiating bilateral Air Service Agreements (ASA) with non-EU countries with the aim of preventing the distortive effects of state aid, environmental regimes such as the EU’s Emissions Trading Scheme (ETS) and social imbalances, based on a level playing field, so as to ensure continued sustainable market growth.

1.7 Once the European aviation sector has regained its stability, the EESC expects to see the Commission’s commitment to a sustainable aviation policy that unleashes the potential of the European aviation sector.

1.8 The EESC urges the Commission to secure European competitiveness by accelerating the necessary regulatory steps to fully implement the Single European Sky after decades of unnecessary dispute between Member States and the EU, and thereby achieve an up to 10% EU-wide reduction in CO₂ emissions.

1.9 The Green Deal is a key EESC-backed policy package to ultimately reduce the impact of all sectors, including aviation, on climate change. The EESC expects further EU funds to be allocated to R&D, with the aim of promoting environmentally friendly products, services, procedures and technologies without undermining European competitiveness. Indeed, the EESC calls on the Commission and Member States to focus policy on promoting globally applicable standards for sustainability, including additional environmental measures, when providing financial aid by Member States.

1.10 The EESC seeks reassurance that the social partners who use the Social Dialogue formula will continue to be involved in the development and implementation of the necessary regulatory measures, and reiterates that it is prepared to fully support the Commission in its endeavour to promote the swift recovery of Europe’s aviation sector.

2. Background

2.1 The EU aviation sector directly employs between 1.4 (1) million and 2 (2) million people and accounts for between 4.8 million and to 5.8 million jobs. The direct contribution of aviation to the EU’s GDP is EUR 110 billion, while the overall impact, including tourism, totals EUR 510 billion, due to the multiplier effect.

This crucially important role of aviation — not just as a sector, but as a catalyst for economic prosperity, job security and tourism — has been very much underestimated to date.

In some Member States, tourism accounts for up to 25% of national GDP. The rapid resumption of air services — subject to adherence to the relevant sanitary measures — is therefore of paramount importance to maintaining tourism as an outstanding source of revenue.

Globally, European aviation also promotes trade and tourism to nations in dire need of economic support and political integration into the global community. The absence of international air travel during the Corona crisis has amplified the economic weakness of developing nations in particular.

2.2 Although aviation has faced crises before (Examples: terror attacks and airspace closure in 2001; SARS and Ebola virus outbreaks; the crisis of the global finance system in 2008; the closure of European airspace during the spread of volcanic ash in 2010), the current crisis is unprecedented. According to updated estimates, the recovery of the sector will

(1) Steer Davies Gleave — Study on employment and working conditions in air transport and airports, Final report 2015.
not happen before 2024 (3). Neither the European institutions, nor international bodies have been able to coordinate regulatory measures to establish international standards. International aviation, however, requires consistent and science-based global standards if it is to re-establish sustainable and resilient pre-crisis service levels.

While the public and political spotlight has been on airlines during the crisis, the aviation ecosystem includes other important players, such as airports, air navigation service providers, ground handling and other service providers. Solutions must be sought to include the entire aviation value chain.

3. General comments on the current status of the crisis

3.1 Health concerns
The intensity and duration of the Corona crisis will depend on the ability of the competent authorities to contain the spread of a hitherto unknown virus. Multiple studies show that air transport is one of the safest modes of transport. Guidelines for a coordinated hygiene protocol, and coordinated health and hygiene measures by Member States have been developed at European level by the European Aviation Safety Agency (EASA) and the European Centre for Disease Control and at global level by the International Civil Aviation Organization (ICAO). Airlines and airports have cooperated closely with the European Commission and the ICAO.

3.2 Lack of liquidity
In the second quarter of 2020, airline revenues fell by an average of 79 % on average. Even when flexible costs are deducted, this left airlines with a cash burn of approximately USD 60 billion in this period. A major contributor to the liquidity problem were refunds of pre-sold tickets (The calculations are different for the low-cost carrier business model, which has lower operational costs but a higher dependency on pre-sold tickets.).

However, consumers are likewise hit by the Corona crisis; litigation has been initiated in several Member States by consumers seeking reimbursement of pre-paid tickets, in accordance with Regulation (EC) No 261/2004 of the European Parliament and of the Council (4). A transparent and realistic resolution of these cases and further claims within a realistic timeframe is required.

When exiting the Corona crisis, the air transport sector will thus be heavily indebted (Although governments globally have so far provided state aid amounting to approximately USD 123 billion to keep airlines operational, only USD 11 billion has been provided as equity, the remaining amounts being liabilities that the airlines will have to repay). Moreover, the state aid granted to European airlines varies significantly in form and volume between Member States.

Several internationally operating airlines have filed for bankruptcy (Examples include: Avianca, LATAM and South African Airways.).

Some payments to air service navigation service providers (ANSPs) have been deferred; this alleviates the strain on the liquidity of airlines, but creates a significant revenue gap for ANSPs. A solution must be found that will enable ANSP to continue to provide essential services viably, and which will not lead to increased charges for airlines at a later date, when they are just recovering. Similarly, airports, cargo operations, as well as ground handling, catering and other service providers have been severely hit by the crisis and may, therefore, also need further support.

3.3 A coordinated approach to secure short-term recovery
The Commission has issued a Communication for the transport sector, recommending:

— an overall strategy towards recovery in 2020 and beyond;

— a common approach to restoring free movement and lifting restrictions at EU internal borders in a gradual and coordinated way;

(3) See https://staging.corporatetravelcommunity.com/european-capacity-may-have-grown-in-jun-2020-but-a-european-aviation-body-warns-that-the-recovery-in-passenger-traffic-is-proceeding-at-a-slower-pace-than-it-had-projected/

— a framework to support the gradual re-establishment of transport, whilst ensuring the safety of passengers and personnel;

— making travel vouchers an attractive alternative to cash reimbursement for consumers;

— criteria for restoring tourism activities safely and gradually and for developing health protocols for hospitality establishments such as hotels.

These recommendations are not binding in nature; but they outline the degree to which Member States would benefit from an alignment of their respective measures.

In Spring 2020, the Commission issued a Communication for a Temporary Framework on State aid. The framework allows Member States to compensate companies for extraordinary financial losses and to retain jobs and employment levels. Furthermore, the Commission issued temporary derogations on slot allocation (5), as well as on ground-handling licences. It is important and urgent to assess whether a further prolongation of these measures would contribute to planning stability for the companies concerned and, if so, to initiate the necessary regulatory steps at the earliest possible time.

The EESC has deep concerns concerning the failure of the European Union's Member States to implement consistent and science-based approaches to travel restrictions. Despite repeated calls from the industry for a science-based, harmonised and coordinated approach to new restrictions, differing national approaches have emerged. Some of these unilateral national measures are contrary to expert guidance and further damage consumer confidence. The EESC urges the Commission to safeguard a safe and transparent resumption of air traffic in Europe. Member States should aim to harmonise their gradual border openings, in line with the Commission recommendations.

4. Specific comments on requirements for sustainable recovery

4.1 The crisis as an opportunity for a reassessment of the strategic role of aviation for Europe (6)

The Corona crisis has changed the relationship between the stakeholders in the aviation value chain. Given the new market size and its structure, aviation stakeholders must be involved in developing mechanisms that are fit for purpose in the post-Corona air travel market.

The Commission will furthermore have to reassess its general State aid policy in the light of changing geopolitical realities. International hubs in the vicinity of the EU, such as Istanbul, London-Heathrow and in the Gulf, could divert air traffic and undermine EU connectivity in the absence of a consistent and compelling EU aviation policy aimed at promoting EU competitiveness and a level playing field, while preserving high-quality jobs in Europe. It will also be necessary to consistently evaluate the degree of State aid granted in non-EU countries (These can take the form of loans, wage subsidies, loan guarantees, equity financing, corporate taxes, funding of routes or cash injections.). This will furthermore require a rigorous implementation of Regulation (EC) No 1008/2008 of the European Parliament and of the Council (*) to prevent hostile takeovers of and investments in EU airlines by non-EU countries, thereby ensuring that the European economy can remain internationally competitive on the basis of quality and price and rely on connectivity provided by its aviation sector (Astra, a small Greek airline, was in negotiations with Chinese investors.).

4.2 Maintain competitiveness

4.2.1 The air transport sector will not be able to return to a pre-Corona normality (scenarios vary between a recovery by 2022, and by 2025), because the scale of the Corona crisis will have structural effects on the market. In order to maintain planning stability for stakeholders and consumers, EU Air Service Agreements (ASAs) with non-EU countries should be used as a platform to jointly monitor the degree of State aid granted during the Corona crisis, with the aim of identifying and resolving distortive trends. Market access should play an important role in determining the level of State aid in this context. Retaliatory measures should be applied if a non-EU country refuses to address the issue of aid. Unequal environmental and social standards between EU- and non-EU carriers need to be addressed in these ASAs.

4.2.2 Over-capacity in the market, combined with a foreseeable decline in purchasing power during the forthcoming global recession, may even require temporary or structural changes to ASAs, with a view to safeguarding reciprocity during the recovery period.

4.2.3 The Commission could, and should, initiate unilateral proceedings against non-EU countries and their carriers, if solutions cannot be reached through negotiation (Regulation (EU) 2019/712 of the European Parliament and of the Council (8) offers the option to initiate proceedings).

4.2.4 One issue of particular sensitivity is the tension between the liquidity constraints of passengers demanding reimbursement of prepaid tickets, and those of the airlines, many of which would need to file for bankruptcy if all reimbursements were actually made. The upcoming revision of EU 261 should aim to clarify the rules, in order to provide a win-win solution, in the interests of both passengers and airlines (Several possibilities could be considered such as, for example, a government-guaranteed time-limited voucher: should the airline file for bankruptcy before expiration of the voucher, or should the airline not be in a position to offer the flight, the passenger receives reimbursement and the airline gains some further time to use its cash reserves.).

4.2.5 The EESC believes that the current state of the sector is so critical that regulatory initiatives that distract from stabilising a globally competitive EU aviation sector should be suspended for the duration of the recovery phase.

In this context, the EESC reiterates the priorities that the Commission should pursue in order to regain and maintain European competitiveness while ensuring the necessary level of social protection (9).

4.3 Social dialogue is a key pillar for recovery

The current crisis has confronted the entire aviation ecosystem and its employees with existential anxieties, irrespective of the efficiency of the services offered. It is crucial to strike an appropriate balance between entrepreneurial and social considerations, in order to ensure sustainable quality job creation in the future.

This is not just an issue of policy and principle, but one that requires immediate consideration: market practices such as flying-on-demand, bogus self-employment, lack of social protection in the event of a call for tender and/or partial loss of activities, or the severance of contracts with employees only to rehire the same staff at significantly lower wages, are unacceptable (10).

Social dialogue will also be necessary during the inevitable resizing in most companies and should, therefore, be fostered at European, national and company level. This does not preclude the EU institutions and Member States from assuming their responsibilities in the social field.

4.4 Ensuring the sustainability of the aviation ecosystem

4.4.1 The EESC notes the agreement by the entire global aviation sector on measures to contain CO₂ emissions at both global (11) and EU level (12). Any additional EU measure must therefore be seen in a competitive context; the diversion of air traffic from EU airlines to their non-EU competitors, for example, has no positive effect on sustainability.

The EESC believes that sustainability must be evaluated in a new, post-Corona context. An assessment is required of the effect of measures on the ability of EU airlines to recover sustainably from the Corona crisis and remain competitive.

Like all other sectors, the EESC stresses that aviation should adhere to the long-term objectives of the Green Deal. The EESC urges the Commission to coordinate its actions on a global level, notably at the International Civil Aviation Organization. The EESC advocates further expansion of a high-speed rail network in Europe, with direct connections to hub airports.

The EESC welcomes the fact that EU Recovery Plan provides for investment in future-oriented sectors. This should include, in the view of the EESC, strategic investment in state-of-the-art interoperable technology for all aviation stakeholders. Markets for sustainable aviation fuels, sustainable technologies and data markets should be actively promoted. Fossil-free liquid fuels have great potential for achieving low-carbon aviation. Significant research and development is still needed to provide such fuels at reasonable costs.

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(10) See footnote 8.
(11) CORSIA (Carbon Offset and Reduction Scheme for International Aviation).
The EESC is pleased to note the various funding initiatives for such alternative fuels (power-to-x, synfuel) under the EU’s current research funding instrument (Horizon 2020) and encourages the Commission to step up these efforts for the next Framework Programme for Research and Innovation (among other funding instruments: Horizon Europe).

4.4.2 The EESC insists, however, that the funding of new technology and measures designed to strengthen the sustainability, resilience and scalability of the aviation ecosystem should be integral elements of an all-encompassing aviation roadmap, which should be implemented with the aim of providing the necessary support for the recovery of the European aviation value chain.

Brussels, 16 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'EU and Africa: Making an equal development partnership a reality based on sustainability and common values'

(own-initiative opinion)

(2020/C 429/15)

Rapporteurs: Dimitris DIMITRIADIS (EL-I)
Dilyana SLAVOVA (BG-III)
Thomas WAGNONNER (AT-II)

Plenary Assembly decision 20.2.2020
Legal basis Rule 32(2) of the Rules of Procedure
Own-initiative opinion
Section responsible External relations
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Plenary session No 554
Outcome of vote 216/1/2
(for/against/abstentions)

1. Conclusions and recommendations

1.1. In a rapidly changing world with significant problems but also new opportunities, Europe has an obligation: to use its multi-cultural, institutional and socioeconomic legacy to enable global sustainable development. The challenges faced by developing countries in Africa are very complex and we need to address these in a sensitive and multidimensional approach. We cannot only give well-meaning advice, but massive financial means from the EU and its Member States are also necessary to invest in Africa to achieve the Sustainable Development Goals (SDGs). This must be the main purpose of the EU’s international partnerships, and respect for Universal Human Rights (UHRs), which are essential common values, must be the foundation for any political engagement within an equal development partnership with Africa.

1.2. In line with EU’s New Consensus on Development, the EESC advocates promoting a decent life and good prospects, creating a middle class and supporting equal partnerships by strengthening sustainable social-liberal democratic structures in Africa, in line with UHRs (1), including fundamental labour rights (the International Labour Organisation’s (ILO) Declaration of Fundamental Principles and Rights at Work, which includes the Core Labour Standards, and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy), freedom to conduct a business and the right to a healthy environment, as well as the SDGs. The EESC welcomes the Joint Communication Towards a comprehensive Strategy with Africa (2) and seeks to contribute to the improvement of the new EU comprehensive strategy with Africa.

1.3. The current situation reveals critical challenges but also promising prospects for EU-African developmental cooperation. Africa includes many of the world’s 20 fastest growing economies. By 2035, it will have the largest potential workforce. A trade and investment partnership on high level, based on UHRs and sustainability, is necessary for both sides, and development must be the focus, instead of using development funds for border security.

(1) As stipulated in the nine core UN Human rights covenants and conventions.
(2) JOIN(2020) 4 final.
1.4. The EESC welcomes the African Continental Free Trade Area (AfCFTA), as it strengthens trade within the continent, lessens dependencies and moves away from a solely overseas-exports-driven approach. It could be an essential first step towards a free trade area between the EU and Africa. The EESC reiterates the important role of organised civil society in the post-Cotonou agreement.

1.5. **Long-term investment in intra-African infrastructure** to foster regional value chains and a sustainable local economy makes economic sense, is ecologically sustainable and creates production capacities including local, quality jobs. An approach geared solely towards overseas exports is unsustainable. In particular, intercontinental economic collaboration should favour local production in Africa, whose main sectors should be sustainable agriculture, energy and the circular economy, as well as the traditional sectors related to raw materials and construction, which still need to be reformed in line with the SDGs. Public funds will not necessarily be used for private investments in Africa, to the detriment of conventional development cooperation. Therefore, monitoring, checking and evaluation systems that heavily involve of organised civil society are absolutely vital.

1.6. Civil society, social partnerships, social market economies and welfare state systems should be successful models for supporting sustainable development in Africa, albeit tailored to the local culture and socioeconomic circumstances. Priorities for supporting African countries should not only account for trade and investment but also, and in particular, tax policy, migration, development, the environment, education, health, and working and living conditions. This is even more important in light of the current COVID-19 (coronavirus) crisis, of which Africa will suffer immensely.

1.7. Quality assurance infrastructure should be built to enable African goods to meet the standards of their target markets. Care should be taken to ensure that laws complying with the SDGs are respected. Likewise, human rights due diligence systems, including EU rules, would be very helpful (3).

1.8. Erasmus+ should be extended to strengthen cooperation between the EU and Africa. The EU-African development partnership must more strongly support the creation of local public education systems, from infant pedagogics up to university level and vocational education and training, including apprenticeships and life-long learning systems. A ‘brain drain’ from Africa to the EU should be avoided. Especially gender mainstreaming and the empowerment of women have a central role in achieving sustainable development.

1.9. The empowerment of women in Africa is a priority for the EESC, which urges Institutions and the Civil Society to work in favour of full gender equality in the different social and economic levels and in an active and constant way.

1.10. Reversing migration is in many aspects a critical issue. Only economic, environmental and social development will counteract the causes of involuntary migration.

1.11. An international African Diaspora Finance Corporation might be an ideal platform to channel investments, governed by African bodies and used for African needs. It could also be an option for EU investors.

1.12. Africa grew strongly over the past decade, leading to the prediction that the continent’s energy demand will double by 2050, with poverty rates remaining stubbornly high. This would perpetuate, if not exacerbate, sustainability issues in terms of environmental and socioeconomic aspects.

1.13. Nevertheless, opportunities could arise: (i) African countries can play a leading role in the conversion of solar energy to electricity using solar photovoltaic technology; this can also lead to the large-scale production of synthetic fuels; (ii) specific possibilities for joint projects, business activities and policies could create a new socio-ecological market economy approach.

1.14. Agricultural and food industries in Africa should be supported, to improve cultivation, reduce harvest losses and enhance quality standards. Other objectives in the agri-food sector are developing new marketing and production methods, promoting cooperative self-organisation among farmers, food security, and increasing trade along the entire value chain. The EESC particularly opposes ‘land grabbing’ in Africa.

1.15. EU and African stakeholders should work together to make the Green Deal a reality to save the planet and create a decent life for everyone. With the institutionalised involvement of organised civil society, we could easily practise self-reflection and avoid past mistakes by new means. Sustainable development can only be achieved if it originates from and is driven from within a country itself.

1.16. Adopting a UHR-based approach, developing democratic governance structures, improving economic and financial governance through the transparent management of public finances, and creating a credible system to fight corruption based on an independent judiciary all contribute to establishing strong, self-reliant and stable partners in business and development.

2. Background and main points of the opinion

2.1. The EU27 is Africa’s largest trade and investment partner. The EESC welcomes the Joint Communication Towards a comprehensive Strategy with Africa (1), which proposes partnerships relating to the green transition and energy access, the digital transformation, sustainable growth and jobs, and peace and governance.

2.2. Fifty-two African countries have some kind of trade arrangement with the EU. Association agreements exist with four North African countries and Deep and Comprehensive Free Trade Area (DCFTA) negotiations are ongoing with Morocco and Tunisia. The EU has negotiated five economic partnership agreements (EPAs) with regional African organisations. These are based on the Cotonou Agreement and its objective to upgrade trade relations between the EU and African, Caribbean and Pacific (ACP) countries to WTO rules.

2.3. The EESC reiterates its approach: it wishes to ensure a decent life and good prospects for everyone, create a middle class (being mindful of the correlation between migration and income) and support equal partnerships by strengthening sustainable social-liberal democratic structures. However, pre-existing local traditions and best practices should be respected. The EESC has argued for a development policy that creates good prospects, structures and economic opportunities for everyone in Africa.

2.4. Investment from outside Africa is steadily on the rise. For instance, China is investing as part of its Forum on China-Africa Cooperation (FOCAC) and Belt and Road Initiative. Other, less extensive initiatives include the US’s Africa Partnership Station and the 2019 Russia-Africa Summit.

2.5. UHRs, including fundamental labour rights, freedom to conduct a business, the right to a healthy environment and rule of law are essential common values. Together with the SDGs, they form an internationally agreed minimum standard for development programmes and are the basis for an equal development partnership.

2.6. These values are in line with the EU’s new consensus on development, which also seeks to take into account the impacts on development of other policies through policy coherence for development.

2.7. This opinion identifies critical aspects for a serious equal development partnership and analyses the current situation and challenges with respect to EU-Africa relations.

3. Current challenges

A decent life, ecological responsibility and good prospects are crucial to our survival. We need to tackle climate change and think more responsibly and cooperatively. The traditional approach of industrial policy and growth is an outdated development model that will destroy the planet and incur massive societal costs. Especially in Africa, people not only need to be lifted out of extreme poverty, but should also be able to actively participate in society (housing, food, health, education). The World Economic Forum’s Global Risks Report 2017 emphasised the problem of worldwide inequality as the greatest driver for risks associated with recent policy challenges. Women and vulnerable groups are even more affected and excluded from societal participation when there is a lack of opportunities.

(1) JOIN(2020) 4 final.
3.1. Economic aspects

3.1.1. Many of the world's 20 fastest growing economies are in Africa and by 2035, it will have the largest potential workforce. This is where the global markets, customers and employees of the future are emerging. Therefore, the majority of current global challenges can only be tackled together with strong African partners. An equal trade and investment partnership is needed, based on UHRs and sustainability. EUR 600 billion is necessary annually to achieve the SDGs in Africa (5). Therefore, the EESC acknowledges the massive need for private investment.

3.1.2. Trade policy should consider coherence for development in particular with regard to tariffs, procurement and taxes, should be mindful of existing asymmetries, especially in terms of EPAs (6), should support regional integration, should include sections on sustainability that are binding and be sanctionable, and should modify investment protection so that all UHRs are respected.

3.1.3. The EESC welcomes the AfCFTA, as it strengthens trade within the continent, lessens dependencies and moves away from a solely overseas-exports-driven approach. It favours a free trade area between the EU and the African Union (AU) under a single agreement, which will have to account for the diversity and economic strengths of the individual African states.

3.1.4. Increasingly, funds traditionally earmarked for development are being used to leverage private investments, which must not be to the detriment of traditional development cooperation. So called 'Green bonds', which are specifically directed towards sustainable projects, could be a good way of channeling private investments in Africa. All investments, public or private, absolutely have to be monitored, checked and evaluated with the involvement of CSOs to guarantee that they are used to achieve the SDGs and development objectives and that they comply with UHRs. At the same time, the EESC has noted that European development funds have been used to alleviate poor working conditions in Africa (7).

3.1.5. Agriculture is a major economic sector in Africa (over 60% of Africans work in agriculture, most often in small subsistence farming). In industrialised and emerging economies, there is a race to secure arable land in Africa (8). A lack of official or accurate registers facilitates land grabbing and prevents young African people from accessing farmland. Most land-based investments worldwide are being made in Africa, including large-scale EU investments. Development experts warn that in the Guinea Savannah, up to 4 million square kilometres of arable land are becoming the target of international (including European) agricultural concerns (9). Global food production needs to increase by 70% by 2050 (10), which will require an increase of 97% in developing countries, while at the same time arable land is increasingly being used to produce eco-fuels and ingredients for the chemical industry. Food security is even more important due to the impact of the COVID-19 pandemic.

3.2. Social aspects

3.2.1. The concepts of civil society, social partnerships and a social market economy have worked very well in Europe.

3.2.2. European Investment Bank (EIB) projects seem to meet broader sustainability objectives and use a better development approach. However, the EP, the EC and CSOs have voiced concerns over the EIB’s operations. They have emphasised the need to improve human rights due diligence in its operations. This is of the utmost importance if it is to offer credible support (11).

(7) Based on an oral report from EESC Member Jaroslaw Mulewicz, following a visit during an EESC mission to Bole Lemi Industrial Park in Ethiopia, where Asian textile companies are based. However, the EU Emergency Trust Fund for Africa (EUTF for Africa) has to promote sustainable and acceptable employment conditions (which it has done with mixed results so far).
(10) See footnote 8.
3.2.3. Provisions that allow Europeans to dispute laws that comply with the SDGs harm our credibility:

— decent work includes a living wage; disputing this is not in line with the development approach we need to take (e.g. case Veolia v. Egypt);

— EU investments should be protected, but we have to safeguard labour laws, the environment and consumer protection.

3.2.4. Our development partnership must more strongly support the creation of local public education systems, from infant pedagogics up to university level. Special attention should be paid to vocational education, including apprenticeships and life-long learning systems. Europe's experience can be useful in developing educational systems in Africa.

3.2.5. The cost of trade in Africa is often very high and many countries do not yet comply with international quality, safety and ecological standards. Quality assurance infrastructure should be built to support that African goods meet the standards of their target markets, also in Africa. In particular, support for African countries should be geared towards environmental, health and labour conditions and protection structures.

3.2.6. The European welfare state systems have developed successfully based on solidarity and by being rooted in fundamental values that are shared by all major political movements. Social insurance systems, cooperative models and public services have allowed people to gain wealth and channel market forces not only to reduce poverty and stimulate economic growth, but also to promote participatory democracies.

3.2.7. This is even more important considering the challenges of the COVID-19 crisis, of which Africa will suffer immensely. According to UN data, Africa bears 24% of the global burden of diseases, with Malaria being problematic in particular, but has only 3% of the world's health workers. It is well known that countries training health workers suffer financial losses when these professionals emigrate to industrialised countries (12).

3.2.8. Only economic, environmental and social development will counteract the causes of involuntary migration. We must include UHRs in our policies to foster the kind of societies in Africa that many African emigrants seek in the EU due to a lack of prospects at home.

3.2.9. Reversing migration is a critical issue. e.g., the EESC would like to highlight reports (13) of a brain drain from Tunisia, where policymakers have to deal with the fact that around a third of IT experts — trained with the help of EU funds — emigrate to work in the EU.

3.3. Sustainability aspects

3.3.1. The African economy has grown strongly over the past decade and living conditions have notably improved, yet poverty rates have remained stubbornly high. With its limited economic diversification, persisting inequalities, high unemployment and environmental degradation, the continent still needs to move towards a sustainable development path that can achieve a decent life for everyone.

3.3.2. Demand for energy in Africa is expected to double by 2050. These increased needs should be covered by expanding the use of renewable energies. Implementing the energy transition from fossil fuels to renewable energy sources is essential for mitigating climate change. African countries can play a leading role in the conversion of solar energy to electricity using solar photovoltaic (PV) technology. As well as providing electrical energy for local use, large PV parks can also lead to the production of e-fuels (14). The local population should be able to partake in the gains. Methanol and other synthetic fuels appear to be alternatives to fossil fuels for aviation, but could also prolong the use of internal combustion engines in road transport vehicles.


4. Policy recommendations

4.1. General aspects

4.1.1. A fair and equal development relationship with African states should promote decent work and uphold public services. In particular, trade policy must ensure that UHRs, the environment and the right to a decent life are fully respected. It must also account for the needs of less developed countries. An agreement for the Post-Cotonou era will be a great opportunity only if it creates quality jobs, boosts sustainable growth and ensures the inclusion of organised civil society. Notable development policy experts argue that democratic regionalism should guide the EU’s development policy, with particular relevance to Africa and its societies, due to local special circumstances (15).

4.1.2. Contemporary, progressive partnerships should reflect the demand for a new form of cooperation between industrialised and developing countries. In particular, establishing these reform partnerships will require a better general environment for private-sector activities and the creation of more quality jobs with an adequate income to enable Africa's young population to have a decent life. This is essential in order to limit young people's desire to emigrate from the African continent for a better future (16). In that regard, the EESC notes its contacts in and its support for the democratisation of Tunisia. The deep and comprehensive Free Trade Agreement, for which negotiations are ongoing, must consider preserving what was achieved by making sure the Tunisian economy will be able to give its people opportunities and perspectives.

4.1.3. To strengthen and support necessary reforms in Africa, a think tank could be established, with focus on civil society engagement, deliberated economic and structural reforms and the SDGs. It could foster the development of knowledge and competences in Africa and ease the exchange between civil society in Africa and Europe.

4.2. Economic development

4.2.1. With regard to the European Green Deal, innovation and a social-ecological transformation should be the drivers of economic development. The focus must be on a fair distribution of wealth and the creation of welfare state structures. The priorities should not only account for trade and investment, but also international cooperation in other matters, e.g. tax policy, migration, development, the environment, education, working, and living and health conditions (especially after COVID-19). An involvement of organised civil society will be decisive in this respect.

4.2.2. Long-term investment in intra-African infrastructure is needed (as opposed to infrastructure to facilitate exports overseas) to foster regional value chains and a sustainable local economy. This makes economic sense, is ecologically sustainable and creates production capacities including local quality jobs. The overseas-export-driven paradigm is still significant in Africa as raw materials have strategic importance to large economies (including the EU and MS). EU investment must take another approach based on a truly equal partnership to ensure that everyone benefits and, in particular, to foster sustainable development in Africa.

4.2.3. An international African Diaspora Finance Corporation could coordinate the use of African diaspora resources for inclusive development and investment in socially responsible ventures and schemes (17) in Africa. It could be an ideal platform to channel investments, governed by African bodies, used for African concerns and an option for EU investors. The investment needed to achieve the SDGs in Africa significantly exceeds the estimated annual savings of African migrants. Hence, more ways of (business) cooperation should take place with the help of diaspora organisations.

4.2.4. As well as exporting raw materials to be processed elsewhere, African countries should be encouraged and helped to establish sustainable domestic industries so that profits generated by the processing of raw materials stay in the country. Revenues from the extractives sector should be invested in infrastructure and social services, and thereby actually benefit the population.

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(15) Such as Werner Raza, the Director of the Austrian Foundation for Development Research, at the Conference: A good life for all needs a different Globalisation, March 2020, Vienna.

(16) Studies show that a certain level of minimum wage decreases migration pressures, e.g. Clemens, Does Development Reduce Migration? (2014).

4.2.5. Strengthening public security in order to fight terrorism must stay a priority. However, border security and the provision of weapons have to be handled very carefully. Development must be the focus, instead of using development funds to stop involuntary migration and arming security forces: the growing ‘securitisation’ aspect, in development policy is potentially exacerbating the root causes of migration.

4.2.6. The EESC calls for EU rules on human rights due diligence (18). It has previously demanded of the EU the binding implementation of human rights due diligence, especially in international value chains by the EU (19). Based on existing measures and EESC concepts (e.g. a rating agency), a binding due diligence system would be very helpful for sustainable development, particularly in Africa, and strengthen the EU’s efforts to create an equal development partnership.

4.2.7. The merits of SME development and cooperation between African and EU SMEs can hardly be overstated. Mostly, multinational companies are able to manage the risks associated with business ventures in Africa. To be able to use the potential of SMEs in an equal development partnership, SMEs need dependable structures and institutional support. The majority of Africa’s jobs are provided by SMEs. Financial services, particularly on a cooperative basis, will have to be improved and (where they do not exist) developed to meet the needs of SMEs, e.g. loans, local currency loans and risk management.

4.2.8. The lack of skilled staff is a major obstacle for companies in African countries. Promoting vocational training is thus a matter of the highest priority.

4.2.9. ‘Since taxation matters are tied in with sustainable development goals (SDGs), businesses should duly pay their taxes in the country where their profits are made through the creation of added value during production processes, raw-material extraction and other such activities’ (20). This principle is of fundamental importance for an equal development partnership. The EESC has also argued for impact assessments of bilateral double taxation agreements conducted by the EU if there was a risk of counteracting EU development policies (21).

In addition to private investment, tax revenues also play an important role in financing sustainable development. African countries are missing tax revenues corresponding to double the amount of all development funding they receive per year. Measures against tax avoidance and to eliminate corruption and campaigns for more domestic revenues in African countries are essential, combined with training for officials of tax authorities, courts of audit and ministries of finance. Tax havens, either in African states or the EU, hinder sustainable development.

4.2.10. Infrastructure is necessary to help companies find financing and support mechanisms and build contacts on the ground. They also need to receive advice in the project planning stages.

4.2.11. Agricultural and food industries in African countries should be supported so that procedures for improving cultivation are developed, harvest losses are reduced, deforestation stopped and quality standards enhanced. Moreover, the agri-food sector should develop new marketing, modern farming and processing methods, promote self-organisation among farmers, especially in cooperatives, and increase trade along the entire value chain.

4.3. Social policy

4.3.1. Including civil society, such as social partnerships at shop and sector level, in the institutional set-up of European states has given the EU an advantage. Organised civil society should be heavily involved in the equal development partnership, as this will create stable structures for all EU activities, especially for business. By that our efforts would not just be focused on profits, but also on sustainable development in Africa, so as to create long-term partnerships based on trust and equality.

4.3.2. Erasmus+ should be extended to strengthen cooperation between EU and African states. The professional abilities and knowledge of African graduates must support sustainable development in their countries of origin. A ‘brain drain’ from Africa to the EU should be avoided. Education is a major stepping stone to improving the conditions of, in particular, women and vulnerable groups and our support should be targeted accordingly.

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(18) OJ C 47, 11.2.2020, p. 38, point 1.5.3.
(20) OJ C 81, 2.3.2018, p. 29, point 1.9.
(21) Ibid. point 1.7.
4.3.3. COVID-19 makes the challenges even greater. Many health systems are currently overwhelmed. We will have to provide even more support to the African states so that they can implement strong health care systems that are ready for challenges like COVID-19 on a bio-medicinal and social-medicinal level. Good health care must not be hindered by a poor economy, a lack of governance, poor accessibility or a lack of trained personnel. Well-built welfare states in Europe have largely proven themselves in the face of the current challenge and could be used as a role model to improve health care systems in Africa, in particular.

4.3.4. African diaspora organisations in the EU need to be involved when creating an equal partnership between the EU and African states. They can offer financing and know-how and can make it clear that a UHR-based approach will strengthen the African structures required for stable business, social engagement and a healthy environment. They know about the EU implementation of the UHRs, to operate in EU frameworks, and could serve as a bridge for EU activities in their countries of origin.

4.4. Sustainable development

4.4.1. Sustainable development can only be achieved if it originates from and is driven from within a country itself. Africa's own development capacities must be supported so that reforms are initiated, everyone gain decent prospects and both private and public investment on the continent can pay off.

4.4.2. Africa needs a new approach to industrial policy that is organised sector by sector and coordinated internationally to create larger markets and stronger incentives for sustainable industries, especially those not relying on fossil fuels (\(^22\)).

4.4.3. When it comes to e-fuel production using PV technology, location matters in terms of economic efficiency (\(^23\)), with the 'sunbelt' of the equator appearing to be the ideal area (\(^24\)). This sector may also have a favourable impact on economic development for African countries, potentially enabling them to participate in international energy projects. Any development aid in this sector could not only have a positive impact on the countries receiving it, but also on the consumers of energy in developed countries (\(^25\)).

4.4.4. The SDGs offer a relationship based on UHRs between the EU and its African partners, working together in the sense of the Green Deal to save the planet and create a decent life for everyone. With the institutionalised involvement of organised civil society, we could easily practise self-reflection and avoid past mistakes by new means.

4.4.5. All stakeholders, including social partners and other CSOs, must push for projects, business activities and policies that create a new socio-ecological market economy approach. As well as economic aspects, fundamental social and biophysical issues (such as climate change) need to be more strongly considered. Hence, in addition to solely economic indicators, those taking into account holistic aspects of well-being for everyone must be considered in relation to sustainable development (\(^26\)) in an equal development partnership.

4.4.6. Many agricultural investments have dubious impacts on communities. There are regular reports of human rights violations and investors reneging on deals to build infrastructure or create jobs for local communities, including European investors. The EESC is particularly opposed to 'land grabbing' in Africa. Impact evaluations, conducted with the involvement of organised civil society, need to be more rigorous and must have consequences for investors that fail to comply with UHRs and the SDGs. One option is to support the creation of land registers and organising resident farmers to create cooperative undertakings that are stronger in international markets. This will help the EU and Africa to meet their common objectives, as it creates structures that allow for an equal playing field with its African partners and strengthens them vs. other major economic players.

\(^{22}\) Victor, Geels, Sharpe, Accelerating the Transitions, (2019).
\(^{24}\) Prognos (2018), Importance of liquid energy sources for the energy transition.
4.5. Cooperation and strengthening of civil society in African states based on UHRs and the SDGs — the EU’s road to success for an equal development partnership

4.5.1. Adopting a UHR-based approach, developing democratic governance structures, improving economic and financial governance through the transparent management of public finances, and creating a credible system to fight corruption based on an independent judiciary all contribute to establishing strong, self-reliant and stable partners in business and development. Organised Civil participation could definitely ensure that all these measures are implemented.

4.5.2. EU promises have to deliver tangible results. Only by compliance to UHRs and achieving the SDGs will we be able to break free of dependencies and become equal development partners.

Brussels, 16 September 2020.

The President of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'Contribution of civil society to the Green Agenda and Sustainable Development of the Western Balkans as part of the EU accession process'

(own-initiative opinion)

(2020/C 429/16)

Rapporteur: Dragica MARTINOVIĆ DŽAMONJA

Co-rapporteur: Pierre Jean COULON

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1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) has supported and continues to strongly advocate for the enlargement of the European Union (EU) to the six Western Balkans countries (1) provided they fulfil the necessary criteria for membership.

1.2 In that respect, the EESC welcomes the action of the European Commission as regards the revised methodology enabling the opening of accession negotiations with North Macedonia and Albania and its efforts to render the process more dynamic and predictable. However, the EESC calls for a strengthened role of social partners and civil society organisations (CSOs).

1.3 The EESC believes that the recovery from the COVID-19 crisis should endorse green policies and that the green transition has to be an integral part of a comprehensive and forward-looking recovery plan in the Western Balkans (2). To that end, the EESC welcomes the announcement from the European Commission of a recovery aid package for the Western Balkans.

1.4 The EESC believes that the Western Balkans should align with and be included in important European policies and initiatives, which, by their geographical situation, is particularly the case for the European Green Deal.

1.5 Considering the significant investments and regulatory adaptations required, the EESC strongly believes that social partners and CSOs have a particularly important role to play in the transition towards a greener and more sustainable society, especially as regards specific political contexts in the Western Balkans.

1.6 The EESC reiterates the importance of guaranteeing freedom of association and ensuring an enabling civic space, as well as the need to enhance support for building capacity of CSOs for a strong and effective civil dialogue.

(1) Albania, Bosnia and Herzegovina, Kosovo (designation without prejudice to positions on the status of Kosovo, and in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence), Montenegro, North Macedonia, Serbia.

1.7 The EESC recalls that the Western Balkans are highly sensitive to the impacts of climate change resulting in damage to general health and the economy, and need urgent action to better the quality of life for their citizens, especially children and young people, by a just transition to a greener model, having in mind the ‘no one should be left behind’ principle.

1.8 The EESC calls for the future actions towards greener Western Balkans to be adapted to the region’s specific challenges and needs, including an adequate regulatory framework, cross-border activities, innovative technological solutions, locally produced and consumed energy and energy efficiency, sustainable urban transport, road and rail networks, public and private engagement, ICT and fast internet deployment, agri-food measures, etc.

1.9 The EESC considers that the challenges as regards decarbonisation, depollution of air, water and soil, connectivity and climate change in the Western Balkans can be turned into opportunities by investing in research and innovation, learning and adopting alternative approaches, circular economy, waste management, greener energy and connectivity solutions, as well as active measures to protect the rich biodiversity of the region.

1.10 The EESC stresses the importance of developing green skills within active national and regional education/training and skills strategies, with a particular accent on gender equality, in cooperation with relevant actors and within an effective social dialogue.

1.11 The EESC stresses that good governance and democratic institutions, the rule of law, successful anti-corruption policies, the fight against organised crime, respect for human rights and security need to be properly implemented in the Western Balkans. As greening of the economy needs substantial investment, it is vital to recall that the rule of law is a key factor in ensuring an effective business climate and attracting private and foreign direct investment.

2. EU integration of the Western Balkans

2.1 The EESC has strongly supported the enlargement of the European Union (EU) to the six Western Balkans countries provided they fulfil the necessary criteria for membership. It has established a very strong network with social partners and CSOs in the region, firmly committed to making sure that their voice is heard.

2.2 The EESC welcomes the solidarity towards the Western Balkan countries expressed by European leaders at the Zagreb Summit on 6 May 2020, but recalls its contribution (3) stressing the need for greater engagement on enlargement in the future, and regretting insufficient recognition of the importance of the voice of civil society.

2.3 The EESC welcomes the communication on Enhancing the accession process — A credible EU perspective for the Western Balkans (4), proposing a revised methodology for candidate countries and aiming at a more credible process to drive forward the enlargement, but regretfully takes note of an insufficient recognition of the role of social partners and CSOs.

2.4 The EESC calls on the European Commission to reinforce the role of civil society in the monitoring of the governments’ actions in fulfilling the necessary accession criteria, particularly as concerns the Fundamentals, as well as the cluster ‘Green agenda and sustainable connectivity’.

2.5 The EESC supports the European Commission’s aid package to support the Western Balkans in their efforts to counter the impact of the COVID-19 outbreak, as detailed in the communication on the global EU response to COVID-19 (5) and the communication on support to the Western Balkans in tackling COVID-19 and the post-pandemic recovery (6).

2.6 While increasing its commitments to the region, as regards both the crisis response and the future Economic and Investment Plan for the Western Balkans, the EESC calls for an accrued insistence on reforms and conditionality of the EU’s engagement upon democratic reforms and respect for core European values such as the rule of law and fundamental rights.

(3) EESC Contribution to the EU-Western Balkans Summit on 6 May 2020 (published on 28.4.2020).

(4) COM(2020) 57 final (5.2.2020) Enhancing the accession process — A credible EU perspective for the Western Balkans.


2.7 The EESC reiterates its belief that social partners and other CSOs, at both EU and national level, must be meaningfully involved in the entire process of EU integration of the Western Balkans. It is necessary to strengthen their capacities through technical and economic support, by facilitating access to European funding sources and by involving them entirely in the accession negotiations process (7).

3. Green deal, an important aspect of EU integration for the Western Balkans

3.1 The EESC believes that the Western Balkans should continue to align with the guidelines, objectives and values of the EU, and the EU should strive to include the Western Balkans in its initiatives. This is especially true for the European Green Deal, which must include the Western Balkans because of their very geographical situation, at the heart of the European continent, surrounded by the EU on all sides. It is hence not surprising that the Green Deal communication of 11 December 2019 specifically announces a ‘Green Agenda for the Western Balkans’ (8) in the framework of the Economic and Investment Plan for the Western Balkans to be presented by the end of 2020.

3.2 The EESC calls on the Green Agenda for the Western Balkans to efficiently strengthen and encourage regional cooperation, particularly in the energy and transport sectors. Active participation and involvement of social partners and CSOs in existing regional cooperation communities, treaties and initiatives is essential in order to bring benefits to the well-being and health of citizens in the region, while unlocking the potential of the green, low carbon and circular economy of the Western Balkans. The Green Agenda for the Western Balkans should address these problems through five thematic pillars: 1) decarbonisation, 2) circular economy, 3) biodiversity, 4) pollution and 5) agri-food measures.

3.3 The EESC shares the belief that the impact of the COVID-19 crisis on citizens and businesses is massive, necessitating reconsideration of policy objectives. However, the EESC believes that the green transition has to be an integral part of a comprehensive recovery plan, which should be forward looking and include large-scale public and private investments in transport and energy links, demand-side energy savings and greener technologies such as solar, wind, clean hydrogen, batteries and carbon capture that avoid or minimise impacts to the natural environment and people.

3.4 The EESC regretfully notes some of the worrying analysis and trends in the region which need urgent action. Economies in the Western Balkans are still heavily dependent on solid fossil fuels and have high-energy intensity. The region is badly affected by climate change (droughts, floods), and its expected increase in temperature is up to 4 °C by the end of century (9). Most transport by road is done in older less fuel-efficient vehicles. Some of its cities are at the top of European rankings in PM2,5 and PM10,0 pollution (Sarajevo, Pristina, Skopje, Belgrade).

3.5 However, the EESC recalls that the region has significant renewable energy potential (hydro, wind and solar), as well as significant potential in natural resources and extraordinary biodiversity. The challenges it faces as regards decarbonisation, depollution of air, water and soil, connectivity and climate change can be turned into opportunities by research and innovation, adopting alternative approaches, circular economy, waste management, greener energy, energy efficiency and connectivity solutions.

3.6 The EESC recalls that, at the Poznań Summit on the Western Balkans (10), the EU confirmed its commitment on environment and climate, endorsing the joint statement on ‘Clean Energy Transition in the Western Balkans’ of 21 February 2019.

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(9) https://www.rcc.int/pubs/62.
(10) Part of the Western Balkan 6 Initiative (also known as the Berlin Process), which was launched in 2014, aims to support the six Contracting Parties of the Energy Community in Southeast Europe: Albania, Bosnia and Herzegovina, Kosovo*, North Macedonia, Montenegro and Serbia in strengthening regional cooperation and driving sustainable growth and jobs.
3.7 The transition from fossil fuel-based to green economies also includes interconnectivity, spanning from energy, transport and distribution infrastructures to the digital agenda. In achieving the transition to a green economy, business has to be considered as part of the solution. With the right framework and support, carbon-neutral transition will modernise industry, and create new high-quality jobs and more job opportunities. The involvement of social partners, business and other civil society associations in the Western Balkans in shaping and implementing measures to promote smart and intelligent, circular and low-carbon economy is essential. In the process, social policies and social dialogue are a vital guarantee of a cohesive society that pursues jobs for all and reduces inequalities and exclusion.

3.8 The EESC stresses the need for social partners and CSOs to be fully involved in defining sustainable development as a priority political objective, promoting ‘green investment’ for investing in the region. Academia, employers and employees, social catalysts e.g. entrepreneurs, the media and religious or other leaders across national borders are important vectors for inclusive and sustainable development. Scientific communities, cultural groups, industrial clusters and consumer associations inter alia have significant expertise to support this important choice for the region, making it the right one for the economy and society.

3.9 Green skills need to be developed within active national and regional education/training and skills strategies in cooperation with relevant actors and within effective social dialogue, including students, teachers, and parents for a low-carbon, resource-efficient and greening economy. Viewing the transition to a circular economy as a strategic goal for Western Balkans, fostering green skills should be aligned with national growth strategies to ensure that education and training initiatives meet national strategic goals and are supported by sufficient funding. The EESC calls for particular attention to be attributed to the participation of women in the elaboration of new education and training (upskilling and reskilling) policies and their implementation, in order to ensure a better gender equality and a more just transition towards a greener economy.

3.10 In order to address unemployment and skills mismatch, better skills forecasting should be introduced, to ensure that the skills of students and the workforce correspond to those needed in the labour market, as well as strengthening Vocational Education and Training (VET) and in particular, work-based learning and dual education systems which have helped in successfully addressing youth unemployment in certain EU Member States. In order to achieve these goals, active involvement of businesses and their business associations such as Chambers of Commerce should be pursued and promoted.

3.11 In the transition to a low-carbon economy, the EESC supports the principle ‘no one should be left behind’. Particular attention should be paid to citizens and especially vulnerable groups by ensuring that energy is affordable and accessible and that they are able to benefit from support for energy efficiency measures. Coal-dependent regions need to be supported in their just transition to develop participatory redevelopment plans from the bottom up in order to mitigate job losses. Consumers need to be informed, guided and involved in accepting and implementing responsible attitudes, which will contribute to mitigating the effects of climate change.

3.12 The EESC acknowledges the geopolitical and geo-economic importance of the region for the EU and calls for vigilance as regards investment from third countries, often with less regard to sustainability objectives. The EESC calls upon authorities and civil society in the region to promote and raise awareness of the positive engagement and financial support from the EU with regard to the deployment of greener technologies.

3.13 The EESC calls for an ex ante evaluation on financing sustainable development-related activities in the Western Balkans and the application of the principle of conditionality on sustainability of projects.

4. Climate change and the Western Balkans

4.1 The EESC recalls that the Western Balkans are highly sensitive to the impacts of climate change, having suffered highly damaging floods and droughts in previous years. The RCC (11) Study on climate change has recorded an observed temperature increase of 1.2 °C with a further increase of 1.7-4.0 °C by the end of the century. Additionally, air pollution problems have been well documented, resulting in damage to general health and economy.

With climate change disrupting basic necessities of life (shelter, food and water), children and young people are among the most vulnerable when it comes to direct and indirect climate change impacts, which has been accentuated by the COVID-19 pandemic (13).

4.2 The EESC recognises the importance of Western Balkan countries' commitments under the 2015 Paris Agreement on Climate Change (13) to reduce greenhouse gas emissions and increase the ambition of their nationally determined contributions over time in line with the latest science. Beyond governments, other stakeholders such as businesses, cities and NGOs have a crucial role to play in implementing the Paris Agreement.

4.3 The EESC equally recognises the countries' commitments under the UN's 2030 Sustainable Development Goals, a blueprint for addressing sustainable development challenges, including poverty, inequality, climate change, environmental degradation, peace and justice. It is also of paramount importance that the new development model is supported by the citizens, businesses, the financial sector in each country and internationally.

4.4 The EESC is aware of the fact that negotiations on environment and climate change represent one of the most challenging negotiating chapters, particularly for investment-heavy directives like water, waste, industrial emissions and emissions trading directives. However, it believes that climate change demands radical and transformative actions which require not only policy and legislative alignment, but also a shifting of economic paradigm and transition towards a carbon-neutral, climate-resilient and resource-efficient society. In such a manner, climate or decarbonisation strategies at a local and national levels are in fact new growth strategies.

4.5 Aware that the process of developing a climate strategy requires deep reforms and transformation of all sectors, the EESC calls for the Western Balkans countries to develop and implement their strategies in alignment with the EU acquis, and coordinate the work to develop long-term low greenhouse gas emission development strategies by 2050 as parties under the UNFCCC, with active participation and reinforced involvement of all stakeholders, including CSOs.

4.6 All countries except for Bosnia and Herzegovina have established high-level coordinating bodies on climate change to mainstream climate action into other sectoral policies, particularly economic development, energy, transport and agriculture, with the objective to take into account concerns and comments of all relevant stakeholders in preparing strategic and policy documents and legislation. The EESC recommends that all of them include representatives of CSOs and social partners from the very beginning of the regulatory and/or legislative consultations. The EESC recommends that a mechanism is developed allowing all concerns to be addressed in a timely, transparent and participatory manner.

4.7 As the majority of the costs of alignment with the EU ETS Directive will have to be taken by industry, the EESC recommends that civil society, industry and business associations be particularly involved in the awareness-raising and capacity-building activities as regards the ETS Directive. It presents a heavy-investment requirement for the Western Balkans, especially the ones with large industrial sectors, as they do not have sufficient capacity to address the implications of the Directive, which are not only investment-related, but also require changes in the regulatory environment, management, monitoring and reporting, and verification and accreditation of emissions.

5. Energy in the Western Balkans

5.1 The EESC supports the Energy Union and the 2030 Climate and Energy Framework Policies with the objective to deliver on the Paris Agreement targets. The Western Balkan countries have an obligation to align with those policies, but should be more actively engaged and involved in the Energy Union from the early discussions.

5.2 The EESC supports the 2019 joint statement on 'Clean Energy Transition in the Western Balkans', agreed by the energy and environment ministers of the Western Balkans on the principles for sustainable hydropower development in the Western Balkans (14), and recalls that the input and strong engagement of CSOs was instrumental in their adoption. The EESC considers that, even though these are good first steps, more needs to be done.

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(12) The World Health Organization estimates that children will suffer more than 80% of the illnesses, injuries and deaths attributable to climate change.

(13) Kosovo is not a party to the United Nations Convention on Climate Change (UNFCCC) and as such does not have nationally determined contribution (NDC). However, they have adopted the Strategy on Climate Change.

(14) Hydropower among other renewable energy sources; rehabilitation of existing structures as a priority, a limited number of additional large hydropower sources; grid integration of renewable energy sources and regional electricity market; integrated water resources management; taking change impacts into account; taking environmental impacts of hydropower development into account; as well as transboundary considerations and sustainability principles in hydropower planning.
5.3 In line with that, the EESC recommends for social partners and CSOs from the Western Balkans to be enabled to play an active and concrete role, including making proposals, in the activity of the EU Energy Poverty Observatory.

5.4 The EESC believes that efforts to meet the Paris targets, and sustainable growth in general, must be underpinned by modern, fit-for-purpose appropriate actions for the region. This includes developing a modern and forward-looking infrastructure, establishing adequate legislative and regulatory framework and embracing new technologies and the corresponding business models for ‘green and inclusive’ development of the region’s economies. In concrete terms, this will mean the construction of ‘smart’ power transmission and distribution networks to accommodate the ever-increasing share of intermittent renewables in the power generation mix. Equally, the development of intraday, balancing and storage markets benefits the creation of market-driven solutions for resources to be appropriately allocated in the already changing energy mix from fossil fuels towards cleaner energy.

5.5 The EESC considers that a robust, modern and transparent legislative and regulatory framework is key for energy market development and attracting new investment necessary for the financing of new infrastructure and capacity. The role of the Energy Community (EC) and the transposition and implementation of the Community acquis is a sine qua non condition. Equally, cross-border activities such as power trading can lead to great efficiency and savings in terms of energy and costs, as long as all market participants adhere to similar rules of environmental compliance and carbon pricing. Hence, the role of the Energy Community Regulatory Board (ECRB) is paramount and will need to be strengthened, keeping in mind that sustainable choices require well-functioning cross-border markets. The EU should support the Energy Community Secretariat in helping regional governments to create robust integrated national energy and climate plans (NECPs), driven by the 2030 targets for the region. NECPs should reflect the ambition needed to decarbonise the economy, taking into account environmental safeguards. They should contain policies and measures related to the reduction of GHG emissions in all key emitting sectors to meet the 2030 targets and their contributions under the Paris Agreement, as well as an outlook towards becoming a carbon-neutral economy by 2050.

5.6 The EESC calls for an adequate percentage of green transition budget provisions in the Instrument for Pre-Accession Assistance (IPA). It regrets the low RDI intensity in the Western Balkans and calls for their better participation in available EU programmes, including Horizon Europe, as such investments are crucial for developing new technologies for an efficient green transition.

5.7 As innovation plays a vital role in the changing energy landscape, the EESC recommends that distributed energy i.e. energy locally produced and consumed, should be seriously considered for the Western Balkans. As the region has extensive mountain ranges, it is not easy or cost-efficient to support major deployment of high and medium voltage electricity networks. Present technological solutions are much more mature, and economically sound, to support distributed energy. Current EU experiences and the supporting EU legislative-regulatory framework for prosumers and energy communities can underpin this novel approach. Such business models can deliver more appropriate solutions to accommodate local needs and characteristics, in which local actors can be directly involved in sustainable solutions and thus have ownership of the transition towards sustainable development.

5.8 Moreover, the EESC believes that energy efficiency has great potential in the Western Balkans. The refurbishment of the housing stock including public and private buildings, industrial and other activities will yield important energy and cost savings while also tackling the important problem of energy poverty. Energy saving is also an important part of ‘local energy’ business and social model, since heat recuperation for industrial and/or residential use makes sense at local or regional levels. Distribution losses are also high in most countries in the region and need significant investment. Hence, here too EU and international funding could be instrumental towards developing efficient, local and low impact energy production and consumption. Considering the limited means of the countries in the region, such funding will be necessary given the initial capital intensity of investments and their relatively extensive depreciation period. European technologies are technically and economically mature, and therefore appropriate for the region. The EESC calls upon the EU and relevant funding bodies to strengthen their engagement for local and regional energy efficiency projects.

(15) The Energy Community, in force since 2006 (mandate extended in 2016), aims to outspread the EU internal energy market rules and principles between its members: the European Union, Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro, Serbia, Moldavia, Ukraine, to which are associated Armenia, Georgia, Norway and Turkey. Its headquarters is in Vienna. www.energy-community.org
5.9 The EESC calls for the Energy Community, which aims to expand the EU's energy, climate and environment acquis to enlargement and neighbourhood countries, to be further and closely integrated into the project of Energy Union, especially with regard to the above identified priority actions. CSOs should be systematically involved and integrated in the meetings of the Energy Community.

6. Connectivity of the Western Balkans

Transport

6.1 The EESC fully supports the development of modern and ‘future-proof’ transportation networks in the region to enhance cross-border trade and mobility. Given the need to drastically improve the existing urban, road and particularly outdated rail networks in the Western Balkans, any new construction should from the outset be such to support e-mobility or clean hydrogen but also where appropriate gas-powered vehicles. This would enable the infrastructure to be valid and relevant for several decades, while improving air quality and reducing imports of fuels.

6.2 For any of the possible sustainable solutions chosen (e.g. electromobility, bio-fuel, clean hydrogen), the EU and European companies and expertise can help with their smooth introduction in the region. The EESC invites the Western Balkans to actively engage with public and private actors from the EU and take bold steps in the development of their transportation networks. The EESC also recommends taking on board EU best practice examples, such as sustainable urban mobility plans (SUMPS). These initiatives could be implemented through the Transport Community, which is still not a very active organisation.

Information and communication technology

6.3 Data networks and ICT are becoming the backbone of economic, industrial and social activity. Moreover, there is a direct key link between ICT and fast internet networks and sustainable development — due to the efficiency of choices facilitated by the automation that smart networks are capable of supporting, e.g. internet of things, smart cities and villages, smart meters, connected vehicles etc. Scale is necessary for financing such networks and technologies, which are at present costly, but potentially transformational for the region’s economies. Therefore, the EESC both asks for EU funding to be directed towards this, but also invites the Western Balkans to work together to develop a regional master plan for fast internet deployment, which would provide the possibility to negotiate joint contracts and achieve better terms via collective bargaining and scale.

7. Natural resources, biodiversity and agri-food measures in the Western Balkans, opportunities for growth

7.1 The Western Balkans have rich biodiversity and pristine habitats, with a high degree of afforestation, which have faced a series of threats, including a sprawl of built-up areas in urban and coastal zones, mining activities, poorly regulated development of small hydro plants built without comprehensive analysis on their impact on biodiversity, and unregulated hunting and timber cutting. Governments have taken a series of steps to protect species and habitats, and increased the share of protected territory.

7.2 The EESC recommends that the fragile economies of the Western Balkans explore possibilities to become more resource-efficient and move towards the circular economy, develop and pursue mechanisms for durable protection for threatened high conservation and social value landscapes and habitats (including rivers), as well towards new green technologies. The region's rich biodiversity and pristine habitats have significant economic potential for ecotourism and agritourism, but capacities and compliance need to improve. On average, resource efficiency is very low while resource productivity is five times lower than the EU average, with weak recycling practices and waste management. In order to improve the situation, a move to a circular economy is needed, as well as developing and using new green technologies in the region.

7.3 The EESC recommends that countries fully embrace the principles of the recently proposed EU Biodiversity Strategy \(^\text{(16)}\), with a particular focus on extending the protected area coverage, including strict protection and restoration of degraded habitats. Accordingly, a revision of the National Biodiversity Strategies and Action Plans as soon as possible, and/or, as a minimum, submission of national commitments for the most important targets is strongly encouraged.

7.4 Climate change also affects food production and value chains and causes considerable damage and production losses in the crop, livestock, fishery and forestry sectors. The recently proposed EU Farm to Fork Strategy (17) should set the guiding principles for the development of regional and national agriculture strategy, including reduction of pesticides, fertilisers and antibiotics in order to produce sustainable food and ensuring that the farmers have decent income with decent prices, while simultaneously phasing out environmentally harmful subsidies.

8. Cross-cutting conditions for a successful sustainable transition of the Western Balkans

8.1 The EESC recalls that a successful transition towards greener Western Balkans cannot happen without basic enabling conditions, primarily as regards stable and transparent national political frameworks and political will. The rule of law within the Fundamentals cluster, as defined by the revised accession methodology, is a core value on which the EU is founded, which rightfully determines the pace of the enlargement process. Its deficiency creates an unfavourable environment for change, investment and the so-needed transition towards more sustainable societies.

8.2 The EESC therefore calls upon the region’s national authorities to take urgent, profound and meaningful measures to ensure an efficient and transparent functioning of public administrations, to combat and eradicate corruption, to ensure complete independence of the judiciary systems, to create a predictable and attractive business environment and a ‘level playing field’ (i.e. ensuring market transparency, regulatory clarity and open consultation of all stakeholders), to favour innovation and competitiveness, and to strengthen the involvement of social partners and CSOs, as it is the only way to attain tangible and long-term results.

8.3 Organised civil society in all its components, social partners and other organisations play a central and active role in the drive towards sustainable development in the Western Balkans. Their connection with society is such that they can catalyse strong public backing and legitimacy for this policy objective. Organised civil society will be instrumental in promoting sustainable development as an ‘active societal choice’, hence a choice embraced and supported all across political and social division lines.

8.4 The EESC reminds the Western Balkans authorities of the importance of guaranteeing freedom of association and ensuring an enabling civic space for a strong and effective civil dialogue. It invites all Western Balkans governments to adopt national strategies for an enabling environment and capacity building for the social partners and CSOs and their accompanying action plans.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

1. Conclusions and recommendations

1.1. The new deal of carbon markets

1.1.1. Numerous carbon markets are functioning in the world and the EU Emissions Trading System (ETS) is not working in isolation. These carbon markets have different sizes and follow different rules but they share common features with the establishment of some market mechanisms to measure carbon dioxide and other greenhouse gas emissions and to fix pricing per tonne.

1.1.2. These local carbon markets should be monitored by the European Commission in order to identify the best practices that could be useful for revising the ETS and the directive on energy. This knowledge and understanding of other carbon markets is also key for calibrating the Carbon Border Adjustment Mechanism, which should apply differently to countries with carbon markets and countries without carbon markets.

1.1.3. The ongoing COVID-19 pandemic cannot slow down action on climate change, either at the European or international level. That means that the European Green Deal should be put in place in line with the planned timetable. The slightest delay takes us away from the goal of carbon neutrality by 2050. More importantly, recovery packages must be aligned with the EU climate goal and have to be harmonised with the objective of the European Green Deal.

1.1.4. The EESC considers that the adoption of Article 6 of the Paris Agreement is a key opportunity to strengthen climate action post-2020. Therefore the EESC asks the European Commission to obtain a clear mandate from Member States to reach the necessary compromise for the adoption of Article 6 guidance during COP26 in 2021.

1.2. The regulation of trade between carbon markets

1.2.1. Different carbon markets in different jurisdictions generate different carbon price levels, currently from 1 to above 30 USD/tCO₂, which means that the bilateral trade flows between each of these carbon markets should take these differences into account through some specific mechanisms (compensation, adjustment, etc.) for the most energy-intensive and trade-exposed sectors (steel, cement and others).

1.2.2. For the EU, this issue of asymmetrical carbon price levels should be a priority. Different options are available to mitigate this asymmetry and protect the competitiveness of European industry, including free allocation, ETS linking and Carbon Border Adjustments.
1.2.3. The EESC supports the Green Deal policy and asks the European Commission to table the various proposals as planned in the coming months, including the one on the Carbon Border Adjustment Mechanism. While such a mechanism could potentially bring a level playing field for the most CO₂-intensive sectors in the EU compared to their competitors from third markets belonging to countries that do not have ambitious climate policies, much of its effectiveness will be determined by the proposed implementing details, which the EESC is eagerly waiting to learn.

1.2.4. Considering that the Carbon Border Adjustment Mechanism is a legislative priority of the current mandate of the European Commission, and the EESC is already contributed to this reflection in order to design a tool that is compatible with the WTO rules, effective in the fight against climate change and useful for the competitiveness of EU industry (1). The goal is also to prevent countervailing measures from third countries thanks to a consultation process that will include a dialogue on methodology for measuring and comparing carbon emissions and best available technologies.

1.2.5. In all cases, such climate policy measures should be a part of a global comprehensive policy including industrial measures, access to finance and investment, standardisation efforts, R&D programmes and training policies to ease the transition towards clean technologies in the EU.

1.2.6. The phasing out of the most distorting fossil fuel subsidies in the EU should be organised properly at the level of Member States and take into account the need to use a part of the revenues from the selling of ETS allowances to ensure a just transition for the coal-dependent regions. This policy will help the EU to commit itself more assertively in the emerging WTO plurilateral negotiation on the reduction of fossil fuel subsidies.

2. The emergence of numerous carbon markets in the world and their features

2.1. Definitions

2.1.1. Carbon pricing is one of the key policy tools to reduce GHG emissions. As defined by the World Bank: ‘Carbon pricing is an instrument that captures the external costs of greenhouse gas emissions — the costs of emissions that the public pays for, such as damage to crops, health care costs from heat waves and droughts, and loss of property from flooding and sea level rise — and ties them to their sources through a price, usually in the form of a price on the carbon dioxide emitted’.

2.1.2. The concept of carbon pricing can take different forms when translated into a policy: carbon tax or carbon market. One of the most common forms is an emissions trading system. As explained by the OECD: ‘Emission trading systems contributes to economic efficiency by facilitating emission reductions where it is cheapest to achieve them. Polluters who would find it costly to reduce their emission are allowed to buy emission allowances from polluters that can abate at lower costs. In a “perfectly” working market, the costs of reducing an additional unit of emissions would be equalised, and total costs of reaching a given environmental target would be minimised’.

2.1.3. There are two main types of trading systems: the cap-and-trade system where an upper limit on emissions is fixed and emissions are either auctioned or distributed for free according to specific criteria and the baseline-and-credit system in which there is no fixed limit on emissions, but polluters that reduce their emissions more than they otherwise are obliged to earn ‘credits’ that they sell to others.

2.2. Global overview

2.2.1. At present, there are 21 emissions trading systems operating across four continents and covering 29 jurisdictions. These systems operate at the supranational, national, and subnational (state, province and city) level. Jurisdictions making up 42 % of global GDP are using emissions trading. ETSs cover 9 % of global GHG emissions, and almost one sixth of the global population lives under an ETS in force. Another 24 systems are currently being developed or under consideration (2).

2.2.2. The existing ETSs are:

— at the supranational level: the EU ETS, which includes the EU Member States plus Iceland, Liechtenstein and Norway,

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(2) https://icapcarbonaction.com/en/?option=com_attach&task=download&id=677
— at the national level: Kazakhstan, Mexico, New Zealand, the Republic of Korea, Switzerland,
— at the province and state level: California, Connecticut, Delaware, Fujian, Guangdong, Hubei, Maine, Maryland, 
Massachusetts, New Hampshire, New Jersey, New York, Nova Scotia, Quebec, Rhode Island, Vermont,
— at the city level: Beijing, Chongqing, Saitama, Shanghai, Shenzhen, Tianjin, Tokyo.

2.2.3. The EU ETS is the largest and oldest ETS. It accounts for around 45% of the EU’s emissions and it was launched in
2005. It is followed, both in terms of size and launch date, by California and Korea.

2.3. Common and specific features of carbon markets

2.3.1. Common features

2.3.1.1 Although there are no two identical ETSs, some features and design choices are common across different
systems, or at least recurrent in most cases:

— Sectoral coverage: most ETSs cover the power and industrial sectors, which in most countries account for a significant
share of the national GHG emissions,
— Allocation rules: most systems divide the allocation of emissions allowances between free allocation and auctioning,
— Carbon leakage and competitiveness rules: most systems allocate allowances free of charge to compliance entities in
sectors deemed at risk of carbon leakage as a way to preserve their competitiveness.

2.3.2. Specific features

2.3.2.1 Nevertheless, there tend to be differences across different ETSs, especially concerning specific design features:

— Sectoral coverage: the exact sectoral coverage differs across ETSs. Some ETSs, for instance, only cover the power sector,
while others extend beyond power and industry to cover other sectors such as waste, transport, domestic aviation,
buildings and forestry,
— Market stability provisions: several ETSs have market stability provisions, which can take the form of price floors and
ceilings and allowance reserves,
— Flexibility provisions: the availability and rules for flexibility provisions such as banking, borrowing and the use of
international credits differ across ETSs,
— Carbon price: in an ETS, the carbon price is not set (with the exception of specific price regulations, such as price floors
and ceilings), it is determined by the market balance and dynamics. Prices in different ETSs therefore range from a few
euro to above 30 per tonne,
— Cap decline: the year on year cap decline rate is different across systems and reflects the ambitiousness of the country’s
long-term emission reduction goal,
— Carbon leakage and competitiveness rules: specific rules for carbon leakage as well as the sector covered by these rules
deriver across ETSs,
— The use of revenues: revenues from the auction of allowances can be used in different ways. In some systems they are
used for specific purposes, such as supporting R&D, compensating covered entities, etc., while in other systems they
flow into the overall public budget. In the EU, Member States should use at least 50% of auctioning revenues for
climate- and energy-related purposes.

2.4. Quick overview of the EU ETS, the first and largest carbon market

2.4.1. The European Union’s Emissions Trading System (EU ETS) is the first and largest cap-and-trade system for
reducing GHG emissions (1). The EU ETS has been established and extended over three successive phases: Phase I (2005 to
2007), Phase II (2008 to 2012, aligned with the first commitment period under the Kyoto Protocol), Phase III (2013 to
2020, aligned with the second commitment period under the Kyoto Protocol) (2).

(2) See footnote 3.
2.4.2. The upcoming phase IV will start in 2021 and run to 2030. The EU ETS covers approximately 11,000 power stations, manufacturing plants and other stationary installations, as well as aviation activities, across 30 countries: the 27 EU Member States and Iceland, Liechtenstein and Norway. In total, around 45% of total EU GHG emissions are covered by the EU ETS (\(^{5}\)).

2.4.3. The EU’s 2030 Climate and Energy Policy Framework, adopted in October 2014, reaffirms Europe’s strategy towards decarbonisation, and extends the bloc’s decarbonisation goals beyond 2020, including the goal to cut GHG emissions by at least 40% (compared to 1990 levels) by 2030.

2.4.4. The contribution of the EU ETS in achieving the above-mentioned GHG reductions by 2030 is to reduce emissions by 43% (compared to 2005) in the sectors covered by the EU ETS (\(^{6}\)). Phase IV of the EU ETS will run from 2021 until 2030. The aim of Phase IV is to increase the pace of emissions cuts, to set up better-targeted carbon leakage rules and to fund low-carbon innovation and energy sector modernisation (\(^{7}\)). The European Commission introduced new rules to reform the EU ETS ahead of Phase IV and, most significantly, to align the cap reduction trajectory with the 2030 emission reduction goal.

2.5. Complementary measures in the framework of a global EU climate policy

2.5.1. At the EU level, the EU ETS is not the only EU-wide policy that has been implemented to meet the bloc’s 2020 climate and energy target. The EU’s 2020 climate and energy package set three different goals, to be met by 2020:

— A 20% reduction, below 1990 levels, in GHG emissions,

— A 20% share of renewable energy in the bloc’s energy mix,

— A 20% improvement in energy efficiency.

2.5.2. While the EU ETS was meant to be the key policy instrument in decarbonising the European economy and meeting the first goal, the Renewable Energy Directive (RED) and the Energy Efficiency Directive (EED) were implemented to meet the second and third goal.

2.5.3. Moreover, a number of Member States have implemented complementary and overlapping policies at the national level, mainly in the form of price floors and coal phase-outs. To ensure efficient regulation, it is important to avoid the negative impacts of complementary and overlapping policies.

2.5.4. The implementation of complementary and overlapping policies could significantly affect the functioning of the EU’s carbon market. A sharp decrease in emissions from these policies would result in reduced demand for emissions allowances and, as a consequence, would distort market balance.

2.5.5. This impact can to a certain degree be mitigated by the Market Stability Reserve (MSR), which started to operate in January 2019 and aims to absorb the surplus of allowances accumulating in the market. In the years 2019-2023 the MSR will withhold 24% of the surplus. This number will decrease to 12% from 2024 onwards, and from 2023, allowances held in the MSR above the total number of allowances auctioned during the previous year will no longer be valid. Nevertheless, it is crucial to ensure greater transparency and comparability of such overlapping policies with the EU ETS and, where impacts are significant, minimise the negative impacts.

2.5.6. The issue of fossil fuel subsidies granted at national and regional levels should move higher on the EU agenda given their magnitude: up to 300 billion euro a year, which accounts for one third of the total investment for the Green Deal and leads to more proactive commitment of the EU in the emerging negotiation in the WTO on a global phasing out of fossil fuel subsidies.

\(^{(*)}\) See footnote 3.
\(^{(**)}\) See footnote 3.
2.5.7. The EESC also identified renewable energies as a great tool for regional development (biomass, wind, solar, etc.). The main issue was how to combine both policies, the gradual phasing out of subsidies to fossil fuel energies (coal, oil) and the phasing-in of incentives to renewable energies.

3. Challenges and opportunities for the future of carbon markets

3.1. COVID-19 and its impact on climate policy

3.1.1. In the EU, containment measures led to a drop in carbon dioxide (CO\(_2\)) emissions of 58% per day (\(^8\)). If these measures last 45 days in a majority of Member States, 45 megat onnes of CO\(_2\) can be avoided in 2020, representing 5% of the EU’s annual emissions. In road and air transport, daily emissions are 10 times less than normal, while the decrease reaches 40% in energy.

3.1.2. The current drop in emissions is expected to be temporary and the EU will soon face the same decarbonisation challenges (\(^9\)). That means that the European Green Deal should be put in place in line with the planned timetable. The slightest delay takes us away from the goal of carbon neutrality by 2050.

3.1.3. Market instruments to reduce greenhouse gas (GHG) emissions are showing good resilience to the effects of COVID-19. Prices for emission allowances have declined, reflecting a lower expected demand, giving short term relief to impacted businesses. Market stabilisation measures that are built into most of the existing emissions trading systems ensure that the decline in carbon prices does not drop below a certain level and that it will not be prolonged in the medium to long term. It is important to ensure that these measures are adequate to withstand the impact of COVID-19. This is essential to ensure long-term certainty on carbon prices. Regulators have also been able to ensure flexibility with compliance and regulatory deadlines at a time of highly disruptive circumstances.

3.2. The adoption of common rules to unleash the potential of carbon markets (Article 6 of the Paris Agreement)

3.2.1. The Paris Agreement, adopted in December 2015, set the stage for action on climate change into the second half of the century, if not much longer. Under the Paris Agreement, participating countries are expected to put forward Nationally Determined Contributions (NDCs) outlining their contribution to the overall goal of the Agreement. NDCs tend to be quite diverse, but usually include an emission reduction target for the following 10 years.

3.2.2. Article 6 of the Paris Agreement aims at establishing a framework for countries to cooperate on implementing NDCs, including through market-based approaches. It therefore has the potential to establish a framework for creating an international carbon market under the Paris Agreement. More importantly, it can be a key driver for the uptake and expansion of carbon pricing policies and emissions trading systems. Through Article 6, countries that operate an ETS will be able to link their system to another ETS and use the link as a way to achieve their NDC. Countries will also be able to procure international credits to be used for compliance with their domestic policies through an international market framework. UNFCCC negotiations failed to adopt guidance for the operationalisation of Article 6 at COP24 in 2018 and at COP25 in 2019, due to substantial diverging among some parties. The adoption of Article 6 guidance is now on the table at COP26, and it is crucial to conclude this process without further delays.

3.3. The negotiation of an ambitious and balanced bilateral agreement between the EU-27 and UK carbon markets

3.3.1. There is a consensus in the European Commission that the UK would be a formidable partner on climate change issues but there is also a sense that, to stand the test of time, clear climate provisions need to be embedded in the agreement in order to frame the UK’s manoeuvres in diverging from EU rules.

\(^8\) Sia Partners: CO\(_2\) emissions in the EU, 1 April 2020.
3.3.2. The EU approach is based on four elements:

— The Paris Agreement should be an essential element of the FTA. That means that one of the parties could suspend the provisions of the Treaty if the other party was in breach of such a provision.

— Both parties should reaffirm their commitments to climate neutrality by 2050: the UK has already legislated on it internally but we believe that a provision on the future Agreement between the EU and the UK would reinforce this commitment.

— Level playing field and non-regression clause: this is a critical element for the EU. If we want this Partnership to stand the test of time, we need to ensure that future administrations in the UK do not lower the current high standards we have in the fight against climate change.

— Creation of a UK system of carbon pricing: the UK decided to leave the EU ETS. In 2019 the UK represented 7% of total ETS allowances, and in certain sectors like aviation, their share reached 19%. It is thus crucial, that the UK builds its own market taking into account compatibility with the EU system. The UK presented on 1 June a proposal to create a domestic ETS. The EU is open to the possibility of a linking agreement between the future UK ETS and the EU ETS, if such linking does not harm the integrity of the EU ETS.

3.4. Lessons learnt from the Comprehensive Economic and Trade Agreement (CETA) and opportunities for bilateral climate cooperation

3.4.1. A provision that links trade and environment is found in Article 24.4 of CETA, where Canada and the EU both reaffirm their commitments to the implementation of multilateral agreements to which they are party. This provision could be a bridge to discussions between Canada and the EU on the implementation of MEAs where common concerns are shared, including a basis for Canada and the EU to develop or lead new cooperative climate initiatives under the Paris Agreement.

3.4.2. Article 22.3 of CETA calls for cooperation on Canada-EU trade promoting sustainable development. The work plan under Article 24 includes cooperative work on the impact of trade and investment on environmental policy and consideration of trade-related aspects of the climate regime, such as carbon markets and clean technology transfer and development. Article 24.12 contains a list of 10 illustrative areas of potential cooperation on environmental matters between the parties, where some would see CETA serve as a platform to ‘multi-lateralise’ national policy development.

3.4.3. Joint EU-Canada work on Border Carbon Adjustments (BCAs) is one area of potential cooperation on ‘trade-related aspects of the current and future international climate change regime’. This cooperation could be in the area of information-sharing and agreeing on best practice, for example, in the areas of calculating the embodied carbon in traded goods or aligning methodologies to address competitiveness and leakage across Emissions-Intensive Trade-Exposed (EITE) sectors currently covered in national compliance emissions trading systems in both Canada and the EU.

3.4.4. With support from affected industries, such as cement or aluminium, there could also emerge viable opportunities for joint EU-Canada sectoral cooperative pilots on ETS design and approaches to preserving competitiveness and leakage avoidance (e.g. common benchmarks and methodologies to calculate free allocations, common BCA, etc.).

3.5. Lessons learnt from the expansion of the sectoral scope: transport and fuels

3.5.1. As the EU explores future modifications to its EU ETS, significant and close attention should be paid to market design and operationalisation experiences across North America’s subnational emissions trading regimes. One particular area with valuable lessons for the EU relates to how California and Quebec have expanded ETS coverage to include transportation and fuel sectors. Since 2015, California and Quebec distributors of transportation fuels, natural gas, and other fuels have held compliance obligations under the joint Western Climate Initiative (WCI) cap-and-trade programme. Covered entities from this sector do not receive free allowance allocations, but are required to purchase through quarterly state-administered auctions or the private secondary market.
3.5.2. Another US development worth watching is the Transportation Climate Initiative (TCI), a regional collaboration of 12 US North-east and Mid-Atlantic states and the District of Columbia that seeks to improve transportation, develop the clean energy economy and reduce carbon emissions from the transportation sector. The initiative builds on the region’s leadership in reducing power sector GHG emissions through a regional compliance cap-and-trade programme, the Regional Greenhouse Gas Initiative (RGGI), introduced in 2009. With one third of all GHG emissions across TCI jurisdictions coming from the transportation sector, participating states are working through 2020 to develop a collaborative ‘model rule’ approach with ETS programme design recommendations for addressing these currently uncovered — and increasing — sector emissions. The intention is for the new or expanded ETS programme(s) to launch initial compliance periods as early as 2022.

3.5.3. The climate and economic benefits of broader ETS sectoral expansion are clear: the bigger and broader the market, the wider the range of market participants, abatement opportunities, technological innovations and improved efficiencies, resulting in lower programme and per tonne abatement costs and an expanded portfolio of emission reductions, clean finance and investment.

4. Challenges for the EU climate and industrial policies

4.1. A successful overhaul of the ETS system

4.1.1. The EU’s 2030 Climate and Energy Policy Framework, adopted in October 2014, set out the following goals:

— cut GHG emissions by at least 40% (compared to 1990 levels),

— achieve at least a 27% share for renewable energy,

— improve energy efficiency by at least 27%.

4.1.2. As part of the European Green Deal, presented in December 2019, the European Commission plans to increase the EU’s 2030 target, including for the EU ETS. The goal is to increase the overall 40% reduction target to 50% or 55%, in order to put the EU’s emissions on track to reach carbon neutrality by 2050. The comprehensive and detailed plan to raise the 2030 targets is expected to be presented in October 2020, and specific proposals for revisions of relevant legislative measures will be presented in June 2021. These proposals will include a review of the EU ETS Directive, possibly combined with the Market Stability Reserve (MSR) review.

4.1.3. This means that the EU ETS target for 2030 and the rules of the system will be subject to a thorough review in the coming years. As this review gets underway it will be crucial to dedicate detailed attention to the key features of the EU ETS and how they impact European industry.

4.2. The design and the implementation of an EU Carbon Border Adjustment Mechanism

4.2.1. The idea of a carbon tax at the borders of the EU was already present in the agenda of Ursula von der Leyen when she was a candidate. Since her appointment as President of the European Commission, this reflection on EU carbon adjustment mechanisms that could take several shapes — taxes, mirror-ETSs or standards — is a priority for the European Commission.

4.2.2. DG Taxud launched an on-line consultation in March 2020 in order to collect the views of all the stakeholders. The results of this consultation as well as debates with experts from the Member States will be useful for drafting a legal proposal in spring 2021. The future carbon measures should be compliant with WTO rules and other international obligations of the EU. This essentially means that they must be non-discriminatory and proportionate according to the case-law.

4.3. The EESC advises the Commission to deepen its reflection on the various policy options, such as a reformed ETS, Carbon Border Adjustment, a VAT rate adjusted to carbon intensity, and to compare them in terms of:

— impact on carbon and investment leakage, in a future situation of higher prices and lower availability of ETS allowances in the EU,

— legal certainty on compliance with WTO rules.

(10) https://www.transportationandclimate.org/content/about-us
— acceptability by trading partners,

— technical feasibility, specifically regarding the existence of globally accepted accounting and measurement standards and of reliable and recognised databases (11).

4.4. **Advantages of an EU carbon adjustment mechanism**

4.4.1. Such a mechanism will shield EU energy-intensive companies (steel and cement, for example) from cheaper imports coming from third countries with no or weaker climate policy (no carbon market, no carbon pricing). This adjustment would re-establish a level playing field between EU companies and third country companies that could, for instance, take the form of a levy on imported goods, based on average prices in the EU ETS. Such mechanisms will help prevent carbon leakages and avoid the race to the bottom for energy-intensive industries while protecting the competitiveness of EU industries and reducing the competitiveness of cheap carbon-intensive imports.

4.4.2. Because the EU represents 10% of global GHGs, such a mechanism could also send a positive signal to like-minded countries trading with the EU (Canada, the UK, Switzerland) which will benefit from a kind of mutual recognition of their own ETS and exonerate their domestic companies from paying any levy on their exports to the EU-27.

4.4.3. In doing so, the EU will ensure coherence between its internal and external commitments and improve its climate policy with the revision of the Energy Directive in order to meet the challenges to reduce GHGs by 50-55% from 1990 levels by 2030 and achieve carbon neutrality by 2050.

4.4.4. These potential carbon border measures could be an alternative to the current measures that address the risk of carbon leakage in the EU’s Emissions Trading System (free allowance of CO₂ quotas granted after an in-depth analysis of the emission profile, best available technologies, and so on). There is an ongoing debate on whether a carbon border measure would replace or work alongside existing competitiveness measures in different sectors and/or in the same sector. It is also important to understand what the implications could be for imports and exports of electricity in interconnected grids.

4.5. **Disadvantages of an EU carbon adjustment mechanism**

4.5.1. The use of carbon border measures could invite retaliation from third countries supplying raw material to the EU such as the USA, China or India which will create new trade barriers in a context in which the contraction of world trade due to COVID-19 will be huge — between 18% and 32% according to a recent WTO publication.

4.5.2. The use of a Carbon Border Adjustment could also undermine the UNFCCC’s multilateral approach and could be seen as a repudiation of international cooperation in favour of more unilateral approaches.

4.5.3. The cost of some imported raw material from third countries which have poor climate policies will be more expensive for their EU buyers. That means that the price competitiveness of some large European manufacturing companies (in automotive and construction industries) that process these raw materials could be decreased, while EU exports of the finished goods could be altered.

4.5.4. The sectoral coverage of a border carbon adjustment might differ from the coverage of existing measures to protect competitiveness: the possible coverage of carbon border measures might be limited to sectors like cement and steel where the risk of carbon leakage is the highest while the sectoral coverage of the carbon leakage measures has a wider scope (chemicals, textile dyeing and finishing activities, for instance).

4.6. **The sectoral approach**

4.6.1. The steel sector in the EU is under pressure from fierce global competition with steel-makers from China, Turkey, Algeria or Iran which do not have ETSs covering this sector and already export 30 million tonnes of steel to the EU. The European Steel Association (Eurofer) supports the introduction of a Carbon Border Adjustment Mechanism for environmental, economic and legal reasons and considers it a precondition to avoid the risk of carbon leakage. This mechanism should cover steel finished and semi-finished products and be based on a proper accounting system to measure the CO₂ footprint of the products through some ‘Equivalence Agreements’ with third countries and coexist during a transitional period with the EU ETS free allocation of quotas.

(11) See footnote 1.
4.6.2. The European cement sector (CEMbuera) welcomes the idea of a CBA Mechanism given the strong risk of carbon leakage in an EU industry with low margins. This sector, which is engaged in a long-run investment cycle in order to meet the goal of climate neutrality by 2050, sets out several conditions such as transparent methodology, WTO compliance, broad sectoral coverage with all the sectors covered by the ETS and coexistence with the free allocation of quotas until 2030.

4.7. Dialogue with third countries

4.7.1. The EESC supports opening up dialogue with third countries in order to discuss the content and the impact of carbon border measures on their exports to the EU. This dialogue should take a different form with countries that have ambitious climate policies (like Canada) than with others without such ambitious climate policies (the United States, China, Russia).

4.7.2. We know for instance that the US administration is following the evolution of reflections on EU Carbon Border Adjustment measures very closely. In the WTO, during the process of assessment of the EU Trade Policy, some US officials already showed their concern about any EU carbon border measures.

4.8. The ultimate goal of global carbon pricing

4.8.1. The EESC insists on the need to combine and harmonise the various available tools in order to combat the climate crisis. As relevant international organisations and businesses consider that the carbon pricing signal is key to obtaining effective progress in combating climate change and in creating an attractive environment for investments in the long-run in order to accelerate ecological transition for public and private actors (industry, transport, housing, agriculture, etc.), the EESC pleads in favour of a harmonisation of approaches across different jurisdictions, ultimately leading to the emergence of a comparable price signal across different jurisdictions.

4.8.2. In the transition period before the adoption of a comparable price signal, as well as a common agreed methodology to measure carbon footprints, regional carbon pricing between like-minded countries (the EU-27, the UK, Switzerland, Latin America, the US Mid-West, South-East Asia and others) should be gradually harmonised. The creation of such regional carbon markets will imply common carbon market infrastructures (a kind of Carbon Single Market) while some carbon-specific mechanisms could be put in place vis-à-vis third countries.

4.8.3. However, in order to avoid the emergence of a carbon trade war between countries and regional customs unions, a WTO waiver that will establish the rules according to which these Carbon Border Adjustment Mechanisms (carbon tax, mirror-ETS, standards) must be set up and function in compliance with two WTO key principles: proportionality and non-discrimination.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
1. Conclusions and recommendations

1.1. Given the role of non-profit social enterprises in realising the social dimension of the European Union (EU) and in implementing the European Pillar of Social Rights (EPSR), including and especially in crisis situations, the European Economic and Social Committee (EESC) calls for the strengthening of and targeted support for social enterprises and other social economy organisations, particularly those that reinvest any profits fully in tasks in the public interest or for non-profit purposes as set out in their statutes. In addition, their visibility should be boosted across Europe.

1.2. The legal systems of many Member States already include rules that establish a non-profit status applying to social enterprises. The EESC would therefore encourage all other Member States to enshrine such rules in their national law.

1.3. Furthermore, a Protocol on diversity in types of enterprise should be annexed to the TFEU, along the same lines as Protocol No 26 on services of general interest (SGIs), including a separate definition of non-profit social enterprises. The EESC also calls on the Member States to include this revision in the upcoming reform agenda.

1.4. Non-profit social enterprises and similar non-profit organisations should be strengthened by granting them particular consideration in public procurement law over public or commercial suppliers in the provision of social services of general interest. Public tenders should above all take account of the specific areas of activity of non-profit social enterprises in the provision of social services in areas such as health and care.

1.5. The EESC also advocates the possibility of funding exclusively for non-profit organisations, without infringing EU State aid rules.

1.6. The current threshold of the SGEI de minimis Regulation of EUR 500,000 over three tax years should be significantly increased, to around EUR 800,000 per tax year.

1.7. The EESC believes that a general exemption should be introduced for the use of European funds with national co-financing. As with purely EU-managed programmes, State aid rules should not be applied in the case of national co-financing.

1.8. Support for non-profit social economy organisations should also be addressed in the Social Scoreboard linked to the European Semester.
1.9. Non-profit social economy enterprises are not only a sustainable business model; they also create and maintain quality jobs, promote equal opportunities, including for people with disabilities and other socially disadvantaged groups, ensure a high level of social participation and equity, and promote the digital and environmental transitions. The social economy is thus a strategic ally in strengthening the social dimension of Europe. Social economy activities should therefore be specifically supported by European funds and in particular become a separate, specific objective for ESF+ support.

1.10. The EESC is prepared to play an inspiring and coordinating role in the discussion on the role of non-profit social enterprises in the implementation of the post-COVID-19 recovery fund and in the context of the 2021 Social Economy Action Plan and the associated necessary reshaping of the legal and fiscal framework.

2. Introduction

2.1. On 18.2.2020, in preparation for the German Presidency of the Council of the EU in the second half of 2020, the Government of the Federal Republic of Germany asked the EESC for an opinion on ‘Strengthening non-profit social enterprises as an essential pillar of a social Europe’. Here the German Government stressed the importance of the common good as a binding European value, including in economic activity, and the significant innovation capacity of social economy enterprises that are obliged to serve the common good with particular focus on the provision of social services.

2.2. The social economy is made up of a variety of enterprises and organisations, including cooperatives, mutual societies, associations, foundations and social enterprises, alongside other legal forms specific to each Member State, which are united by shared values and principles (1). The social economy in Europe has also proven to be extremely important and essential to systems in times of economic and social crises. It helps create, strengthen and sustain social cohesion. In particular, the model of non-profit provision of social services, with social objectives as an absolute priority, has proven to be highly flexible, close to the public, innovative, sustainable, democratically legitimate and efficient. Non-profit social enterprises also play a key role in creating equal opportunities for all, regardless of age, gender or origin. They address the social needs of society that are not already covered by public social services. In a previous opinion, the EESC already pointed out that the work of social economy enterprises should serve the public interest and not seek to maximise profits. In this way, the social economy creates quality jobs in socially responsible businesses (2) in, for example, healthcare, childcare and other forms of care.

2.3. Given the diversity of the social economy in Europe, there is no legally binding EU-wide definition of ‘social enterprise’. The EESC describes social enterprises as having specific features such as:

— having primarily social objectives as opposed to profit objectives, producing social benefits that serve the general public or its members,

— being predominantly not-for-profit, with surplus profits principally being reinvested and not distributed to private shareholders or owners,

— having a variety of legal forms and business models: e.g. cooperatives, mutuals, voluntary associations, foundations, profit or non-profit companies; often combining different legal forms and sometimes changing form according to their needs,

— being economic operators that produce goods and services (often of general interest), often with a strong element of social innovation,

— operating as independent entities, with a strong element of participation and co-decision (staff, users, members), and governance and democracy (either representative or open),

— often stemming from, or being associated with, a civil society organisation (3).

2.4. There is no legally binding EU-wide definition of charitable status either. Rather, as the EESC pointed out in a previous opinion, EU law takes little account of the intrinsic nature of the social economy, in particular its different approach to profits. Article 54 of the Treaty on the Functioning of the European Union (TFEU) has so far been interpreted as drawing a distinction between financially altruistic (i.e. not-for-profit) entities and companies whose operations are rewarded by financial gain. The latter category thus comprises all companies, without distinction and regardless of their legal form, which make a profit, whether or not that profit is distributed (4). However, the legal systems of many Member States include rules that establish a non-profit status applying to social enterprises. A distinction should therefore be made between three types of economically active operators: purely profit-oriented enterprises, limited-profit social economy enterprises as previously discussed in EESC opinion INT/871 (5), and purely non-profit social enterprises. The latter are the target group of this opinion.

2.5. In view of these national rules, social enterprises may be considered to be non-profit social enterprises if they have the features listed in point 2.4 and, in addition, are obliged under national legislation to reinvest any profits fully in tasks in the public interest or for non-profit purposes as set out in their statutes.

2.6. In a previous opinion, the EESC already complained that Court of Justice of the European Union (CJEU) case law and European Commission decision-making practice demonstrate that there is insufficient interest in companies which are referred to as being ‘non-profit’ in their respective national legislations or which, irrespective of such a designation, meet the above-mentioned criteria. The EESC therefore believes that a Protocol on diversity in types of enterprise should be annexed to the TFEU, along the same lines as Protocol No 26 on services of general interest (SGIs), including separate definitions of non-profit and limited-profit social enterprises, and calls on the Member States to include this revision on the upcoming reform agenda (6).

3. Non-profit social enterprises as providers of social and health services of general interest in the implementation of the European Pillar of Social Rights (EPSR)

3.1. The EESC already stressed in a previous opinion that the EPSR cannot be effectively implemented without the contribution of social economy enterprises and that many of these by their very nature reflect the objectives of the Pillar, such as promoting secure and adaptable employment, social dialogue and involvement of workers, and a healthy, safe and well-adapted work environment, or offering innovative responses to certain basic social needs (7). The visibility of these non-profit organisations should be boosted across Europe. It is necessary to promote innovation and to ensure easier access to funding so that they can continue to operate both in their daily work and in crisis situations. Best practices should be exchanged between the Member States.

3.2. Depending on the design of the social model in the individual EU Member States, it is the responsibility of the nation state to ensure that their citizens can benefit from comprehensive and effective social and health services of general interest that are accessible, affordable and of high quality. The EESC has already pointed out that services of general interest are an essential part of the system of social justice and that people have a right of access to high-quality ‘essential services’, including social and health services, as described by the EPSR (8).

3.3. In some countries, these services are provided primarily by non-profit initiatives, institutions and services, and then by the government, in such a way that the state ensures the framework conditions for the provision of services, users choose the service providers and social security bodies fund these services. Service provision must be based on the interests of the beneficiaries and involve them by ensuring some participation on their part. This both user-oriented and competitive way of providing services by non-profit social enterprises could serve as a basis for discussions on a pan-European model and be strengthened, for example, in relation to procurement procedures that deprive users of their freedom of choice.

3.4. The EESC advocates the possibility of targeted funding or funding exclusively for non-profit organisations without there being a risk of breaching EU State aid rules. This is more important than ever in crisis situations, since non-profit organisations do not have reserves to fall back on. However, it is particularly in crisis situations that social and health services are essential and it is necessary to ensure that the quality thereof is maintained at high levels.

(*) See footnote 1.
(1) See footnote 1.
(2) See footnote 1.
3.5. To this end, and more generally to strengthen the non-profit social economy in the provision of social and health services of general interest, fundamental changes to the European legal framework are needed, in particular by:

3.5.1 introducing the primacy of non-profit over public or commercial suppliers in public procurement law;

3.5.2 significantly increasing the threshold, from the current EUR 500 000 over three tax years to approximately EUR 800 000 per tax year, in the SGEI de minimis Regulation; such an increase helps improve the applicability and thus the effectiveness of the SGEI de minimis Regulation, while at the same time the risk of actual cross-border distortions in competition remains limited;

3.5.3 making exemptions more widespread when European funds with national co-financing are used. As with purely EU-managed programmes, State aid rules should not be applied in the case of national co-financing. Member States’ authorities should in certain cases be able to determine, in a legally binding manner — and with the protection of legitimate expectations of recipients of the State aid — that these cases are such that State aid rules do not apply. The Commission or the ECJ should have the power to monitor abuse here.

4. Fiscal framework for the activities of non-profit social enterprises

4.1. The EESC has repeatedly called on the European Commission to establish, in cooperation with the Member States, an enabling and sustainable ecosystem for the social economy (9). Improving the financial framework of the activities of non-profit social enterprises requires, inter alia, sufficient co-financing rates, administrative simplification such as a needs-based indicator, and the use and recognition of flat rates.

4.2. For non-profit social enterprises that provide social and health services, support from European funds, including the European Social Fund Plus (ESF+), is of particular importance:

4.2.1 In its opinion on the draft ESF+ regulation (10), the Committee has already called for support for social economy activities to become a separate, specific objective of the ESF+, given the growing importance of the social economy for the social dimension of the EU (11).

4.2.2 The EESC has also drawn attention to the often insufficient financial resources of non-profit social enterprises and, in this connection, has already called for equal treatment of contributions in kind and financial contributions in the provision of own resources for activities supported by the ESF+ (12).

4.2.3 Non-profit social enterprises include smaller, local organisations, such as ones which started out as self-help groups. The EESC has previously called for a suitable share of ESF+ funding to be made available to such organisations (13). It should also be possible to provide targeted support for volunteering in social and health service provision.

5. Social Economy Action Plan: Non-profit social enterprises as key players in the post-coronavirus recovery fund

5.1. The coronavirus crisis has demonstrated that national measures are only effective through coordinated action. As the EESC’s position paper (ECO/515) on the Regulation concerning the Coronavirus Response Investment Initiative has already pointed out, alongside support for public healthcare systems and SMEs, non-profit social enterprises and civil society organisations should not be overlooked and should also be given greater support. Non-profit social enterprises and civil society organisations have very limited reserves that they can use in crisis situations. However, it is precisely during a crisis that they are essential, for (health) systems to be able to continue to function. The EESC thus calls for these roles and organisations to receive more support, not only for tackling the urgent crisis, but also for implementing the EPSR, the common social and health policy, the European Social Fund (ESF) and the social scoreboard during the European Semester process (14).

5.2. The EESC supports the European Commission’s stance, set out in the letter the Commissioner for Employment and Social Rights, Nicolas Schmit, sent to the governments of the Member States on 24 April 2020 (15), that the social economy should be supported especially in these times of crisis. According to the Commission, social economy organisations in practice already contribute in many ways to cushioning the effects of this crisis: they provide a wide range of social services,

(10) COM(2018) 382 final
(12) See footnote 11.
(13) See footnote 11.
(14) EESC Position Paper ECO/515, point 1.11.
(15) https://twitter.com/NicolasSchmitEU/status/1254685369070530560
particularly for the most vulnerable in society, in conjunction with and supplementing measures taken by public authorities. They are also key employers for vulnerable groups and play a crucial role in labour market integration and the provision of skills.

5.3. Non-profit social economy and other ‘not-for-profit’ organisations should be better connected in terms of communication, policy and operational networks. This should be supported by the EU and Member States through permanent promotion of regular cross-border cooperation and by better links between civil protection, emergency, and social and health services. Reversion to border closures and purely national approaches during the coronavirus crisis is counterproductive and is out of line with EU goals and values.

5.4. Social economy organisations, particularly non-profit social enterprises, in Europe, because of their inclusive nature and their aim to support those who are most disadvantaged, contribute in particular to the provision of assistance to migrants. As the EESC already called for in its opinion INT/785, social economy organisations must also receive greater recognition in this context (16).

5.5. Referring to its opinion on the external dimension of the social economy (17), the EESC reiterates that the Commission has not included the social economy in its proposal for a new European Consensus on Development. The non-profit social economy in particular has special potential, based on self help and organised civil society input, to develop a lasting, ‘bottom-up’ effect for solving social and environmental problems. A strong non-profit social economy in Europe stands available to contribute with its experience in best practice. The established non-profit approach, in the form of full reinvestment of profits in the social enterprise sector, can prevent the privatisation of public funds as well as unchecked profit maximisation outside Europe too, if corresponding state and democratically legitimate control mechanisms are in place.

5.6. There is a need for broad societal consensus between employers, workers and other civil society organisations on the role of non-profit social enterprises and the civil society organisations that support them, in the implementation of the post-coronavirus recovery fund and in the context of the 2021 Social Economy Action Plan and the associated necessary reshaping of the legal and fiscal framework. The EESC is ready to play an enabling and coordinating role in this process.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

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Opinion of the European Economic and Social Committee on ‘Mandatory due Diligence’
(exploratory opinion)
(2020/C 429/19)

Rapporteur: Thomas WAGNOSONNER
Co-rapporteur: Emmanuelle BUTAUD-STUBBS

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) affirms that it is time for the European Commission (EC) to act and propose legislation to the Member States and the European Parliament (EP) on mandatory due diligence that acknowledges responsibility based on current standards and offers a clear and secure legal framework for European businesses.

1.2. Human Rights Due Diligence (HRDD) has become a matter for the internal market; with different Member States attaching differing legal sanctions to the behaviour of firms, a fragmented, partly sectoral legislative initiative (LI) at EU level is not sufficient.

1.3. The material scope of the LI — either a directive or a regulation with their respective advantages and disadvantages — should guarantee a broad coverage of the HR and environmental rights definition including workers’ and trade union rights and ensure the inclusion of new developments in HR.

1.4. Due diligence obligations, notably with regard to global value chains, must guide management decisions that aim at sustainable companies, economically, ecologically and socially. In any case, environmental impacts should be considered of great importance for sustainable business conduct and be a high priority in GVCs.

1.5. The LI should cross-sectorally cover all companies, with proportionate requirements for SMEs established or active in the EU, in order to avoid unfair competition and an uneven playing field, as well as the public sector. It should require companies to abide by high standards of responsible business conduct but at the same time provide adequate measures in line with the respective risk of HR violations.

1.6. The following aspects should be included in mandatory HRDD:

— A coherent due diligence framework based on current instruments applying to firms active in the internal market, including companies from third countries selling a significant volume of goods and services;

— A liability resulting in effective remedies for people who are affected by misconduct. A specific liability framework, including criminal liability, must be introduced for cases where HR, social and environmental standards violations or adverse impacts of companies’ operations occur, including in their supply and subcontracting chains.
1.7. In order to avoid any legal uncertainty, the LI has to prescribe very clearly which individual actions have to be taken by companies throughout the whole due diligence process to assess HR risk in coherence with other EU binding legislation including the perhaps-to-be-adapted revision of the directive on extra-financial reporting requirements:

— Clearly defined risk analysis (identification and assessment of (potential) adverse impacts of corporate activities on HR and the environment set out in a formal, detailed document that is accessible, transparent and sincere, and which maps out the risks on the basis of a clear and transparent procedure for assessing and prioritising risks) including a negotiated early-alarm procedure and the protection of whistleblowers;

— Follow-up measures (define internal corporate responsibilities, end and prevent adverse effects);

— Tracking the effectiveness of the measures taken based on the OECD MNE Guidelines and UNGP;

— Communication (adequate reporting on the handling of (potentially) adverse impacts of corporate activities) respecting legitimate business secrecy and transparency;

— The trade union organisations represented in the company should be involved according to the national framework applicable to social dialogue.

1.8. Victims whose rights are infringed and their representatives, such as trade unions and HR defenders, must have access to effective remedies against negative impacts they suffered.

1.9. It must be ensured that victims of business-related HR infringements and their representatives including trade unions and human right defenders have, as a matter of HR, guaranteed access to fair proceedings, courts and authorities. When it is unclear if the parent company, one of its subsidiaries or suppliers with which established business relationships exist is potentially liable, one forum conducting fair proceedings should have jurisdiction. Accordingly, the Brussels I Regulation should be modified to allow for a proceeding in Europe, when HR infringements are involved.

1.10. A mandatory due diligence framework would be realised by an agreed standard that is enforced by proportionate, effective and dissuasive sanctions, whereas liability would have to be based on the violation of a clearly defined set of HR. Like in all liability regimes, an obvious causal link must be established between a fault, or a failure to prevent and certain damage. In cases of quite atypical causal cases there is consequently no risk connection.

1.11. Based on lessons learned from the French due diligence legislation, in order for European companies to be able to fulfil this role, the following quality standards must be ensured in a binding LI:

— Clear definitions and comprehensible language;

— Ensuring legal certainty and practicability in particular on the applicable law, proportionate reporting requirements respecting legitimate businesses secrecy.

1.12. The development of innovative information technologies (e.g. ‘blockchain’), which allow all data to be traced, should be encouraged for the management of GSCs in order to minimise administrative burdens and costs and avoid redundancies. They provide security and ensure traceability.

2. Main elements and background

2.1. The EP has asked the EESC to give an opinion on the LI announced at EU level on ‘Due Diligence and Corporate Accountability’. The EESC will therefore deal with proposals on the possible content and definitions of such a legislative act based on its work on ‘Due Diligence’ (DD) and ‘Business and HR’ and on the knowledge and experience of its members, particularly those countries with ambitious legislation.
2.2. The EESC has been active in working on issues of DD in global value chains (GVC) (1). Violations and infringements of human rights (HR) (2), including workers’ rights (3) and environmental rights still occur in GVC, even though in many cases such impacts could be prevented by DD and by compliance by the states and their administration with their international commitments, particularly in the field of labour rights and HR. The victims of such infringements often have no legal recourse to make their case.

2.3. A number of voluntary frameworks have been developed to enable companies to implement HRDD in their business activities. That usually takes the form of Corporate Social Responsibility (CSR) strategies.

2.4. Very influential among those instruments are the United Nations Guiding Principles on Business and HR (UNGPs), the UN Global Compact, ISO 26000 on social responsibility, and the guidelines developed at the OECD (OECD MNE Guidelines). They suggest, among other things, that contracts with business partners in GVC should be designed in a way that structures business relationships in order to protect HR. Such voluntary instruments show that it is possible to manage risks and implement standards on HR infringements in GVC. From them, further, potentially mandatory, measures can be developed.

2.5. Voluntary measures have not always been able to prevent grievous violations of fundamental rights, nor do they offer companies legal certainty when engaging in business relations abroad. This leads to a patchwork of measures that do not provide for legal certainty and legal predictability.

2.6. To remedy this, certain EU Member States have adopted legislation enhancing corporate accountability and establishing firmer frameworks for HRDD, which can offer valuable experiences. Similar legislation is currently being considered in different European countries. The UK adopted the ‘Transparency in Supply Chains’ clause in its Modern Slavery Act. The Netherlands adopted the Child Labour Due Diligence Bill, to fight against child labour for companies established in Netherlands and providing goods and services on the Dutch market.

2.7. At EU level, there is legislation pertaining to HRDD. The EU Conflict Minerals Regulation, the Non-financial Reporting Directive and the Timber Regulation are examples in which HRDD has been strengthened. Infringements of HR in GVC are handled indirectly through administrative, civil or criminal law. They raise issues of international private, international procedural and international (corporate) criminal law, which have to some extent been harmonised in the EU (i.e. the Brussels I and Rome II Regulations).

2.8. There are efforts at the international level. A working group at the UNHRC in Geneva has been negotiating on a legally binding instrument on business and HR (UN Treaty), which was subject to an EESC opinion (4) in which it agreed with the EP (5) on the necessary content of such a treaty, namely:

— Building on the UNGP framework;

— Defining mandatory DD obligations for transnational corporations and other business enterprises including their subsidiaries;

— The recognition of the extraterritorial HR obligations of states and the adoption of regulatory measures to that effect;

— The recognition of corporate criminal liability;

References:

(1) OJ C 303, 19.8.2016, p. 17; OJ C 97, 24.3.2020, p. 9; and the EESC opinion on the Sustainable supply chains and decent work in international trade (see page 197 of this Official Journal).
(2) As expressed in the International Bill of HR, the 9 core HR instruments, as pertains to Europe and the EU, the European Convention on HR, the European Social Charter and the EU’s Charter of Fundamental Rights.
(3) As expressed in the Core Labour standards and in particular the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.
— Mechanisms for coordination and cooperation among states on investigation, prosecution and enforcement of cross-border cases; and

— The setting-up of international judicial and non-judicial mechanisms for supervision and enforcement.

2.9. Aspects of HRDD have been the subject of a number of studies by European institutions and agencies, including the Fundamental Rights Agency (FRA) (*) and the EP.

2.10. Recently, a study commissioned by DG Justice (') put forward an analysis of DD requirements through supply chains. It surveyed stakeholders, illustrated the regulatory framework, assessed various policy options and demonstrated the necessity to work on comprehensive, binding measures on HRDD.

2.11. The majority of its over 600 survey respondents indicated that ‘mandatory DD as a legal standard of care may provide potential benefits to business relating to harmonisation, legal certainty, a level playing field, and increasing leverage in their business relationships throughout the supply chain through a non-negotiable standard’. The preference was for a general cross-sectoral regulation as many companies operate in multiple sectors, possibly covering all companies, based on the UNGP, and for a standard of care, rather than a procedural requirement.

2.12. The study also highlights that ‘currently only just over one-third of business respondents indicated that their companies undertake DD which takes into account all HR and environmental impacts’. In addition, ‘the majority of business respondents which are undertaking DD include first tier suppliers only’ (8). Presenting the study results, Justice Commissioner Reynders stated that this shows ‘that voluntary action to address HR violations, corporate climate and environmental harm, although incentivised through reporting, has not brought about the necessary behavioural change’ (9).

3. General comments

3.1. Voluntary measures cannot prevent all rights infringements. Binding measures accompanied by appropriate sanctions can serve to ensure adherence to a minimum legal standard, also by those businesses that do not take their moral responsibility as seriously as those that implement high HR standards. Binding rules should be shaped coherently with existing DD systems, such as the UNGPs, for easier implementation and to avoid redundancies.

3.2. Negative impacts or violations of HR and social and environmental standards can be the result of the company’s own activities, of the activities of the company’s subsidiaries or controlled undertakings, as well as of the company's business relationships, i.e. its supply and subcontracting chain. Accordingly, the UNGP, the OECD Guidelines and the ILO Tripartite Declaration recognise that DD should also cover companies’ business relationships, including supply and subcontracting chains. Based on these frameworks, DD requirements should ideally therefore cover all companies’ operations, independently of their size, including their own activities, the operations of their subsidiaries and controlled undertakings, and their business relationships, including their whole supply and subcontracting chains, franchise and contract management. They should cover operations, actual and potential impacts and violations both within and outside the EU. However, on the ground, defining the scope for the application of DD is difficult: one of the criteria, for example, chosen in the French law No 2017-399 of 27 March 2017, is the existence of an established business relationship with an entity in the supply chain that implies a certain degree of control. The French Constitutional Court has defined in another judgement what ‘established business relationship’ means: it means a regular, stable and continuous relationship developed, generally, with first tier suppliers and sub-contractors. Of course, it would be more ambitious to cover all the entities without exception, but we have to take into account the complexity of a large numbers of suppliers (up to 100 000 for one multinational company) and at the same time incentivise companies to implement effective DD for the entire value/supply chain.

(*) FRA Study, Improving access to remedy in the area of business and human rights at the EU level (Vienna 2017).
(’) https://op.europa.eu/en/publication-detail/-/publication/88a0a5fd-4c83-11ea-b8b7-01aa75ed71a1/language-en
(8) Study on due diligence requirements through the supply chain, European Commission, January 2020, p. 16.
(9) Speech by Commissioner Reynders in RBC webinar on due diligence, 30 April 2020.
3.3. The development of innovative information technologies (e.g. ‘blockchain’), which allow all data to be traced, should be encouraged for use in the management of GSCs in order to minimise administrative burdens and costs and avoid redundancies between various internal structures. They provide security and ensure traceability.

3.4. The EESC reiterates (10): ‘When EU Member States, on an individual basis start stipulating more stringent mandatory DD frameworks this will lead to a mismatch of such standards within the EU. Companies that are located in EU Member States with more stringent DD requirements shall not be out-competed by those that are not. The EESC notes that companies shall have a level playing field and legal certainty, with clear responsibilities’.

3.5. The unbalanced and piecemeal take-up of voluntary schemes creates unfair competition at European level because there is not a single regime but a patchwork of national laws that are different from one to the next while pursuing the same global goal. Outside the EU, there is very little legislation on DD, which is unfortunate for some key trading partners like the USA and China. When a mandatory EU initiative is implemented, companies from those other markets will have to adhere to the standards in order to be active in our internal market, when the EU LI covers companies from third countries providing goods and services in the EU. For reasons of fair competition, it also makes the UN treaty very important to level the playing field outside the EU jurisdiction. The current EU framework offers room for different practices and standards, unequal in terms of HR and environmental and social standards. An EU LI should be both ambitious and pragmatic and made ready to implement the international standard that is being agreed upon at the UN (11) to level the international playing field. Given the EU’s role in defence of HR, a track record of good HRDD by many, in particular large, European companies can make them pioneers in the responsibility to protect HR in GVC.

3.6. In order for European companies to be able to fulfil this role, the following quality standards must be ensured in a binding EU legislative act:

— clear definitions and comprehensible language;

— ensuring legal certainty and practicability.

3.7. Through the influence of the European internal market on world trade, a European LI would further level the playing field by requiring not only European companies to adhere to HRDD, but also companies from third countries which are providing goods and services in the internal market. This requirement for a level playing field between EU companies established in the EU and companies of third countries selling goods and services and investing in the internal market must be at the heart of any new EU LI, otherwise EU companies will suffer a competitive disadvantage. Looking at practical examples in the above-mentioned regulations on Timber and Conflict Minerals, we see that it is possible to leverage the internal market also for international suppliers.

3.8. HRDD has become a matter for the internal market; with different Member States attaching differing legal sanctions to the behaviour of firms, a fragmented, partly sectoral legislation at EU level is not sufficient. DD can have different legal ramifications depending on the specific national and legal context. In the context of this opinion, DD denotes a catalogue of obligations that a company has to follow to prevent, mitigate and account for HR (including the core ILO conventions) and environmental impacts in its operations and its GSC. Furthermore, it must be ensured that a level playing field exists for all companies involved. At international level, in particular regarding the binding UN treaty on Business and HR, the EESC regrets the absence of a dynamic for DD legislation and considers that the inclusion in the scope of a future EU LI of the companies of third countries investing and selling in the EU is a good starting point to raise the standards.

(10) See footnote 4.
(11) UN treaty ‘Business and HR’.
3.9. The EESC affirms that it is time for the EC to act and propose to the Member States and the EP a mandatory DD LI that acknowledges responsibility based on current standards and offers a clear legal framework for European businesses.

3.10. Such an LI would have to start from a holistic but also legally robust and unambiguous understanding of stakeholders in a company (12). Shareholders are at the core of a group of stakeholders, often incurring financial losses when companies are connected with HR infringements and the associated image damage. But more than just shareholders, employees, their representatives at shop and sector level and people affected by the acts done at a company level, either by living nearby or being exposed to its impacts and often being organised in civil society organisations have a stake in the responsible management of business affairs with DD for HR. All stakeholder groups should be given due consideration within a DD LI according to their respective interests.

3.11. From that follows that victims whose rights are infringed and their representatives, such as trade unions and HR defenders, must have access to effective remedies against negative impacts they suffered. Effective remedies mean that they must be able to gain full compensation for damages suffered.

3.12. It should also be pointed out that the negotiations for a UN treaty have yielded potential provisions on criminal liability for the most grievous acts, such as war crimes or unlawful executions. Therefore, a European DD LI must be able to incorporate such questions of criminal law into its frameworks.

3.13. Therefore, there are aspects to include in the consideration of mandatory HRDD:

— A coherent DD framework based on current instruments applying to firms active in the internal market;

— A liability resulting in effective remedies for people who are affected by misconduct; and

— A specific liability framework, including — where appropriate depending on the legal system and the violation — criminal liability.

3.14. The interrelation between the DD framework and questions of civil (and potential criminal) liability is obvious. Stringent DD procedures and information allow companies to illustrate that they are not responsible for a specific HR infringement. Companies that conduct DD must benefit from their efforts. This may not be construed as a general exclusion of liability. The UNGP addresses this issue in its commentary to Principle 17 by stating: ‘Conducting appropriate HRDD should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged HR abuse. However, business enterprises conducting such DD should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to HR abuses’.

3.15. An LI must cover DD but also make sure that it is adequately and coherently factored into questions of liability inside a scope based on the UNGP that will encompass in particular entities with which an enterprise has a direct link in its operations, products or services through established business relationships.

3.16. This may also be an ideal approach to including commensurate liability, without arbitrarily declaring ‘SME’ thresholds. The existing DD frameworks, such as the UNGP and the OECD MNE Guidelines apply to all businesses, for good reason: HR are universal and indivisible; the size, revenue and sector specificities may vary wildly in their HR exposure in value chains; cutting off liability at specific sizes, subsidiaries and suppliers may create issues as GVC would adjust according to compliance thresholds. It is a fact that these companies, already deeply impacted by the COVID-19 crisis, have less adequate resources to perform the required task. A reasonable DD will ensure respect for HR and compensation for

directly affected people, but avoid imposing in the most serious economic crisis any disproportionate logistical, financial and human burden on SMEs. A clarification of how the DD requirements interact with potential liability might be a practical approach to factoring in the particularities of SMEs in Europe.

3.17. The LI should cross-sectorally cover all companies — as stipulated in the UNGP — established or active in the EU, in order to avoid unfair competition and an uneven playing field, as well as the public sector. It should require companies to abide by high standards of responsible business conduct, but at the same time propose adequate measures in line with the respective risk of HR violations. Effective DD mechanisms must be put in place by companies in order to identify, prevent, and mitigate HR violations and negative social and environmental impacts, covering their activities and business relationships, including their supply and subcontracting chains clearly linked in a business relationship in well-defined GVCs.

3.18. The material scope of the LI should guarantee a broad coverage of the human and environmental rights definition including workers' and trade union rights and ensure the inclusion of new developments in HR (e.g. principle of non-discrimination). It should build on instruments such as the International Bill of HR and ILO Conventions, as well as the European Convention on HR and the European Social Charter. The ILO's Tripartite Declaration of Principles concerning MNEs and Social Policy also includes a comprehensive catalogue of rights pertaining to MNEs and work, which also specifically notes the conventions and recommendations on occupational safety and health, and should be considered. With regard to environmental rights, the Paris Agreement must be taken into account with the limit that this international treaty has been signed by governments and not by companies which means that the former must respect their commitments and the latter must contribute to their realisation. It should further build on the EU Treaties and the Charter of Fundamental Rights of the EU as well as national instruments in the area of HR. In any event, the level of protection of HR should by no means be lower than the one provided for by existing legislation at international, European or national level.

3.19. The DD obligations should cover actual and potential impacts. They should also cover social and environmental impacts, including on the basis of the SDGs, as well as anti-corruption, corporate governance and fair taxation. Environmental impacts should be considered of paramount importance for sustainable business conduct. According to the UNGP, OECD Guidelines and ILO Tripartite Declaration definitions, companies should carry out DD to 'identify, prevent, mitigate and account for how they address their actual or potential adverse impacts. Building upon those instruments, mandatory DD should include, while protecting legitimate interests of business secrecy, assessing and identifying actual and potential adverse impacts, acting upon the findings in order to cease and prevent negative impacts, tracking the implementation and the results, and communicating how impacts have been addressed'. The LI should be built coherently with existing DD systems, such as the UNGPs, to facilitate easier implementation and to avoid redundancies.

3.20. The LI has to prescribe clearly which individual actions have to be taken by companies throughout the whole DD process to assess HR risk in coherence with other EU binding legislation, such as the revision of the Non-Financial Reporting Directive (13), which may need to be adjusted accordingly in the future. It should contain the following measures:

— Clearly defined risk analysis (identification and assessment of (potential) adverse impacts of corporate activities on HR and the environment) including an early-alert mechanism;

— Follow-up measures (define internal corporate responsibilities, end and prevent adverse effects);

— Tracking the effectiveness of the measures taken based on the OECD MNE Guidelines and UNGP;

— Communication (reporting on the handling of (potentially) adverse impacts of corporate activities) respecting legitimate business secrecy;

— The trade union organisations represented in the company should be involved according applicable to social dialogue.

3.21. Member States should ensure that one or more national public authorities (e.g. labour or health and safety inspectorates) have the responsibility to monitor the respect of companies’ obligations. The authority should have the necessary resources and expertise to carry out controls, also ex officio and checks based on risk assessments, information received from whistleblowers and complaints. It should work in close cooperation with and ensure the active participation of the social partners. Properly equipped OECD contact points should play a role as well.

3.22. The international instruments recognise the necessary role that meaningful consultations with representatives of civil society, as well trade unions, workers and their legitimate representatives at the respective levels of social dialogue (shop, sectoral, national, European, international), should play in the definition and implementation of companies’ DD initiatives. Therefore, an LI should guarantee such participation in the respective DD provisions.

3.23. In the existing systems on which a mandatory LI may be based, implementing and conducting a DD system does not in itself always preclude liability, as damages result from infringements of HR, not due diligence oversights. When prevention fails, victims of HR infringements still need at least effective judicial remedies guaranteeing full compensation for the damages incurred. A DD system will serve to illustrate the efforts taken in preventing damages.

4. Specific comments

4.1. Businesses operating across borders within the EU and beyond must be managed in a way that is sustainable: economically, socially, ecologically, with prospects for locations, production of goods and services in Europe. The LI should also require companies to embed responsible and sustainable business conduct principles and considerations in their business relationships in GVCs. The LI should orientate to install a framework, which will include an effective and binding dialogue with the key stakeholders of a company, preferably at the level of their supervisory and advisory boards.

4.2. Considering the challenges and obstacles that victims often face in the access to justice in third countries where European companies’ operations take place, the possibility of access to justice in the Member State where the company is established (or where it conducts business activities) should be ensured. It should therefore be possible to submit claims against companies which are established in or conduct activities in or have otherwise a link with a Member State in that Member State’s jurisdiction. This possibility is already foreseen by the French corporate duty of vigilance law of 27 March 2017 but pending cases show that the jurisdiction of national courts is not yet acquired for complaints concerning a subsidiary abroad.

4.3. The jurisdiction of European courts is usually reserved for European defendants. This means that a Europe-based company may be sued in a European court, but its subsidiaries, which are based in the country where the damage occurred, typically may not. Suppliers and intermediaries in the supply chain are even farther removed from the European company in question. It must be ensured that victims of business-related HR infringements and their representatives, including trade unions and human rights defenders have, as a matter of HR, guaranteed access to fair proceedings, courts and authorities. When it is unclear if the parent company, one of its subsidiaries or suppliers is potentially liable, one forum conducting fair proceedings should have jurisdiction. Accordingly, the Brussels I Regulation should be modified to allow for a proceeding in Europe, when HR infringements are involved.

4.4. Another issue that has been discussed at UN level is applicable law. According to Article 7 of the Rome II regulation, there is a choice of laws in cases of environmental damage. Will it be also the case for HR in order to ensure the same level of rights between environmental damages and HR violations? This issue is currently a matter of debate between lawyers and the EESC will favour such an alignment in principle without prejudging all legal consequences.
4.5. A specific liability framework, including — where appropriate depending on the legal system and the violation — criminal liability, must be introduced for cases where HR, social and environmental standards violations or adverse impacts of companies’ operations occur, including in their supply and subcontracting chains. Criminal liability for the most heinous international crimes has been included in the UN draft treaty. In its opinion on the UN Treaty, the EESC has already noted that such a liability should also extend to cases of grave negligence (14).

4.6. The EESC has also already expressed its views on the issue of a burden of proof and the respective standard of proof. In the EESC opinion (15) it is proposed that: ‘(…) That would mean at least that claimants of HR infringements shall only be required to prove the existence of a definite connection between the perpetrator of the infringement (such as a supplier or subsidiary) and the (recipient or parent) company, which shall in turn be required to plausibly explain that the infringements were not within its control’.

4.7. Companies should not be exposed to frivolous litigation or an absolute liability, as they can refer to their DD processes to illustrate their involvement and actions to mitigate and prevent the harmful impacts. When a company has neither caused, contributed to a damage nor could have known about it, even though it has conducted meaningful DD, no liability can be attached. A DD process should address the often cited problem of ‘corporate veil’, whereby victims often do not have the resources or the possibility to illustrate the specific chain of responsibility within a GVC.

4.8. Measures to facilitate access to justice for victims should include appropriate support schemes. Interim proceedings should allow the halting of operations violating HR, social and environmental standards. The EESC has already noted the importance of witnesses and the role of whistleblowers, as well as the necessity to support NGOs working in this area to the extent that they have a legitimate interest, based on established, legal principles in taking action and gathering evidence. In France, a few formal notices at the initiative of NGOs against companies on the basis on the French DD have demonstrated the difficulties in law enforcement (applicable law for instance).

4.9. A mandatory DD framework would be realised by an agreed standard that is enforced by proportionate, effective and dissuasive sanctions, whereas liability would have to be based on the violation of a clearly defined set of HR. Like in all liability regimes, an obvious causal link must be established between a fault, or a failure to prevent and certain damage. In cases of non-proximate, remote, causal cases, there is consequently no risk connection.

4.10. Sanctions should include exclusion from public procurement and public funding, as well as financial sanctions in proportion with companies’ turnover and remediation. This should incentivise companies to comply with the obligations and to prevent negative impacts of their activities. This should further contribute to the upwards convergence of the approach towards HR, including workers’ and trade unions’ rights. Member States should introduce positive incentives to promote an ambitious approach by companies towards sustainable economic operations, including in their supply and subcontracting chains.

4.11. An LI should include a non-regression clause, a most favourable clause as well as a review clause based on expert input for which data protection legislation could be an example. The requirements of a new EU LI should also apply to existing voluntary DD tools, which should be adapted where necessary.

4.12. The EC should actively promote its DD policy at international level, i.e. in the UN treaty process, in all the relevant international organisations in order to stimulate other jurisdictions to follow that path.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Revision of the Territorial Agenda of the EU, the Leipzig Charter and the Urban Agenda for the EU’

(exploratory opinion requested by the German Presidency)

(2020/C 429/20)

Rapporteur: Petr ZAHRADNÍK
Co-rapporteur: Roman HAKEN

1. Conclusions and recommendations

1.1 The EESC recommends that the new circumstances and parameters that have arisen during the operating period of the current Leipzig Charter (see paragraph 2.2) be fully included in the content of the new Charter, with a view to ensuring that the Charter is functionally compatible with the future EU multiannual financial framework and its links with the European Semester process. It should also take into account the impacts and consequences of the COVID-19 pandemic on the economic, social, environmental and territorial development of the Member States and of the EU as a whole.

1.2 The EESC draws attention to the anticipated increase in distortions and risks (economic, health, environmental, cyber, etc.) and proposes to explicitly highlight the need to systematically consider resilience in the New Leipzig Charter on Sustainable European Cities.

1.3 The EESC welcomes the text of the Territorial Agenda 2030 and endorses its central pillars, which are based on justice, an environmental focus and the need for the territorial dimension to be reflected in all relevant areas of public administration.

1.4 At the same time, the EESC welcomes the opportunity provided by the Territorial Agenda 2030 to participate in the process of implementing it.

1.5 The EESC is aware of the huge scope for using an integrated approach in territorial and urban development and the benefits associated with this approach in terms of synergising the effects, saving on costs and making functional connections between the content of supported projects.

1.6 The EESC points out that there is also scope for an integrated approach in terms of the possibility of linking public and private financial resources to increase capacity and share risk for the benefit of both territorial and urban development subject to democratic control, transparent governance and accountability.

1.7 The EESC strongly supports a balance between different types of territory in the use of territorial and urban development instruments. It recommends using the most appropriate support instruments for each type of territory, while respecting the principle of subsidiarity, which will result in the elimination of symptoms of deprivation, backwardness and isolation in the case of at-risk regions.
1.8 The EESC underlines the importance of new models and aspects of the development of urban agglomerations and metropolitan areas as key factors for improving of the EU's global competitiveness through their openness, as well as the need to resist some spill-over effects of globalisation.

1.9 The EESC is, however, also well aware of the importance of protection and support for peripheral and outlying, mainly rural, territories to help include them in modern and sustainable regional development.

1.10 Bearing in mind both endogenous and exogenous factors, the sustainability and resilience of cities and regions cannot be addressed separately. The EESC therefore recommends that the Urban Agenda be coordinated as much as possible with territorial cohesion policy. This can be achieved through functional partnerships between urban and rural areas and through integrated projects aimed at enhancing the sustainability and resilience of the local economic, social and environmental systems of cities, their functional areas and their rural periphery.

1.11 The EESC calls on the European Commission to support exchanges of experience gradually leading to methodological recommendations for taking emerging risks and resilience into account as part of the preparation and assessment of development plans at urban and regional levels.

1.12 The EESC notes, on the one hand, that metropolitan areas and urban agglomerations — thanks to the concentration of resources and the diversification of economic activities — are well placed to be the growth poles of the national economy as well as acting as its contact points in the context of economic openness and globalisation. On the other hand, it is fully aware of the need for a more balanced development of the entire national economy, including rural and peripheral areas.

1.13 The EESC insists that a more balanced representation must exist under the partnership principle in urban and regional development. A good example of fair representation is provided by the LEADER/CLLD programme, in which a maximum of 50% of partnership members may come from public administration. The EESC recommends much greater involvement of target groups (urban and rural residents, local NGOs and social partners) to effective public-private cooperation.

1.14 The EESC notes that, in practice, the integrated territorial approach is primarily applied in rural areas (LEADER/CLLD) and in the case of functional urban and metropolitan agglomerations.

1.15 Although a (cross-sectoral) partnership is guaranteed in the composition of the management and advisory bodies, in practice the position of private entities (whether local businesses and NGOs or related LAGs and associations) is significantly weaker in ITI. This needs to be dealt with in the future, as it does not result in a balanced view of the community's development needs.

2. Background

2.1 The Leipzig Charter is an intergovernmental document of the EU Member States, the aim of which is to adhere to common principles and strategies for sustainable urban development policy. In this sense, it is built on three pillars:

— integrating the concept of sustainable urban development into national, regional and local development policies,

— using integrated urban development tools (e.g. CLLD-U) and the corresponding public administration, as well as management that adopts the principle of multi-level governance,

— ensuring a balance with other types of territorial structure while respecting a polycentric urban structure.

2.2 The EESC agrees with both the spirit and the substance of the Leipzig Charter, but considers it necessary to adapt its content to the new circumstances that have emerged since the adoption of the Charter in May 2007. The most important changes include:

— huge technological advances and broader potential for innovation in the form of digitalisation, smart mobility and other smart solutions, which provide many opportunities for development (e.g. resource optimisation, etc.) as well as strategic risks (impact on employment, cyber vulnerability, etc.),

— the impact of Economy 4.0 and Society 4.0 from the perspective of economic activities organised in the form of a circular and shared economy, the development triggers and effects of which are concentrated in urban agglomerations in particular,
— changes to the social structure due to migration, demographic influences and changing lifestyles,

— the opportunities and challenges stemming from the objectives and measures included in the European Green Deal,

— new models and ways of financing urban development, based on the sharing of private and public resources and interests,

— new aspects of the openness of urban agglomerations and metropolitan areas to the outside world, in view of their role in global competitiveness and the need to resist the spill-over effects of globalisation,

— the continuing need to increase the participation of the population in the planning and implementation of the development projects both of cities and of their rural periphery.

2.3 The Territorial Agenda 2030 is an intergovernmental document of the EU Member States, created on the basis of cooperation with partners from other countries, EU institutions and organisations and European interest groups. Its aim is to ensure that the need for a sustainable future is focused not only on strengthening territorial cohesion, which is an objective introduced by Article 3 TEU, but on all territories and all inhabitants.

2.3.1 In order for this to be achieved, the Territorial Agenda 2030 calls for the territorial dimension of all policies at all levels of governance to be strengthened. In this sense, it is built on three pillars:

— The first key objective is a Just Europe, which offers future prospects for all types of territories and their inhabitants. This objective emphasises the contribution of the territorial dimension and spatial planning to bridging and linking policy priorities such as: economic, social and territorial cohesion; the European Pillar of Social Rights; a Europe that is closer to citizens; more inclusive, sustainable and integrated urban and territorial development; just transformation; and territorial integration in Europe.

— A second key objective is a green Europe that protects our shared environment and shapes societal transformation. Here the aim is to highlight the contribution of the territorial dimension and spatial planning to achieving policy priorities such as the UN Sustainable Development Goals (SDGs), the EU’s Green Deal, the Paris Agreement and Europe’s transition to a circular economy.

— Thirdly, the Territorial Agenda 2030 provides strategic orientation for spatial planning and calls for the territorial dimension of all policies at all levels of governance to be strengthened. In this context, it also concerns the EESC, which is asked to inform its members of its priorities and encourage them to work together to implement it. This includes emphasising the importance of civil society partners in ensuring a sustainable future for all territories, and strengthening CLLD and any other instrument facilitating integrated territorial development and cooperation. In addition, EESC members are asked to defend the priorities of the Territorial Agenda in policy debates at European level.

2.4 The EESC agrees that the Territorial Agenda 2030 is important, and approves of its content. It also appreciates the efforts made since 2011 to update and further develop the idea of the Territorial Agenda:

— in particular, it identifies with the overall goal of the Territorial Agenda in terms of ensuring a sustainable future for all types of territories and their inhabitants in Europe,

— it agrees with the goals and priorities of the Territorial Agenda 2030 and appreciates the efforts made with regard to the territories and their inhabitants,

— it approves of the emphasis placed on achieving priorities such as: a) a balanced Europe, which leaves no place and no person behind; b) functional regions that link urban and rural areas; c) the integration of life and work across national borders; d) a healthy environment and decent living conditions; e) a circular economy; and f) sustainable digital and physical connectivity,

— it considers it essential for civil society to be involved in the pursuit of territorial objectives such as a just and green Europe, and agrees that the EESC should be involved in this process as one of the key players,

— it acknowledges the fact that all EESC members have the opportunity to participate in the drafting and implementation of the Territorial Agenda 2030, via the website www.territorialagenda.eu
2.5 The EESC welcomes the support process for establishing the EU's new Urban Agenda following the signing of the Pact of Amsterdam. This Agenda, which is logically linked to the URBACT or URBAN programmes, has great potential for the future with regard to identifying urban development priorities and demonstrating good practice that will be replicable in the EU.

2.6 While all the priority themes in the Urban Agenda are relevant to civil society organisations, they go beyond the traditional roles associated with civil society. NGOs, social enterprises, and cooperatives are increasingly developing their capacity or establishing new economic or organisational models to provide public-interest services. It is necessary for public authorities to be able to see themselves from the point of view of groups and organisations working in urban areas. The EESC suggests that involving national or regional networks or local organisations with a lot of experience on a given issue would be just as useful as having European networks.

2.7 In any case, in order to effectively implement the Urban Agenda for the EU, it is necessary to:

(a) consider the basic needs of the partners involved and pay attention to capacity-building (mainly for horizontal partnerships at city level). The EESC recommends that European technical assistance funds be used for this purpose;

(b) prepare methodological recommendations on principles of responsible urban partnerships. It is important to have a methodology for monitoring and evaluating the Urban Agenda, including indicators that will be able to measure changes achieved. It is necessary for partners, including Civil Society Organisations, to be involved in evaluation and monitoring.

2.8 The EESC perceives a certain degree of duality between the territorial and urban agendas, on the one hand, and territorial cohesion on the other. It recognises that the idea of territorial cohesion has been part of the Treaty (TFEU) since 2009 and is therefore part of EU legislation, whereas the urban and territorial agendas as such are not part of the Treaty, and their sovereign component remains under the jurisdiction of the Member States and is still regulated by an intergovernmental agreement.

2.9 As an important part of regional development within the EU, the EESC also supports the creation and implementation of participatory macro-regional development strategies involving both EU and non-EU regions and countries.

2.10 Although from a chronological point of view, the issue of the EU's territorial and urban agendas falls within a more distant time period compared to the multiannual financial framework, it is essential that it be adequately reflected in the latter's future focus as well as being adequately supported by it. Indeed, it can be assumed that the future EU multiannual financial framework will be fundamentally affected by the effects of the ongoing COVID-19 pandemic.

2.11 Due to the impact of the pandemic, it will also be necessary to include in the territorial and urban agendas not only a development dimension, but also the ability to withstand difficult-to-predict risks in the form of asymmetric exogenous shocks, which have a dramatic impact on the sustainability of the development trajectory.

3. General comments

3.1 Sustainability and resilience

3.1.1 The EESC points out that Europe is facing ongoing challenges linked to the effects of climate change, the use of resources and the need to reduce environmental risks in order to protect the health and wellbeing of the population. Although more and more municipalities and local communities are experimenting with different approaches to sustainable mobility, construction, production and consumption, in practice the wider application of these approaches will require much broader participation on the part of society as a whole, including businesses, NGOs and individuals, in the entire transformation process.

3.1.2 The EESC believes that local authorities, with their ability to create integrated local solutions, can make effective use of financial resources earmarked for addressing the health and economic impacts of the current COVID-19 pandemic, not only to strengthen health and social infrastructure and kick-start the economy, but also to support the transition to more sustainable and resilient models of economic development.

3.1.3 The EESC notes that European cities have traditionally taken the supply of goods and services from outside areas for granted and assumed that fully integrated economic systems can cope with potential disruptions. However, as can be clearly seen in the current COVID-19 pandemic, the high degree of interdependence entails cascading risks.
3.1.4 The EESC therefore emphasises the need to build mutually beneficial partnerships between urban and rural areas in order to strengthen the sustainability and resilience of local economic, social and environmental systems. Partnerships of this kind may become pillars of territorial cohesion in the future.

3.1.5 The EESC therefore recommends that the New Leipzig Charter should call on cities to:

(a) build anticipatory capacities for risk and for the transformative potential of climate change, the effects of the fourth industrial revolution and the impact of emerging health threats, as well as other relevant risks in the context of the Sendai Framework for Disaster Risk Reduction;

(b) actively develop and support partnerships between local actors in urban and rural areas (including local municipalities and local action groups (LAGs)) to prevent strategic risks and make use of transformative potential through integrated projects in key areas of common interest (healthcare, water and food supplies, transport, circular economy, etc.);

(c) assess the effects of future development plans, programmes and projects on the sustainability and resilience of the local environmental, economic and social system (including impacts on vulnerable population groups and the labour market) and optimise them on the basis of lessons learned;

(d) share lessons learned and innovative solutions for enhancing sustainability and resilience by means of European networks and territorial cooperation programmes.

3.1.6 At the same time, the EESC recognises that strengthening resilience is a relatively new area of focus. For this reason, it recommends launching a pan-European exchange of experience involving researchers and experts, as well as initiatives promoting good practice in this field.

3.2 Integration

3.2.1 The EESC points out that the potential for the implementation of integrated projects under cohesion policy remains huge across the EU. Interdisciplinarity and a focus on cross-cutting themes (i.e. overcoming the extreme spread of a silo mentality and an artificial sectoral vision that actually prevent the implementation of truly integrated solutions) should be at the heart of the integrated approach to the use of EU resources.

3.2.2 The EESC is aware that an integrated approach requires a completely new stance when it comes to dealing with supported projects. This approach is based on the interconnectedness and logical and functional interdependence of projects, where sources of support come not only from various EU budget programmes, but also in various forms (subsidies, financial instruments). Ideally, these are also supplemented by private sources. It is thus essential to ensure that the content is thematically consistent and extremely important that the real effects are assessed.

3.2.3 The EESC recommends that an integrated territorial approach be adequately reflected throughout the partnership agreement. Furthermore, it must be fully interconnected and compatible with the principle of a thematic focus, and no interpretation in the form of a residual thematic focus should be allowed.

3.2.4 The EESC adds that, as a hypothetical test has shown, an integrated approach yields about 40 % better value for performance indicators than a scenario in which individual projects are isolated. From a macroeconomic perspective, these changes are somewhat negligible in the case of support for investment in the private sector (given the very small proportion of investments made in comparison with the total amount of private investment); on the other hand, in the case of public investment, the impact is considerable, in particular due to the coordination of their implementation and use.

3.2.5 The EESC notes that integration does not have to be limited to content and themes. Different kinds of territory are also suited to different kinds of integrated projects, which is why the application of the principle of subsidiarity and the relevance of linking topics with needs are so important. In this context, the following typological areas are most often mentioned: metropolitan areas, (sub)regions, deprived urban areas and urban agglomerations.
3.2.6 The EESC notes that projects related to the promotion of competitiveness and excellence, in which the role of development poles is achieved, are mainly suited to metropolitan areas and agglomerations, whereas projects aimed at supporting convergence priorities are very relevant to (sub)regions and deprived urban areas. Integration can also have combining resources as its object, which is possible both within the framework of an operational cohesion policy programme and across operational programmes, across funds and across the programmes of the multiannual financial framework. The EESC considers that the mobilisation of private financial resources to augment available public funding, and thus provide additional capacity and risk sharing is also a possible option for an integrated approach.

3.2.7 The EESC believes that the main assets of the integrated territorial approach are the establishment of economies of scale, in which the cost of implementing these projects is significantly reduced, and the synergy of the beneficial effects of development, which can be regarded as the greatest positive benefit. The main obstacles can be summarised as: persistent mistrust, complexity of management and implementation, and especially the lack of willingness to delegate responsibility to lower sections of the governance structure.

3.3 Balance

3.3.1 The more the development of metropolises and urban agglomerations is achieved at the expense of other types of territory within a specific country, the greater the risk of future structural failures, which will be costly to solve. At the same time, this approach is also valid for the balanced development of individual EU Member States and justifies the continuation of a strong EU cohesion policy in the future.

3.3.2 The main regional development aid instruments should respect this approach, and specific ITI and CLLD-U projects should take this broader context into account, otherwise there is an increased risk of creating internal peripheries (‘no man’s lands’) which are not sufficiently supported by territorial development policies, and whose future development is therefore fundamentally hampered. Logically, it is the major and investment-related projects that predominate in ITI, while those falling under CLLD-U are of limited financial scope and, more often, unrelated to investments, yet with great added value.

3.3.3 This also creates an area of mutual compatibility between ITI and CLLD, on the basis of respect for the principle of subsidiarity. Thus, not only the relevant metropolitan area or urban agglomeration, but also the relevant rural areas or areas of smaller cities should be included in considerations relating to the ITI. On the other hand, CLLD is a rationally applicable instrument that not only serves to support local initiatives in rural areas, but also to address community problems in urban agglomerations and urban parts of metropolitan areas.

3.3.4 Key characteristics of CLLD-U (1):

— local cross-sectoral partnerships — such as LAGs for rural territories, participation of different sectors (businesses, non-profit, public administration and/or specific institutions such as schools, institutes, authorities, banks),

— a common development strategy (territorially integrated, inter-sectoral, focused on one or more themes, based on the specific needs and opportunities of urban areas, designed in line with the urban development strategy that is in force and financed from a range of public and private resources),

— a bottom-up approach in which the initiative comes directly from the locality concerned with the proven involvement of partners and the public,

— coordinated action (through planning and use of public and private resources, common projects), the possibility of multilateral integration (territorial, temporal, material, funding-related and institutional),

— partner and decentralised decision-making on the funding of individual local applicants’ projects via the bodies of the local cross-sectoral partnerships,

— emphasis on innovation of approach — i.e. activities that are new in the area concerned and promote development (not just activities that were common in the past),

(1) The EESC use CLLD-U in this opinion as a term for Community Led Local Development in Urban areas. By this, we are trying to better describe different resources and conditions for local rural and urban development. Currently CLLD is usually used for rural areas, as an upgrade of the LEADER programme, but not so much for urban development.
— cooperation in networks, particularly between the local cross-sectoral partnerships within the Member States and/or among the local cross-sectoral partnerships within the EU.

3.3.5 The EESC is aware that due to ongoing structural and technological changes, certain territorial profiles within the EU find themselves in a situation where — at least in the short term — they are unable to help themselves (e.g. regions with hitherto intensive coal mining or those dependent on heavy industries in decline) and that there are signs of market failure. Territorial development instruments should help these regions to find a viable strategic solution in the form of a functional diversification of economic activities and to secure the necessary financial resources for this development.

4. Specific comments

4.1 Institutional considerations

4.1.1 The EESC is aware of a certain duality in the EU’s institutional anchoring, namely between territorial development and the urban development agenda, on the one hand, and territorial cohesion on the other. Although, holistically speaking, urban development can be considered part of territorial development more broadly, it has a degree of autonomy in terms of competences, as it is fully within the competence of the Member States and therefore subject to intergovernmental management. Territorial cohesion, on the other hand, has been part of EU legislation since 2009. There is thus a significant overlap between the two topics in terms of content.

4.1.2 The above mentioned duality — which was highlighted in the Bucharest Declaration of 2019, for example — is not yet a major issue, as the urban agenda is fully integrated into cohesion policy. The multi-level governance system also helps to resolve the issue (see below). Nevertheless, the new Leipzig Charter should overcome this duality as much as possible and ensure that the link between the territorial and urban agendas is as effective as possible.

4.2 Substantive considerations

4.2.1 The EESC expects that the greatest significance and added value of the new Leipzig Charter will be found in the comprehensive integration of new elements and circumstances that determine territorial and urban development (see paragraph 2.2); in the incorporation of the principle of resilience throughout the new document; and in the document’s convincing response to the effects of the COVID-19 pandemic, which are likely to be of a long-term and structural nature.

4.2.2 The important substantive considerations also include the existence of adequate preventive, supportive and development infrastructure, making use of current technological possibilities and ensuring balanced development of the territory, through which certain qualitative differences in living standards between metropolitan and peripheral rural areas fade away.

4.3 Finance

4.3.1 In order to ensure optimal territorial and urban development, it is necessary to create a robust financial resource that is capable of responding to real needs, in the form of a future EU multiannual financial framework for which territorial development that is balanced yet dynamic, sustainable and integrated should be one of the fundamental priorities. On the other hand, even in the context of territorial development, it seems advisable to make greater use of modern financial instruments, i.e. those that take into account results and performance that can be measured, some of which are built on the basis of profitability.

4.3.2 With regard to the use of a private initiative and from the perspective of responsibility for the development of the territories in which we work and live, given the limitations of public resources the possibility of mobilising private finance to augment them should be optimised, subject to strict democratic control and governance.

4.4 Multi-level governance

4.4.1 In the context of modern territorial and urban development, multi-level administration that consistently respects the principle of subsidiarity is both necessary and a prerequisite. It is simply a matter of creating suitable institutional conditions for it to function effectively. Here we refer primarily to real competences, administrative and procedural conditions, and a sufficient financial basis.
4.4.2 Partnership, whether vertical or horizontal, is one of the main principles for ensuring modern public services. The EESC suggests looking at various models of public-private collaboration which observe best practice in terms of democratic accountability and control in the governance of urban projects, as well as at various social enterprises and European partnership-based programmes such as the former EQUAL (2) programme, which represent other examples of such cooperation. It is up to public administration at various levels, notably in cities, to bring the relevant partners together in joint projects and to use financing effectively.

4.4.3 Multi-level governance can be effectively developed and implemented through integrated projects between urban agglomerations and their functional territories in rural areas. LAGs in rural areas as well as emerging cross-sectoral urban partnerships can also successfully participate in these projects.

4.4.4 At the same time, modern territorial and urban development presupposes not only the alignment of all components within the public sector (representatives of the State, regions and municipalities), but also the effective involvement of social partners and civil society (individual citizens, professional bodies and business associations, trade unions, the locally active non-profit sector, etc.).

4.4.5 The EESC suggests that the theme of urban communities and the involvement of citizens should have been elaborated further in the Charter. Cities need a functioning mechanism for strengthening the position of citizens and groups of citizens so that they can be real and solid partners in discussions, as well as in implementing development priorities for their cities and the urban agenda. Only a self-confident and strong community with high social capital will be able to deal with the challenges that are emerging. To this end, public administrations need to prepare educational and training modules that focus on how to create and strengthen cooperative partnerships in their own municipality. The EESC is prepared to work on fleshing out this idea.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

(2) http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:c10237
Opinion of the European Economic and Social Committee on 'The role of EU structural and cohesion policy in driving forward the transformation of the economy in an innovative and smart manner'
(exploratory opinion)
(2020/C 429/21)

Rapporteur: Gonçalo LOBO XAVIER

Consultation 18.2.2020 — letter from Peter ALTMAIER, German Federal Minister for Economic Affairs and Energy

Legal basis Article 304 TFEU

Section responsible Economic and Monetary Union and Economic and Social Cohesion

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Outcome of vote (for/against/abstentions) 217/0/3

1. Conclusions and recommendations

1.1. The EESC calls on the European Commission to address cohesion policy as a fundamental tool for dealing with the huge challenges caused by the coronavirus pandemic. There is an urgent need to respond swiftly, and the financial means to help and support Member States must be deployed in keeping with the relevant criteria, but also with courage. More than ever, Europe needs a differential approach to a single challenge.

1.2. The impact of the coronavirus crisis means there is a need for strong, clear measures to rebuild Europe's economy. The consequences for public health, economic, societal and political action are difficult to measure and the impact will differ from one Member State to another. The EESC agrees that the priorities of the German Presidency must focus on these new circumstances and calls for action to protect employment and social rights across the Union.

1.3. The EESC believes that any recovery plan for Europe must bear in mind the consequences of this crisis, namely Europe's dependence on other economic areas for specific products and services. It is clear that Europe must reflect on its trade policy, boost innovation and turn to good advantage its smart specialisation strategy based on regions and a sectoral industrial approach. The cohesion policy was fundamental in the past for creating the right conditions for industry, R&D and infrastructure to develop solutions. The EESC believes that the needs of the moment require an even stronger policy to support industries to relocate back to Europe. Reindustrialisation is needed and the time to do that is now.

1.4. For the EESC, digitalisation of services must continue to be a priority for all Member States. This crisis has shown the need for simpler, more comprehensive services to support all Europeans, particularly those who require extra support. It is clear to the EESC that there are different perspectives and challenges among Member States regarding digitalisation. Existing infrastructure is inadequate and more investment in these areas must be a priority. Member States should be encouraged to invest in better infrastructure to create the right conditions for new companies and new services. Financial instruments must be creative and simple so as to allow this to happen.

1.5. The EESC agrees that there is still a need to invest in full broadband systems to allow rural areas to develop modern agriculture and tourism activities. Cohesion policy instruments have been neglecting this need, or at least Member States have been distracted from existing opportunities under the financial programmes. To allow the development of a 'new form of agriculture', new tourism activities and new 'industries', Member States' governments should be encouraged to invest in broadband infrastructure.
1.6. The EESC strongly believes that e-business is fundamental to the ‘new normal’ as a result of COVID-19’s impact on society and the economy. It will be necessary to provide different options for both companies and consumers. SMEs can also benefit from this new approach, so structural funds must be allocated to allow companies to discover new markets and new opportunities. The EESC urges the European Commission to be flexible when addressing these challenges, which can provide opportunities for companies to ‘go online’ with partnerships and smart investment to compete not only in the internal market but also world-wide. More sustainable supply chain networks are definitely needed to allow companies and consumers to interact better.

1.7. The EESC believes that there is an urgent need to protect SMEs and their sustainability. Therefore, the usual, existing European tools such as the European Social Fund must be deployed in a very creative but simple way. There is no doubt about the impact of this crisis on employment rates and it will be difficult for Europe to recover without a proper strategy for training and for reintegrating people into the labour market. Also for this reason, the decision-making process relating to the use of financial instruments must address the fact that SMEs still need to deal with a great deal of ‘red tape’ to benefit from these schemes. The EESC calls for action to lighten the load here in order to allow SMEs to go further in this.

1.7.1. It is imperative to ensure favourable long-term credit conditions for SMEs in order to provide them with help in this difficult period, and we should use the Cohesion Fund to create a rapidly-responding, effective financial instrument.

1.7.2. Along the same lines, the EESC would draw attention to the need to boost and create the right conditions for developing public investment in, and mechanisms for, life-long training schemes to allow people to adjust their skills to the needs of the market now and also to prepare to provide future generations with new skills.

1.8. The EESC also agrees that the ‘Green Deal’ programme must be supported and urges the European Commission to provide clarification to Member States as regards, for example, how the EUR 40 billion in the ‘Just Transition Fund’ can be used to ‘decarbonise’ the economy. This is one example of a good idea and concept that should be promoted among Member States, but it is still not very clear how it is to be put into practice.

1.9. The EESC welcomes the ‘REACT programme’, under which EUR 55 billion will be invested to support cohesion policy, but it calls on the European Commission to swiftly inform Member States and provide clarification about the conditions and distribution criteria, bearing in mind the fact that these funds must be allocated by the end of 2022. REACT-EU funding will be distributed among Member States in line with their relative prosperity and the extent of the effects of the current crisis on their economies and societies, including on youth unemployment. However, more precise information is necessary for achieving results. For the moment, it is implementation that needs to be ensured — rather a given amount of finance. Europe needs a flexible, fast and simple programme, entailing easier processes, that can simplify access to finance, irrespective of a company's size, origin or sector if employment and added value is the main issue.

1.10. The EESC suggests that consultation and extensive involvement of civil society organisations in the definition of regional policies must be ensured in order to benefit from the genuine and relevant knowledge that stakeholders have, which could therefore boost strategy implementation. This is the time to involve the social partners in the definition and implementation of policy to assure a partnership approach that can really make a difference.

2. General observations

2.1. The German Presidency of the European Union will take place under very specific circumstances and will be a great challenge for the European project. Many of the presidency's goals may be revisited due to the coronavirus situation, which will impact the development of people, businesses and industries and will test Europe’s resilience after the pandemic.

2.2. Although priorities may always be changed, some key ideas can remain, despite the situation. Digitalisation, budget risks and a smart and growth economy are challenges that were already in the spotlight.

2.3. Digitalisation will share the limelight with data policy, artificial intelligence and a digital single market. The openness of the internal market must remain guaranteed, an ambition that can be understood in the context of the debate about Europe’s recovery plan. The digital internal market will be further developed to improve Europe’s competitiveness. The EU is committed to interoperability, standardisation and open source technology.
2.4. The current situation also risks widening economic and social differences, including regional and territorial disparities between and within Member States. Demand shifts and the capacity of the corporate sector to rebound will asymmetrically affect regions and territories within Member States due to their different sectoral specialisation. Services that require direct contact with consumers are expected to suffer, however, notably through reduced turnover and employment in SMEs.

2.5. **Reindustrialisation in rural areas**

2.5.1. Member States with significant fiscal space can afford to provide more generous and long-lasting support to businesses and households. They will also be better placed to absorb higher government deficits and debt levels, amidst increased urgency in ensuring quality healthcare and lasting social welfare provision for those affected. More generally, Member States will face differences in their ability to finance the investment necessary to restart their economies and to fund the green and digital transitions. These differences could lead to a distortion in the level playing-field of the single market and increased divergence in living standards.

2.6. Jean-Claude Juncker famously said: ‘There is not enough Europe in this Union. And there is not enough Union in this Union’. The current crisis has once again made it clear that when the going gets tough, it is every man for himself. The temporary export bans on some Member States’ protected goods, and the border closures we are now experiencing, are very national responses to a global crisis. This must be a cause for concern. Cohesion policy could correct these effects.

3. **Cohesion policy as Europe’s strength to boost the single market**

3.1. The single market is at the heart of the European project. An efficient single market should allow EU citizens to enjoy a wider choice of services and products and better job opportunities. The single market should stimulate trade and competition, which is fundamental to achieving the EU’s green and digital transformations. An appropriate and balanced cohesion policy is fundamental to completing the single market.

3.2. Despite the many disparities between Member States, cohesion policy remains a key mechanism for balancing development, creating opportunities and raising standards. It is important to remember that cohesion policy is based on European solidarity and has effects in all the Member States: both those that are beneficiaries of funding and those that are ‘net contributors’.

3.3. It is also important that specific measures be taken in response to a challenge that has different effects in different Member States. More than ever, Europe needs a differential approach to a single challenge. Thus, Member States will need different levels of support, and this is the main advantage of an effective cohesion policy: smart and effective action to address different effects, like those experienced with the COVID-19 crisis.

3.4. The EESC states that a well-coordinated European industrial policy is fundamental, taking into account both the current challenges of the COVID-19 and post-COVID-19 situations and digitalisation and sustainability aspects.

3.4.1. Key industries and sectors must be identified and supported, from human resources to research, resulting in a European industrial policy that protects these strategic sectors from the market and ensures security of supply of key goods such as respirators, masks and other products in a pandemic situation.

3.4.2. Europe must finance activities that meet two criteria: restoring strategic production to make Europe independent, particularly as regards health protection and responses, which provides quality jobs; and focusing on sustainable investment that is socially responsible and environment-friendly. Small and medium-sized enterprises (SMEs), just like large companies and social enterprises, could play a crucial role in restructuring the European production system.

3.5. SMEs and civil society organisations should be at the centre of attention directed at resilience and recovery. Cohesion programmes should be restructured in a much simpler, effective way so that medium and small beneficiaries can really benefit.

3.6. Tourism and culture are two key sectors that have been hit hard by the pandemic. European funds should focus on determining tools for supporting businesses involved in tourism and culture, through innovation, digital transformation and cross-sectoral cooperation.
4. **Cohesion policy and post-COVID-19 situation**

4.1. The unusual circumstances of the COVID-19 crisis present an enormous test for cohesion policy. More than ever, Member States’ recovery plans must reflect the values of territorial cohesion, such as digitalisation, climate change combat and social inclusion. A systematic and strong recovery plan for Europe and all the EU Member States depends crucially on this policy, regardless of a country's size or other characteristics.

4.2. One of the most critical aspects of the recovery strategy is the financial framework for cohesion policy. More than ever, the pandemic has exposed and even exacerbated inequalities between citizens and between Member States. Everybody is equally exposed to the virus, but the specific way citizens, societies and Member States deal with it varies. The weak financial situation ensuing from this crisis will have dramatic effects on specific countries and parts of society, and a European response must take that into account.

4.3. Cooperation will be key to results. It is not time to criticise previous action. Rather, it is time to look at the present and focus on the future, with agreed principal goals that can remain even in these critical circumstances.

4.4. The damage caused by the COVID-19 crisis to the European project and to the world will amplify the damage caused by the UK’s withdrawal from the EU. This could mean that when the pandemic is over, differences between EU countries in terms of economic development, social guarantees and levels of prosperity will increase.

4.5. There is no single solution to the crisis, but an appropriate and balanced cohesion policy has been the answer in the past to address differences and create solidarity between all the Member States.

4.6. Europe’s recovery should be based on the solidarity principle, but there is still a need to correct past errors. Member States with excessive public debt must be helped to accelerate a sustainable recovery, but this support must combine strong policies with balanced action based on the country-specific recommendations of the European semester. This is the time to act with courage and not the time to think about political dividends at national level.

4.7. The Green Deal remains relevant, and the EESC believes that its main objectives are fundamental to achieving Europe’s leadership in many aspects of the global challenge.

4.8. In this context, the EESC warmly welcomes and fully supports the proposals made by the European Commission: the Next Generation EU plan, including REACT-EU, and the overall EU budget for 2021-2027. As REACT-EU continues and extends the crisis response and repair measures of the new cohesion policy, the EESC strongly recommends eliminating all possible administrative barriers and burdens, both on national and European public administrations, so that efforts can focus on dealing with problems relating to the epidemic.

4.9. The EESC therefore firmly believes that REACT-EU will mobilise investment and frontload financial support in the crucial first years of recovery by deploying additional resources in the real economy. **Job maintenance, job creation — especially for young people — and investment support for SMEs are crucial sectors requiring support through additional funding from REACT-EU.**

4.10. The post-COVID19 investment priorities need to consider the disproportionate impact the pandemic has had on certain sections of the population, notably older people, people with disabilities, migrants and refugees and the Roma community. Helping these communities regain stability, and ensuring they are not left behind in the recovery from the ensuing crisis, as was the case after Europe’s last financial crisis, will be of paramount importance.

5. **European semester and country-specific recommendations**

5.1. The European semester still has to face a lot of challenges that — with the current crisis — have become even more important to tackle. Amongst the challenges to address are the lack of ownership of the proposed reforms and more sluggish implementation of country-specific recommendations.

5.2. The involvement of organised civil society in the European semester is therefore fundamental, as stakeholders’ co-ownership of reforms improves the implementation thereof and helps to achieve positive outcomes.
5.3. In this context, the European semester process will acquire an increasingly important role in monitoring and evaluating the intervention put in place in the ‘Next Generation EU’ framework, and the EESC therefore believes that economic and social partners and civil society organisations should be seen as having an important role in this process.

5.4. Civil society partners, local players and associations, together with the European Parliament, must be involved in all spending decisions regarding the recovery funds, as well as in ex-post verification that money has been well-spent in the interests of the European public. Mandatory involvement is crucial to ensuring that funds will reach projects that will restore the European economy and help it to recover.

6. Effective cohesion policy instruments

6.1. Cohesion policy is a modern, effective and flexible EU investment policy. On one hand, it offers a response to long-term challenges through its multiannual programming. On the other, it can be extremely flexible in crisis-management situations like the current one caused by COVID-19, where swift changes to the policy's implementation system mean that support amounting to EUR 8 billion (as a starting point) will be channelled to the Member States.

6.1.1. Cohesion policy has a significant impact on Member States' economies. GDP in the EU-13 is expected to be around 3% higher at the end of the implementation period, thanks to 2014-2020 cohesion policy intervention. The impact on less developed regions of the EU is also considerable. For instance, by the end of the programming period, GDP in some of the less developed regions of Hungary is expected to be more than 8% higher than it would be without cohesion policy.

6.1.2. Already in the wake of the economic and financial crisis, EU funds have been playing a stabilising role to ensure a higher level of public investment in many policy areas, from large infrastructure projects to SME funding and the training of workers and the unemployed.

6.1.3. In 2021-2027, cohesion policy will continue its support for all regions in all Member States, financing a wide range of investments that will help EU regions to tackle the twin transitions of technological change and climate objectives effectively, including through brand new initiatives like the Just Transition Fund.

6.2. The proposal for future cohesion policy is based on three key principles:

6.2.1. A policy for all regions: Three-quarters of cohesion policy investment focuses on the least developed regions, but provisions remain for regions in industrial transition as well as for the outermost regions of the EU. In addition, cross-border cooperation has been stepped up and the role of cities, metropolitan areas and local initiatives strengthened, with a new priority devoted to bringing 'Europe closer to citizens'. Despite the overall reduction in the EU's budget, resources should continue to focus on the poorest Member States and regions. In the Commission's proposal, this focus is even more pronounced than in the current period and the poorest Member States still receive much more than more developed ones. Support does go where it is needed most — 62% of resources for the jobs and growth goal have been earmarked for the less developed regions (in 2014-2020 this share was 52%). Despite budgetary constraints, it has been possible to ensure increased allocations in real terms for the less developed (+ 8%) and transition regions (+ 17%), measured against 2018 prices. That is the essence of cohesion policy: putting the solidarity principle into practice.

6.2.2. A more modern policy: Three-quarters of the investment is earmarked for preparing regions for the twin transitions to a digital, modern economy and a climate-neutral, circular economy — the principal challenges our society will face in the decade to come. This necessary focus is conveyed through several measures to improve the quality and impact of investment: for example, setting up 'enabling conditions' tailored to the investment, ensuring that the preconditions for success are in place.

6.2.3. A simpler and more dynamic policy: 80 administrative simplifications have been proposed, streamlining the rules on everything from the set-up of programmes to audit and reimbursement procedures, ensuring clear and simple rules for seven EU funds implemented under shared management in a single rulebook. This single rulebook will make life easier for both programme managers and beneficiaries and facilitate synergies among the seven funds and also with other instruments in the EU budget toolbox such as the Common Agricultural Policy, the Horizon Europe innovation programme, the EU instrument for learning mobility (Erasmus+) and LIFE, the programme for environmental and climate action.
6.3. Together with a continuation of administrative capacity building, all this will enable a faster and better start to the new programmes.

6.4. In a nutshell, the new cohesion policy will be more targeted and bring more EU added value, so it is not only a question of size, but also of results.

6.5. At the same time, more effort will be needed from local authorities in terms of increased ownership when implementing EU-funded projects. This means that the level of the national co-financing returns to pre-crisis levels. The decreasing co-financing rate could be seen as a potential trigger for tension in public budgets, but it should also be seen as an opportunity for better projects and a stronger sense of ownership and accountability. The same goes for the already mentioned reinforced thematic focus on key policy objectives, corresponding to European priorities and challenges such as a smart and green Europe.

6.6. One important condition for the above to apply, is for Europe to tackle the lack of effective communication on cohesion policy that all too often surrounds projects funded under that policy. Whilst acknowledging the various communication guidelines in force by the Commission, it is clear to the EESC that these are nowhere near to being enough. Often there is little or no awareness that certain projects have taken place and/or even that the EU in fact provides funding for them. This results in little or no appreciation of cohesion policy.

6.7. The EESC calls on the Commission to continue its efforts to review current publicity obligations and to upgrade them significantly, taking into consideration the modern means of digital communication channels fully incorporated into the digital agenda. A stronger use of best practice projects should be used as practical examples to encourage a greater and more effective uptake of funds.

6.8. The EESC calls on the Commission to develop a strategic communication plan in cooperation with all the partners concerned, including civil society organisations, local players and the public. It is now more necessary than ever for Member States and beneficiaries to ensure there is more effective communication on, and easier access to, best practice.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
1. Conclusions and recommendations

1.1 The COVID-19 pandemic has hit Europe hard. The European Union and its Member States are facing an economic recession of historic proportions with dramatic consequences for people and businesses. Coordinated and decisive short and medium-term policies are needed to safeguard employment and income as well as to ensure a rapid and sustainable relaunch of economic activities, competitiveness and a well-functioning social and economic model. Quality jobs, with fair wages — including decent minimum wages across Europe — are needed as part of the solution. Economic factors, including productivity and the sustainability of enterprises, must also be taken into consideration. Effective civil dialogue is key to securing a successful outcome and maintaining citizens’ trust. Strong and effective social dialogue and collective bargaining are also essential for dealing with economic and labour market challenges, and securing the recovery.

1.2 This exploratory opinion was requested by the European Parliament with a view to a forthcoming Commission initiative on fair minimum wages. The EESC Workers’ Group and the Diversity Europe Group support the view that all workers in the EU should be protected by fair minimum wages which allow a decent standard of living wherever they work. This is a fundamental right. The Employers’ Group is of the view that setting minimum wages is a matter for the national level, done in accordance with the specific features of respective national systems.

1.3 Important disparities remain in the statutory minimum wage levels in the Member States, reflecting different levels of economic and social development, and, in some, the level is significantly below the ‘at risk of poverty’ wage threshold. The EESC has previously stated its belief that further efforts are needed regarding convergence of wages and establishing minimum wages in the Member States, whilst also stressing that the competence and autonomy of the national social partners regarding wage-setting processes must be fully respected in accordance with national practices (1). These efforts should also aim at strengthening collective bargaining, which would also contribute to fairer wages in general.

1.4 Wages, including minimum wages, are an important aspect of the European Union’s social market economy model. Ensuring decent minimum wages in all the Member States would help in achieving a number of EU objectives including upward wage convergence, improving social and economic cohesion, eliminating the gender pay gap, improving living and working conditions in general and ensuring a level playing field in the Single Market. Wages represent payment for work

done, and are one of the factors that ensure mutual benefits for companies and workers. They are linked to the economic situation in a country, region or sector. Changes may have an impact on employment, competitiveness and macro-economic demand.

1.5 Minimum wages should be fair in relation to the wage distribution in the different countries and their level should also be adequate in real price terms, so that they allow for a decent standard of living whilst at the same time safeguarding the sustainability of those companies that provide quality jobs.

1.6 The EESC remains concerned that poverty in general and in-work poverty are still a significant problem in many Member States. A comprehensive approach is needed at EU and Member State level to tackle these concerns, including support for effective active inclusion schemes, accompanied by essential and enabling social services. Well-functioning labour markets, public employment services, and active labour market policies are also required. The Committee has also proposed a gradual approach to common minimum standards in the field of unemployment insurance in the Member States (2). The EESC has previously called for the introduction of a binding European framework for a decent minimum income (3). While the Workers’ Group and the Diversity Europe Group supported the opinion, the Employers’ Group did not share the opinion's vision of a binding instrument for a minimum income at European level.

1.7 The European Commission has stated its intention to propose a legal instrument to ensure that every worker in the European Union has a fair minimum wage. For the Workers’ Group and the Diversity Europe Group this Commission initiative is a key aspect of the implementation of Principle 6 of the European Pillar of Social Rights. The Commission has clarified that the intention is not to establish a single ‘European minimum wage’, directly harmonise the level of minimum wages across the EU, or introduce statutory minimum wages in Member States with high collective bargaining coverage and where wages are exclusively set through collective agreements. It has also underlined that it will fully respect national competences, national traditions and specificities of each country and social partners’ contractual freedom and autonomy and that any action will not undermine well-functioning collective bargaining systems.

1.8 In its second-phase consultation document on a possible action addressing the challenges related to fair minimum wages addressed to the European social partners, the Commission has indicated that it believes that there is scope for legislative and non-legislative action at EU level under Article 153(1)(b) TFEU, within the boundaries of the principles of subsidiarity and proportionality, and the limits imposed by Article 153(5) TFEU. It refers to a Directive and a Recommendation as the legal instruments under consideration. There are, however, divergent views within the EESC on whether any EU legal initiative under Article 153, especially a directive, would be legitimate. The EESC also notes that the European social partners have the possibility to negotiate and reach agreements under Article 155 TFEU.

1.9 The EESC, therefore, recognises that there are concerns regarding possible EU action in this area. Among the key concerns are that the EU has no competence to act on ‘pay’, including pay levels, and that such action could interfere with the social partners’ autonomy and undermine collective bargaining systems, particularly in Member States where minimum wage floors are set through collective agreements. Furthermore, there are divergent views as to the added value of EU action, including within the Committee itself: while a majority of EESC constituents believe that such action could provide an added value, others disagree.

1.10 The Workers’ Group and Diversity Europe Group consider that action is needed as there are workers in the EU, notably vulnerable workers, who are excluded from statutory minimum wages and/or situations where the level of the minimum wage is not adequate to ensure a decent standard of living. Agreeing common EU thresholds to determine what amounts to ‘a decent standard of living’ would therefore be beneficial. The Employers’ Group considers that this issue of thresholds must not be addressed by means of EU action as the EU has no competence in the field of pay levels.

1.11 The EESC does not underestimate the complexities of the issues involved. It is important that any EU action is based on accurate analysis and understanding of the situation and sensitivities in the Member States and fully respects the social partners’ role and autonomy, as well as the different industrial relations models. It is also essential that any EU initiative safeguards the models in those Member States where the social partners do not consider statutory minimum wages to be necessary.

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(2) OJ C 97, 24.3.2020, p. 32.
1.12 According to the choice made at national level, social partners, in full respect of their autonomy and at the level of their choice, are the best placed actors when it comes to determining wages. As regards statutory minimum wage-setting systems, timely and appropriate consultation with the social partners is important to ensure that the needs of both sides of industry are taken into account. The EESC regrets that, in some Member States, the social partners are not adequately involved or consulted in statutory wage-setting systems or the adjustment mechanisms. The EESC welcomes the Commission’s recognition that there is scope for EU action to promote the role of collective bargaining in supporting minimum wage adequacy and coverage. Measures to support collective bargaining could be included in the EU action on minimum wages whilst respecting different national industrial relations systems. This goes in the direction of previous EESC recommendations calling for the strengthening of collective bargaining and social dialogue and support for capacity-building of the social partners. Public procurement contracts could also be used as a complementary way of supporting collective bargaining across the EU.

2. Background and context

2.1 The European Parliament has requested this exploratory opinion in view of the forthcoming Commission legal initiative on fair minimum wages. The German Presidency, beginning in July 2020, has also indicated that minimum wages will be among its priorities. The EESC welcomes the opportunity to further contribute to the discussion on what action could be taken at European level, taking into account the different realities in Member States and division of competences between the EU and national level.

2.2 The COVID-19 pandemic represents the biggest health, social and economic emergency for a generation. In addition to the urgent action taken, large-scale, coordinated and decisive policy action is required in the short and medium term, to avoid long-lasting negative impacts on society, the economy and the world of work.

2.3 The EU and its Member States are facing an economic recession of historic proportions. According to the European Commission’s Spring Economic Forecast, EU total GDP could fall by 7.5% in 2020 and grow by about 6% in 2021, although with large differences between Member States (4). Businesses, particularly SMEs and micro enterprises, are faced with unprecedented economic consequences and difficult decisions regarding their survival, including concerning retention or dismissal of staff. Many economic sectors have been hard hit by the lockdown measures and many companies fear looming bankruptcy, for example in the services, hotel, restaurant and catering, and cultural sectors.

2.4 Public services have been hard hit, notably health care and social protection systems which are under pressure to provide for people in need. Without strong public action and support, COVID-19 could also lead to increased unemployment, underemployment and poverty. More than a quarter of respondents to a Eurofound COVID-19 survey reported losing their job either temporarily (23%) or permanently (5%) (5). The Commission forecasts (6) that the EU unemployment rate could rise from 6.7% to 9% in 2020 before falling to around 8% in 2021, again with differences between the Member States.

2.5 The COVID-19 crisis has also starkly highlighted the particular vulnerability of self-employed, non-standard and precarious workers, who too often face exclusion from social protection safety nets that would cushion their loss of income or employment. Workers in essential services have been publicly praised for their contribution to society, often at great personal risk. Their jobs, for example in health care and social services, retail and delivery services, and cleaning have been important to the whole society but are often undervalued and need to be better esteemed.

2.6 Women, migrant workers and those from ethnic minorities — who are disproportionately represented in some of these essential sectors — need increased attention to guarantee that they receive the full range of labour rights and may also need better protection of social safety nets. Young people under 25 have been particularly hard hit by job losses (including apprenticeship schemes) and the disruption to their education and training. They now face even greater obstacles to entering the labour market, as do other vulnerable groups, such as people with disabilities and others suffering discrimination, who were already disadvantaged in accessing the labour market.

(4) See footnote 5.

(*) See footnote 5.
2.7 Europe cannot afford to lose another decade. The short-term focus must be on safeguarding businesses and protecting jobs. Lessons must be learnt from the responses to the economic and financial crisis of 2008, which had significant, long-lasting consequences on the EU and its citizens. Measures must be taken to safeguard employment and income, as well as to enable a safe and rapid relaunch of economic activity, with a view to securing sustainable growth, a more stable recovery, competitiveness, and a fairer, productive and well-functioning social and economic model. Civil dialogue and the effective involvement of all stakeholders is essential in securing an effective response to COVID-19 and in maintaining citizens’ trust.

2.8 Quality job creation, fair wages — including minimum wages — allowing every worker to enjoy a decent standard of living and which take account of economic factors, including productivity, must be part of the solution. Collective bargaining and social dialogue play an essential role in these endeavours, and must be strengthened and/or supported at all levels, according to national industrial relations systems.

The European Pillar of Social Rights and the renewed commitment to fair wages and collective bargaining in the EU

2.9 By proclaiming the European Pillar of Social Rights (the Social Pillar/EPSR), at the Gothenburg Summit in November 2017, the European Parliament, Council and Commission reaffirmed their commitment to work towards a fairer and more equal Europe. The Pillar should serve as a compass for renewed upward convergence towards improved working and living conditions and to guide reforms in labour markets and social policies.

2.10 The EESC has consistently emphasised the need for concrete action to turn the Pillar’s principles into reality. In addition to increasing competitiveness and productivity, in line with Principle 6 of the Pillar, a key focus for convergence should be promoting adequate minimum wages which provide a decent standard of living for workers and their families, in light of the national economic and social conditions, and which are set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners (7).

3. General comments

3.1 General considerations

3.1.1 In her Political Guidelines for the European Commission 2019-2024 (8), President Ursula von der Leyen set out her intention ‘to propose a legal instrument to ensure that every worker in our Union has a fair minimum wage’. On 14 January 2020, the European Commission launched the first phase consultation of social partners under Article 154 TFEU on possible action to address the challenges related to fair minimum wages. In the second phase consultation, published on 3 June, the EU Commission outlines the need for EU action and clarifies its objective to further work on a possible legal instrument, i.e. a Directive or a Recommendation.

3.1.2 The European Economic and Social Committee has previously stated its belief that further efforts are needed regarding convergence of wages and establishing minimum wages in the Member States, whilst also stressing that the competence and autonomy of the national social partners regarding wage-setting processes must be fully respected in accordance with national practices (9). The objective should be to ensure that minimum wages in all EU Member States provide all workers with a decent standard of living while taking account of economic factors. This would contribute to the EU’s objective of improving the living and working conditions of its citizens and the Commission’s ambition of a ‘Union that strives for more’.

3.1.3 The EESC has also expressed its concern regarding the lack of effective coverage of social dialogue in some Member States and has therefore stated that it is necessary to promote social dialogue and collective bargaining at all appropriate levels, in line with national industrial relations systems.

(8) A Union that strives for more Political Guidelines for the next European Commission 2019-2024.
(9) See footnote 1.
3.2 The broader context

3.2.1 Broader important considerations, e.g. regarding how well labour markets work, the functioning of public employment services and active labour market policies, as well as the functioning of taxation, social security (including unemployment benefits), welfare, education and training systems, and of the single market have an impact on upward economic and social convergence and fighting poverty.

3.2.2 Wages are linked to the economic situation in a country, region or sector. Changes may have an impact on employment, competitiveness and macro-economic demand. Productivity is an important consideration for labour market functioning and employment prospects — in particular of low-skilled workers and labour market entrants, as well as opportunities for career progression for those on minimum wage. All workers should benefit from productivity developments and growth, including the lowest paid. At the same time, where overall costs for employing a worker rise, increasing productivity is also very important to ensure the competitiveness of the EU economy. Taxes and non-wage labour costs, including social security contributions by employers and workers can sometimes lead to large differences between gross and net wages and also have an impact on workers' take-home pay, as well as employers' costs.

3.2.3 Minimum wages also have a spill-over effect on the whole wage structure. The percentage of workers paid at the minimum wage level, trends in wage development, price levels and purchasing power, and the level of minimum wages in relation to the overall wage distribution in the country are additional important factors to be considered. Minimum wages should be fair in relation to the wage distribution in the different countries and their level should also be adequate in real price terms, so that they allow for a decent standard of living whilst at the same time safeguarding the sustainability of those companies that provide quality jobs. Since 2010, national gross minimum wages in Purchasing Power Standards in the EU saw a pattern of upward convergence as the central and eastern European countries, in particular, converged towards the EU average (16). However, the differences are still very significant and the pattern of convergence has slowed in recent years (17).

3.3 The need for decent minimum wages in Europe

3.3.1 The right to fair and just working conditions and remuneration are fundamental rights enshrined in international and European human rights instruments. Wages, including minimum wages, are an important aspect of the European Union's social market economy model. They represent payment for work done, are one of the factors that ensure mutual benefits for companies and workers as part of well-functioning labour markets and are often a key element of collective bargaining.

3.3.2 Minimum wages have other functions as well, e.g. protecting workers against disproportionately low pay and in-work poverty (18). While quality employment continues to be the best route out of poverty, having a job is currently not an automatic guarantee against being poor, especially for those people not working full-time. In the EU, about one in ten workers earn 'around' or below the national statutory minimum wage (19). In 2018, one in ten employed people aged 18 years or over was found to be at risk of poverty and workers in eight Member States earned less in real terms than they did at the onset of the crisis in 2008. Moreover, over the past ten years, the share of employed people at risk of poverty has risen in a majority of Member States, although in some it has stayed the same or decreased. In some countries, the existing minimum wage floors are currently not adequate for workers to be lifted out of poverty by employment alone (20).

3.3.3 There is a consensus that the European Union and Member States must do more to address poverty, including in-work poverty. In the consultation documents on fair minimum wages, the Commission recognises that decent minimum wages can play an important role in poverty reduction among the working poor. The EESC believes that the most effective way of reducing in-work poverty is by decent minimum wages and person-centred, integrated, active inclusion policies, which promote access to adequate minimum income, employment services and quality jobs, as well as to essential and enabling social services, in line with the 2008 Commission Recommendation.

(18) Workers receiving minimum wages may, however, depending for example on household composition still need benefits from other social protection systems, in-work benefits and/or tax allowances or credits to reach an acceptable standard of living.
3.3.4 There are multiple causes leading to in-work poverty and Eurofound (\(^1\)) has concluded that while an adequate minimum wage is a core pillar of any model of social protection for the working poor, the link between minimum wages and in-work poverty is complex. An important factor to be taken into account is the composition of the household: while in some countries receipt of the minimum wage may be enough to protect a single adult against the risk of poverty, it is often not enough to support more than one person if there is no other earner in the household.

3.3.5 The level of living costs can also be a key element that forces households into poverty and should be taken into consideration, where relevant at the national level, in determining whether minimum wages are adequate. In-work benefits, welfare benefits, social transfers and family allocations can also play an important role in alleviating or preventing in-work poverty, depending on the household composition.

3.3.6 Many governments have also opted to reduce income tax and social security contributions, as a way of increasing the net incomes of statutory minimum and other low wage earners. However, this can have wider policy implications, including weakening public health and welfare systems, and public services in general. In addition to these direct measures, the Eurofound report also explores the deployment of indirect measures to combat in-work poverty (\(^5\)) but their impact has not been easy to assess and more specific evaluation is needed.

3.3.7 More broadly regarding tackling poverty, the EESC has previously called for the introduction of a binding European framework for a decent minimum income, enabling minimum income schemes in the Member States to be extended across the board, supported and made ‘decent’ (adequate), as a significant initial European response to the serious and persistent problem of poverty in Europe (\(^17\)). While the Workers’ Group and the Diversity Europe Group supported the opinion, the Employers’ Group did not share the opinion’s vision of a binding instrument for a minimum income at European level, preferring the Open Method of Coordination instead (\(^17\)). The Committee has also proposed a gradual approach to common minimum standards in the field of unemployment insurance in the Member States, to provide adequate safety nets for workers who lose their jobs and as protection against poverty (\(^17\)). This would also function as an automatic stabiliser and foster upward convergence in the EU.

3.3.8 A comprehensive approach, which also includes effective minimum income schemes among other things, appropriate reforms in social security and more investment in public services, is also required. Crucially, in order to take people out of poverty, it is useful to continue discussing how to meet the EU-level at risk of poverty threshold (EU-level AROP indicator (\(^22\))), combined with national reference budgets calculating the cost of necessary goods and services (including the different methodologies used). They should take into account social redistribution, taxation and standard of living factors in each EU Member State (\(^17\)) and help contextualise the AROP threshold to the multi-dimensional reality of poverty.

3.3.9 In nearly all Member States, women are over-represented among minimum wage earners (\(^22\)). There is evidence to show that decent minimum wages can also have a positive impact on the gender pay gap at the lower end of wage distribution, if also accompanied by policy measures addressing structural gender inequalities in labour markets and society. Similarly, others who are disadvantaged such as migrant workers, people with disabilities, and ethnic minorities would also significantly benefit from decent minimum wages. Moreover, in order to improve employment levels of workers with a disability, wage subsidies or tax reliefs should be granted to employers by the competent public authorities, to cover additional costs linked to their employment.

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(\(^1\)) Eurofound (2017), In work poverty in the EU.

(\(^5\)) Five categories of indirect measures that can help address in-work poverty are identified: the provision of affordable childcare; flexible working time arrangements; measures that promote job advancement or improve people’s skills; measures that help improve the living standards of low-income earners; measures that create inclusive work environments to improve opportunities for migrants, people with disabilities or other groups of disadvantaged workers (see page 41).

(\(^17\)) OJ C 190, 5.6.2019, p. 1 (This opinion did not receive the support of the Employers’ Group, see the counter opinion appended to the EESC opinion.)

(\(^22\)) See the counter opinion appended to the EESC opinion (OJ C 190, 5.6.2019, p. 1).

(\(^2\)) See footnote 2.

(\(^5\)) Set at 60 % of the national median equivalised disposable income after social transfers.


3.3.10 Finally, in the context of decent wages in Europe, the EESC also stresses that well-functioning collective bargaining systems, particularly sectoral collective bargaining, play a crucial role in providing for fair and adequate wages across the whole wage structure, including statutory minimum wages, where they exist. They are also necessary to promote upward wage convergence amongst and within countries as well as ensuring a balanced approach between social and economic considerations.

3.4 The need for and feasibility of action at EU level

3.4.1 In its first phase consultation of the Social Partners, the Commission set out a number of ways in which EU action could bring added value: contributing to ensuring fair minimum wages, helping Member States to achieve upward convergence in working conditions, ensuring a level playing field in the Single Market and increasing purchasing power of low-wage earners.

3.4.2 In the second phase social partner consultation, the European Commission clarifies the goals of EU action and the policy objectives of a possible initiative (23). According to the Commission the general objectives of such an initiative would be to ensure: that all workers in the EU are protected by a fair minimum wage, allowing for a decent standard of living wherever they work and that minimum wages are set at adequate levels, whilst safeguarding access to employment and taking account of the effects on job creation and competitiveness. A majority of the EESC welcomes the objectives identified by the Commission and considers that they should be addressed through EU action on fair minimum wages. A minority, however, believes that EU action on some of those objectives would not be appropriate.

3.4.3 The Commission has stressed that its intention is not to establish a single 'European minimum wage' or to harmonise directly the level of minimum wages across the EU and underlined that it will fully respect national competencies, national traditions and specificities of each country and social partners’ contractual freedom.

3.4.4 While a majority of Member States have a statutory or national minimum wage, there are significant disparities between the statutory/national minimum wage levels between them, reflecting different levels of economic and social development. As of January 2020, statutory minimum wages in the Member States ranged from EUR 312 to EUR 2,142 per month. Monthly minimum wages are generally below EUR 600 in the east and above EUR 1,500 in the northwest of the EU (24). In the second phase consultation document, the Commission notes that minimum wage adequacy has improved in most Member States (25). However, disparities remain and, in a significant number of Member States, the statutory minimum wage is at or below 50% of the full-time gross median wage (26) and significantly below the ‘at-risk-of-poverty’ wage threshold of 60% of the median wage, thus failing on its own to lift workers out of poverty.

3.4.5 Minimum wages should ensure a decent standard of living. The Workers’ Group and Diversity Europe Group consider that in a number of Member States the minimum wage levels are still not adequate and that the ‘reference’ net statutory minimum wage needs to be set significantly above the poverty threshold — set in the EU context by using the AROP indicator of 60% of the national median equivalised disposable household income after social transfers — and to be fair in relation to overall wages in the labour market. Such a benchmark would ensure adequate benefit levels and prevent pushing workers into precarious employment with negative conditionalities linked to minimum income schemes. Raising the lower-wage segment by moving towards poverty-proofed minimum wages would also broaden the tax basis for governments, aiding the financing of adequate social protection systems. However, the Employers’ Group considers that this issue must not be addressed by means of EU action as the EU has no competence in the field of pay, and in particular on pay levels in line with ECJ rulings. According to the proponents of the latter view, what could be done, at most, is to discuss and exchange views through the Open Method of Coordination or European Semester process regarding how to ensure adequate benefit levels and adequate minimum income schemes and how, along with employment, this can support financing of adequate social protection systems.

(23) Second phase consultation of Social Partners under Article 154 TFEU on a possible action addressing the challenges related to fair minimum wages.
(25) EC second stage social partner consultation document.
(26) Information obtained from the first phase consultation of the social partners — p. 2, which refers to the Eurostat Structure of Earnings Survey and the EU-SILC survey (footnotes 6 and 7).
3.4.6 The EESC acknowledges the various concerns raised regarding possible EU action in this area. In particular, there are strongly diverging views regarding the EU’s competence. Some argue that, given that Article 153(5) of the Treaty of the Functioning of the European Union excludes ‘pay’ from the EU’s legislative competence, there is no scope for action at EU level. On the other hand, others, including the Commission, argue that there are possibilities for action at EU level and that Article 153(5) would not prevent this.

3.4.7 Equally, there are fears, particularly in Member States where wage floors are solely or predominantly defined by collective bargaining, that such action would interfere with the autonomy of the social partners. It is therefore essential that any EU initiative safeguards the models in those Member States where the social partners do not consider statutory minimum wages to be necessary. In the same way, measures promoting collective bargaining, in particular sectoral bargaining, should fully respect the different national industrial relations systems and not push for a ‘one-size fits all’ approach.

3.4.8 Another source of concern is that a European statutory minimum wage policy could potentially have negative effects on employment, especially in the case of young people and low-skilled workers, and could aggravate non-compliance, which could also push a number of low-wage workers towards informality (27). This can, however, be countered if the level of the minimum wage is defined appropriately, i.e. it supports workers’ earnings without undermining employment, depends on country-specific factors, including the behavioural response of employers, the degree of competition in product and labour markets and its interaction with other policies, in particular taxes and benefits (28). Indeed, there are concrete examples of Member States where the introduction of minimum wages has not negatively impacted job creation and where even substantial increases in the minimum wage have had positive macro-economic effects, including increased job growth (29).

3.4.9 The EESC fully appreciates the complexity of the issues involved in this debate and recognises that minimum wages are not the silver bullet that will solve all problems. However, a common EU approach with clear policy objectives for the Member States to achieve, through different means, and ensuring the involvement of the social partners, as part of well-functioning collective bargaining systems, could ensure that workers’ rights to fair remuneration and to freedom of association and employers’ needs in relation to productivity and competitiveness are safeguarded. If combined with broader measures, it could also contribute to upward convergence and social progress across the EU, by reducing income and wage differences among the Member States, reducing in-work poverty and achieving a level playing field in the Single Market.

3.4.10 Any European initiative in the area of fair minimum wages including aspects to promote and support well-functioning collective bargaining for wage-setting, must be shaped on the basis of the accurate analysis and understanding of the situation in the Member States, and fully respect the social partners’ role and autonomy, as well as the different industrial relations models.

4. Towards a European legal initiative for statutory minimum wages, including support for and promotion of social partner involvement

4.1 The concept of minimum wages

4.1.1 Wages are affected by a number of different factors such as sector and industry and their exposure to global competition, cost of living, market supply and demand, productivity, wage distribution, collective wage levels, individual competence and performance, and taking account of the way it is done and valued. They compensate the work performed in accordance with applicable laws, collective agreements and practice. The overall wage can be considered as covering different elements, depending on how this is determined in Member States, regions or according to different collective agreements.

4.1.2 Minimum wages are defined by the ILO as ‘the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an

individual contract’ (\(^{(30)}\)). According to ILO Convention No 131 on Minimum Wage Fixing (\(^{(31)}\)), determining fair minimum wages means taking into consideration the needs of workers and their families, including the general level of wages in the country and the cost of living, as well as economic factors, including productivity and employment. It also provides that full consultation of social partners in minimum wage setting should be ensured. The ten EU Member States (\(^{(32)}\)) that have ratified the Convention all have a statutory minimum wage system.

4.1.3 The effectiveness of statutory minimum wages depends on many factors, which apply to different degrees depending on the national context, such as the coverage of workers; whether they are set and adjusted at an adequate level, that covers the needs of workers and their families, while taking into account economic factors, such as productivity, and whether employers comply with minimum wage regulations (\(^{(33)}\)). It also depends on whether social partners’ involvement is supported and there is an effective collective bargaining system that complements the statutory minimum wage setting. The EU action should support the necessary improvements in these areas, amongst others.

4.1.4 In Member States where the social partners are responsible for setting wage floors, the share of workers who are not formally covered by such agreements varies from 2 % in Austria, to around 10 % in Sweden, Finland and Italy, and around 20 % in Denmark. In Sweden and Denmark, it should be borne in mind that the majority of those workers not formally covered by minimum wages are either highly paid white-collar workers, earning well above the collectively agreed wage-floors, or job-students or other young workers entering the labour market. Employers also often, in reality, apply the sector-based minimum wages to workers who are not formally covered by minimum wages, without being obliged to. In Italy, however, those who are not covered are either informal workers or autonomous workers who work under individually set conditions for occasional work, especially young workers.

4.1.5 The European Commission, Council and the European social partners have all emphasised the importance of promoting social dialogue and respecting the autonomy of social partners, and also called on Member States to support the improvement and functioning of the national social dialogue (\(^{(34)}\)). It is important that a possible minimum wage initiative does not weaken collective bargaining systems in any Member State, for example by reducing the social partners’ control over wages.

4.2 National wage setting systems/institutions in the European Union

4.2.1 Minimum wage setting systems and the role and capacity of the social partners differ considerably between the Member States due to differences in their national traditions, as well as different economic and social factors, and the political and constitutional framework of the country.

4.2.2 Some Member States have opted for a statutory minimum wage where wages have to at least correspond to a minimum level determined by law. In these countries, there may also be (higher) sectoral and cross-sectoral minimum wages set by the social partners. In other countries without a statutory minimum, wages are exclusively or predominantly defined by social partners as part of collective agreements at national, sectoral and/or company level.

4.2.3 In Member States with statutory minimum wages, most workers tend to be covered, however exclusions for specific categories may be allowed, meaning that these workers earn below the statutory minimum. Furthermore, special rates for certain groups of workers are applied in 11 Member States (\(^{(35)}\)). These rates mainly apply to younger or less experienced people and/or apprentices, but can also apply to unskilled workers and those with a disability, among other examples. Some countries also specify higher rates based on the employees’ skills (\(^{(36)}\)). As stated by the Commission, gaps in coverage may have negative consequences for those workers and for the economy as a whole. The implications of these exceptions and also of broader coverage of workers, must be assessed to understand the different national approaches and the possible reasons for exclusions as well as the implications.


\(^{(32)}\) Bulgaria, France, Latvia, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovenia and Spain.

\(^{(33)}\) ILO Minimum Wage Policy Guide.


\(^{(35)}\) Belgium, France, Hungary, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania and Spain.

\(^{(36)}\) See footnote 22.
4.2.4 In countries without statutory minimum wages, minimum wages apply only to workers covered by collective agreements. Although most of these countries have very high levels of collective bargaining coverage (above 80%), in some cases some workers are left uncovered (\(^{37}\)).

4.2.5 Adequacy is a crucial element when considering if statutory minimum wages are ‘fair’ and if they are to provide a decent standard of living for workers and their families. Their level in relation to the overall wage distribution in the country should also be considered. The Workers’ Group and Diversity Europe Group take the view that common EU criteria for the minimum thresholds required for a ‘decent standard of living’ would be beneficial. There are various possibilities for establishing such thresholds, such as using a reference basket of goods that provide more than mere subsistence and/or setting these thresholds in relation to a percentage of full-time median or full-time gross average wage. Further discussion is warranted on what these thresholds could be and how they could be progressively reached. The Employers’ Group considers that the issue of thresholds must not be addressed by means of EU action as the EU has no competence in the field of pay levels in line with ECJ rulings (\(^{38}\)). It is important to ensure that when reviewing statutory minimum wages, their adequacy and the regularity of reviews are considered, and that there is a clear procedure which fully involves the social partners.

4.2.6 According to the Council of Europe European Committee of Social Rights (ECSR) ‘the concept of “decent standard of living” goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities’. In its recent Conclusions (\(^{39}\)), the Committee found that the levels of minimum wages in different Member States did not ensure a decent standard of living for workers and their families.

4.2.7 Several Member States currently allow for deductions by employers to the statutory minimum wage (e.g. for breakages or the purchase of equipment) or including extra payments (e.g. overtime, bonuses) in the calculation of the wage. The ECSR as well as monitoring bodies at UN and ILO level have ruled that in some Member States this did not allow for workers’ right to a fair remuneration.

4.3 Role of social partners in statutory minimum wage setting systems

4.3.1 There are large differences in social partner involvement in statutory minimum wage setting systems. In some countries, unfortunately governments have taken unilateral decisions regarding minimum wages, without adequate involvement or consultation of social partners.

4.3.2 Mechanisms which allow for timely and appropriate consultation of social partners help to ensure that different economic and labour market situations are taken into account. They can also help to find agreements between relevant national authorities and social partners and a balanced outcome taking account of employers and workers’ needs.

4.3.3 Having transparent, clear and stable criteria for making adjustments to statutory minimum wages to ensure their adequacy while taking account of economic factors help to improve the understanding and predictability for employers, workers and their representatives. Unfortunately, these are lacking in some Member States.

4.3.4 The social partners should be involved in an appropriate way, according to the needs of the two sides of industry, in consultations on statutory minimum wages, including identifying the appropriate criteria for defining the adequate level and in the evaluation of any possible adaptations. In addition, support from the EU and Member States for capacity-building of national social partners can help them to engage in collective bargaining, including where appropriate for determining wages, as well as in discussions on statutory minimum wages.

4.4 Role of collective bargaining in setting minimum wages

4.4.1 Wages negotiated by social partners are based on a balanced agreement between them, which is important in making sure that wages are fair for both sides of industry. Five of the six countries where wage floors are defined by sectoral collective bargaining are among those with the highest rates of collective bargaining coverage.

\(^{(37)}\) See footnote 22.
\(^{(38)}\) ECJ case C-268/06, Impact.
4.4.2 The EESC welcomes the indication that any Commission initiative ‘would not seek to introduce statutory minimum wages in countries with high coverage of collective bargaining and where wage setting is exclusively organised through it’ (40). This notion reflects the fact that according to the choice made at national level, social partners, in full respect of their autonomy and at the level of their choice, are the best-placed actors in shaping and conducting wage setting policies and mechanisms.

4.4.3 Collective bargaining is also of paramount importance in the definition of wage levels in many of the countries that have a statutory minimum wage and the agreements negotiated there often improve upon the rates set by the government.

4.5 The need to support and promote collective bargaining in the Member States

4.5.1 The effects and the magnitude of statutory minimum wages depend on how they interact with other policies and labour market institutions. One such interaction is between minimum wages and collective bargaining. The relative strength of collective bargaining in the different countries is one of the main determinants of the existence and scale of ripple effects (41).

4.5.2 Where collective bargaining systems function well, they support higher employment and lower unemployment for all workers. Coordination across bargaining units helps the social partners to account for the business-cycle situation and the macroeconomic effects of wage agreements on competitiveness (42).

4.5.3 The right to freedom of association, to organise and to bargain collectively are fundamental rights enshrined in international and European human rights instruments. All Member States have ratified ILO C087 Freedom of Association and Protection of the Right to Organise Convention and ILO C098 Right to Organise and Collective Bargaining Convention. The level and coverage of collective bargaining coverage varies significantly among the Member States from only 7 % in Lithuania to 98 % in Austria. Since 2000, collective bargaining coverage has fallen in 22 Member States and it is estimated that at least 3.3 million fewer workers are now covered by a collective bargaining agreement.

4.5.4 According to an OECD report, collective bargaining faces old challenges (such as declining collective bargaining coverage and falling union density) as well as new ones, such as the increasing prevalence of workers in non-standard employment (i.e. temporary part-time and self-employment) who might not have access to collective bargaining (43). Almost all Member States have seen a drop in collective bargaining coverage since the start of the economic and social crisis (44) as it triggered changes in wage-bargaining regimes in a number of countries and further extended the existing trajectory towards decentralisation in others. This was due to different national conditions and on some occasions EU actions as a condition of economic bailouts.

4.5.5 The EESC has frequently highlighted the challenges posed by new and flexible forms of work, notably that many workers could be placed outside collective bargaining structures and trade union representation. It has also emphasised that the need to strengthen the role social dialogue and collective bargaining, including through EU support for capacity-building, enabling and supportive national frameworks, ensuring organisational strength of both sides of industry, as well as safeguarding well-functioning collective bargaining systems (45).

4.5.6 Freedom of association and the right to organise must also be respected and promoted. It is important that discussions take place at national and EU level on how to ensure workers can have access to trade union representation, and exercise rights to collectively organise and take collective action.

4.5.7 The EESC welcomes the Commission’s recognition that there is scope for EU action to promote the role of collective bargaining in supporting minimum wage adequacy and coverage. Measures to support collective bargaining could be included in the EU action on minimum wages whilst respecting different national industrial relations systems. This goes in the direction of previous EESC recommendations calling for the strengthening of collective bargaining and social dialogue.

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(42) OECD: Negotiating our way up: Collective bargaining in a changing world of work.
(43) See footnote 42.
5. Input from stakeholders: virtual country visits and public hearing

5.1 Overview/background to the visits

5.1.1 In the preparation of the opinion, it was important for the EESC to obtain the views of relevant stakeholders at national and European level. To achieve this, a number of country visits were planned, as well as a public hearing with EU-level actors. For the country visits, five Member States (Germany, Poland, Romania, Spain and Sweden) were selected based on the criteria on minimum-wage setting institutions in EU Member States which the European Commission identified in the first phase social partners consultation. Discussions were planned with representatives from the government, national wage-setting bodies, the national social partners and anti-poverty organisations. Due to the outbreak of the COVID-19 pandemic, the visits could not take place and were replaced with a semi-structured questionnaire, as well as follow-up video conferences with the relevant stakeholders.

5.2 Summary of the video conferences

5.2.1 The greatest concerns and opposition to an EU legal initiative on minimum wages were expressed by the Swedish representatives, where there was a general consensus that the EU does not have competence to take action on wages. The common fear among the Swedish social partners is that an EU initiative would interfere with national wage bargaining traditions amongst others and infringe on the autonomy of the social partners. They instead proposed non-binding initiatives to promote social dialogue and collective bargaining, while highlighting that national systems are results of decades of development and cannot be transplanted from one country to another. In Sweden, the collective bargaining coverage is 90% and less than 1% of workers earn less than 60% of the median wage (\(^\text{46}\)). The Swedish Government representative supported the social partners’ positions and stated that the EU has an important role to play in contributing to increasing employment and improving social developments. Addressing the social challenges is important for the cohesion of the Union and for the internal market. However, they did not see a legally binding initiative, including a directive, as the right way forward and said that an EU initiative must not lead to a requirement that Member States introduce universally applicable collective agreements or statutory minimum wages.

5.2.2 Trade unions and civil society organisations in the other four countries were in favour of action at EU level and some even mentioned that it could take the form of a Framework Directive. The arguments in support of such an initiative include the potential to coordinate international wage policies, fight social dumping, promote wage convergence, reduce in-work poverty, offer protection for workers not covered by collective agreements, avoid the exploitation of vulnerable groups of workers, such as migrants, and contribute to reducing the gender pay gap. Some representatives also referred to the possibility of common EU criteria on minimum thresholds for adequacy of minimum wages, for example by using a reference basket of goods and key services that everyone needs. Several representatives also mentioned that other measures should accompany an EU initiative on minimum wages, notably a Directive on adequate minimum income and an initiative to reinforce the role of social dialogue and the representation of the trade unions.

5.2.3 The employers’ organisations in three countries (\(^\text{47}\)) expressed concerns about or opposition to binding measures. Some explicitly stated that, according to Article 153 TFEU, the EU had no competence on wages and that the discussion should focus on how to enhance the European Semester process. Employers’ organisations were opposed to a legal initiative, on the basis that this would interfere with national wage-setting systems, and adversely impact the competitiveness of the Member States and employment, as well as the labour market integration of the unemployed. They also pointed out that discussions on minimum wage could not be isolated from broader issues which affect the labour market, including social security systems. In some countries employers’ representatives expressed concerns about statutory minimum wage raises based on political decisions by government to raise minimum wages without economic factors being taken into account. In one country it was also mentioned that country-specific recommendations had pointed out the negative impact of minimum wage raises on competitiveness. In one country a non-binding recommendation was mentioned as a possible instrument and it was noted that reinforcing collective bargaining is a matter for national level and that EU support is needed for that, especially as regards capacity building of the social partners.

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\(^{46}\) According to the written contribution by the anti-poverty civil society organisation EAPN SE, it was important for the EU to work towards the establishment of a system for regulating minimum wages in every Member State, but it was equally important to respect those countries that have a collective bargaining system for regulating minimum wages.

\(^{47}\) The Spanish employers’ organisation CEOE could not attend the country call, but expressed the same views in their written contribution.
5.2.4 The government representatives did not express as direct a position as the social partners and civil society organisations did. While some welcomed the promotion of a framework initiative without qualifying it (Germany), others supported a Framework Directive (Spain). As regards the next steps, the German representatives confirmed that the German Presidency was keen to support the ongoing process during the second half of 2020.

5.3 Public Hearing

5.3.1 An online public hearing was held on 25 June, with the participation of the European Commissioner for Jobs and Social Rights Nicolas Schmit, the European Parliament rapporteur on Reducing inequalities with a special focus on in-work poverty and the Employment and Social Affairs Coordinators for the EPP and S&D Groups, the ETUC and BusinessEurope, and the Social Platform. The Commission reiterated the Commission's intention to bring forward a legal instrument on fair minimum wages in Europe, which would respect the autonomy of the social partners, respect national systems of collective bargaining and not interfere with well-functioning collective bargaining systems. He also recognised that the topic of fair minimum wages is a difficult and controversial one. There was a political consensus among the three MEPs, that EU action is needed to work towards ensuring that workers in Europe have a decent standard of living and addressing in-work poverty. The European social partners were in the process of responding to the Commission’s second phase consultation, but it is apparent that they hold divergent views on the need for, feasibility of and legal basis for EU action. The Social Platform stressed the importance of having both adequate minimum incomes and minimum wages and that the minimum wage must be higher than the minimum income.

6. Scope for action at EU level

6.1 The EU acquis

6.1.1 The EESC notes that there is a large body of EU and international instruments that enshrine and support the concept of ‘fair’ remuneration that provides workers and their families with ‘a decent standard of living’ (48). The EESC notes that an EU legal initiative on ‘fair minimum wages’ is suggested to be proposed under the Social Policy Title of the TFEU. This should be linked to the Union's aims recognised in Article 3 of the Treaty: to promote a highly competitive social market economy, aiming at full employment, social progress, the well-being of its peoples and the sustainable development of Europe.

6.1.2 The Committee also recognises that the legal situation regarding an EU initiative on minimum wages is highly complex. The EU can adopt legal instruments on working conditions on the basis of Articles 151 and 153(1)(b) TFEU. The Treaty provides that the provisions of Article 153 shall not apply to ‘pay’. On the other hand, there is EU case law and existing directives that have treated the issue of pay as a key working condition. There are clearly divergent opinions on this matter and the EESC acknowledges that a balanced and cautious approach will have to be adopted by the Commission.

6.1.3 The European social partners also have competence to reach agreements in the Social Policy Title of the TFEU under Article 155.

6.2 Possible EU legal initiative on fair minimum wages: Directive or Council Recommendation

6.2.1 As regards minimum wages, the responsibility to deliver on the EPSR's commitments falls primarily upon the individual Member States. The Commission has identified a need for and possible avenues for EU action on fair minimum wages. While a majority of EESC constituents believe that such action could provide an added value, others disagree. Any action taken at EU level must fully respect the autonomy of the social partners and the division of competences between the EU and national level.

6.2.2 In its second phase social partner consultation document, the Commission indicates that the EU instruments under consideration are a directive and Council recommendation. There are divergent views within the EESC on whether any EU legal initiative under Article 153, especially a directive, would be legitimate, as according to Article 153(5) TFEU, provisions of that Article do not apply to pay. Following the social partners’ consultation, and in the absence of a negotiation between the social partners, whatever instrument the Commission might consider using for an initiative on fair minimum wages, the aim should be to ensure that statutory minimum wages — where they exist — are fair vis-à-vis the wage distribution in the country and ensure the respect of workers’ right to a fair remuneration, thus providing for at least a decent standard of living for workers and their families. It should also take into account important economic aspects, such as productivity.

6.2.3 According to the Commission, both legislative and non-legislative instruments are possible. It indicates that a Directive in the area of ‘working conditions’ would leave it to the Member States to decide on how to implement minimum requirements and procedural obligations to be complied with. The Commission also indicates that if a Council Recommendation were proposed, the monitoring of its implementation could be done through a dedicated benchmarking framework integrated in the European Semester. Within this, principles regarding mechanisms for effective statutory wage-setting systems, social partner involvement and adequacy, among others, could be discussed and monitored.

6.3 The use of public procurement

6.3.1 Public procurement represents a means through which public institutions, at EU and national level, can promote decent wages, fair working conditions, and collective bargaining, while pursuing economic, quality service delivery and public interest objectives. This is possible in accordance with ILO C094 Labour Clauses (Public Contracts) Convention, through better use of social criteria in existing EU public procurement legislation.

6.3.2 Introducing collective bargaining clauses in EU rules on public procurement, which require that respect for the right to collective bargaining and collective agreements is a condition for the awarding of all public contracts, could be an effective complementary way to support collective bargaining across the EU.

6.4 Improved data collection

6.4.1 There are a number of areas in which the EU could assist the Member States by collecting data and assisting with developing, in consultation with the social partners, indicators and enforcement tools regarding the evolution of statutory minimum wages.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'Fair work in the platform economy'

(Exploratory opinion at the request of the German Presidency)

(2020/C 429/23)

Rapporteur: Carlos Manuel TRINDADE

Request by the German Presidency of the Council

Letter of 18.2.2020

Legal basis

Article 304 of the Treaty on the Functioning of the European Union

Section responsible

Employment, Social Affairs and Citizenship

Adoption in section

9.7.2020

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18.9.2020

Plenary session No

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Outcome of vote

182/23/8

(for/against/abstentions)

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) states that the purpose of this opinion, requested by the German Presidency, is to provide a reference to the overall framework on this subject, adopting a holistic approach, with a view to ensuring decent work in the platform economy.

1.2 It recommends that questions concerning platform work be addressed and resolved bearing in mind, in particular, the Sustainable Development Goals, the Digital Agenda and the European Pillar of Social Rights.

1.3 The EESC notes that the platform economy still carries little weight, although it offers potential for growth.

1.4 It notes that platforms have 'a generally positive impact on [the] economy' (1), contributing as much to job creation and innovation, flexibility and autonomy for workers, as to ensuring income for workers (often supplementary) and allowing vulnerable people to access employment.

1.5 The EESC notes that there are risks that must not be underestimated: (i) for workers, the denial of basic rights, including the rights to organisation and collective bargaining; precariousness; low pay; the increasing intensity of work; the extreme fragmentation of work on a global scale; the non-affiliation of workers to social security schemes; and (ii) for society, the increased risk of competition based on undercutting social standards, which also has harmful consequences both for employers, who are subject to unsustainable competitive pressure, and for Member States, who forego tax revenue and social security contributions.

1.6 The Committee is aware of the argument over platform-related concepts, in particular regarding platforms as 'employers' rather than 'supply and demand intermediaries' and 'employees' and 'self-employed workers', since it has consequences for their rights.

1.7 The EESC urges the Commission and the Member States to work to clarify these concepts, given the consequences in terms of the applicability of labour legislation and a raft of labour protection rights.

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1.8 It recommends that the EU and the Member States move towards uniformity of concepts in order to achieve decent work in the platform economy. To this end, the Commission and the Member States should adopt the following points as their yardstick: (i) economic dependency and a subordinate employment relationship, since workers whose livelihoods depend mainly on the pay they obtain from this work are employed, not self-employed; (ii) application of the principle according to which a worker is considered to be an employee in the absence of proof to the contrary must be properly studied in all its dimensions; (iii) the algorithms used by platforms should also be considered in the same way as spoken or written instructions in conventional work.

1.9 It recommends that, in view of Member States' sovereignty in social issues, guidelines be drawn up to help clarify employment status on platforms. The EESC considers that in the platform economy steps should be taken to ensure that all workers have access to a set of rights and to protection, regardless of their employment status or type of contract, guaranteeing that some operators cannot gain a competitive edge by not meeting obligations and responsibilities.

1.10 The EESC recommends clarifying the responsibilities of all parties involved in matters such as health and safety, data protection, insurance and legal liability, with a view to evaluating, adjusting and harmonising existing regulations.

1.11 The EESC emphasises that social dialogue and collective bargaining must play a key role at all relevant levels, fully respecting the autonomy of the social partners, in order to ensure high-quality work in the platform economy.

1.12 It suggests that codes of conduct be drawn up with the involvement of platforms, workers and consumers, bringing together the best principles and guidelines on pay, working conditions and quality of service.

1.13 The EESC calls on the Commission to take into account the recommendations made by the European Platform tackling Undeclared Work on taxation in the platform economy.

1.14 It would refer to its earlier recommendation that the European Commission, the OECD and the ILO work together with the social partners at all appropriate levels and wider civil society organisations, to develop appropriate provisions on decent working conditions and the protection required (2). In this context, the EESC hopes that this joint work might lead to an ILO Convention on platforms.

1.15 The EESC believes that steps should be taken to ensure that platforms provide information which would allow there to be transparency and predictability for all parties concerned. To this end, the platforms in each Member State should be registered and a database established in the EU to monitor the development of the platform economy.

1.16 The EESC supports the work the Commission has accomplished in its study of the platform economy. There is however a serious gap in consistent and systematic information in individual countries and the EU. The EESC urges the Commission and the Member States to join up their efforts to improve statistics-based information.

2. Background

2.1 The purpose of this opinion is to reply to the questions raised by the German Ministry for Labour on platform working, identifying the main challenges and opportunities and debating the status of platform workers, policy tools to improve workers’ working conditions and best regulatory practice.

2.2 The current developments from which digital platforms spring involve recent innovations: internet, a crucial innovation; large-scale data bases (Big Data) enabling colossal masses of data to be processed; and mobile devices that allow consumers, workers and service providers access to mobile internet at all times and in all places (3).

2.3 Questions concerning platform working should be addressed and resolved in particular in the light of the Sustainable Development Goals, the Digital Agenda and the European Pillar of Social Rights.

2.4 The EESC would point to a number of earlier opinions (*) on the digital transformation of the economy and the rise of new forms of work.

2.5 The complexity of platforms, the lack of standardised terminology and the absence of statistical data make it difficult to estimate their scale and growth. According to the OECD (\(^\text{5}\)), most studies show that platform work accounts for between 0.5 % and 3 % of the total labour force. In a group of 16 European countries, only 1.4 % of the population aged between 16 and 74 are platform workers as their main job (ranging from 0.6 % in Finland to 2.7 % in the Netherlands) (\(^\text{5}\)). Some 11 % of adults have performed platform work at some time (\(^\text{5}\)).

2.6 There is uncertainty about the future growth of platform work (\(^\text{6}\)), since its growth depends on technological progress, new business models, data protection and consumer policy. Some authors have estimated that between 2013 and 2015, the value of platform transactions and revenue practically trebled (\(^\text{7}\)). The EESC believes that there should be a register of platforms, mainly as regards economic, labour and social aspects, which will enable a better understanding of the situation.

2.7 The distinguishing feature of platform work is that it involves a relationship between the platform, the worker and the user. The intermediation largely uses technology and algorithms, is often non-transparent, and affects working conditions by its impact on the allocation and organisation of work, and the evaluation of workers. This ‘black box of intermediation’ is a distinguishing feature of platform work (\(^\text{10}\)).

2.8 According to Eurofound (\(^\text{11}\)), platform work is a form of employment that uses an online platform to enable organisations or individuals to access other organisations or individuals to solve problems or to provide services in exchange for payment. The main features of platform work are as follows:

— paid work is organised through an online platform;
— three parties are involved: the online platform, the client and the worker;
— the aim is to carry out specific tasks or solve specific problems;
— the work is outsourced or contracted out;
— jobs are broken down into tasks;
— services are provided on demand.

2.9 Worker status is one of the key aspects of platform working. Platforms generally present themselves as intermediaries between supply and demand and consequently not as employers, as there is no subordinate work relationship. In this situation, workers are considered to be ‘self-employed’ rather than ‘employed’, thus avoiding the application of legislation governing employment (including health and safety), social protection and taxation. The EESC, although it believes that genuinely self-employed workers do exist, considers that application of the principle that a platform worker is presumed to be an employee in the absence of proof to the contrary should be properly studied, in all its dimensions, by the EU and the Member States. This would ensure that the interests of those employees whose main income comes from platforms would be safeguarded. The EESC does, however, consider that genuinely self-employed workers should be allowed to continue to have that status, should they manifestly so wish.

2.10 The EESC notes the wide range and variety of platforms. The criteria for grouping various types of platform together are the type of task (higher or lower skill requirements), the space or physical location where the service is provided (on- or off-line) and who decides on the selection process (the platform, the worker or the client). Some consider further criteria, such as differences in the allocation of work and worker autonomy (\(^\text{13}\)).

\(^{(*)}\) OECD, Employment Outlook 2019, p. 55.
\(^{(*)}\) Z. Kilhoffer et al., Study to gather evidence on the working conditions of platform workers, December 2019, p. 45.
\(^{(*)}\) Idem, p. 47.
\(^{(*)}\) Z. Kilhoffer, op.cit., p. 48.
\(^{(*)}\) 2015 values of EUR 28.1 billion and EUR 3.6 billion, as quoted by Z. Kilhoffer, op.cit., p. 48.
\(^{(*)}\) Eurofound 2018, Employment and working conditions of selected types of platform work, p. 9.
\(^{(*)}\) Ibid, p. 15.
2.11 The ILO\(^{13}\) considers that platforms raise specific regulatory problems, and mentions a number of areas of concern, including low pay (a high proportion of which is below the minimum wage), lack of social security cover (afflicting 91% of workers at the Amazon Mechanical Turk platform), rejection of work (nine out of ten workers have had work rejected), payment of a commission to work, counter to several ILO Conventions on the protection of wages, lack of unionisation and the absence of collective bargaining.

2.12 There are gender and age dimensions to platform work. Men generally dominate services relating to software development and provision of transport services; women dominate in tasks relating to translation and on-location services; young people are relatively over-represented on platforms, especially in cases where more than 50% of their income comes from platforms or they work on them for more than 20 hours per week; in some circumstances, older people are beginning to take part in platforms. The EESC believes that further research is needed in order to better understand the situation and define suitable public policies.

3. Challenges, opportunities and risks in platform economies

3.1 Platforms have ‘a generally positive impact on [the] economy’\(^{14}\), contributing as much to job creation and innovation, flexibility and autonomy for workers, as to ensuring income for workers (often supplementary), lowering entry barriers to the labour market and allowing vulnerable people to access employment \(^{15}\). The Commission notes that the ‘collaborative economy’ generates new employment opportunities, generating revenues beyond traditional linear employment relationships, and it enables people to work according to flexible arrangements. This makes it possible for them to become economically active where more traditional forms of employment are not suitable or available to them\(^{16}\). However, despite these new opportunities, the EESC feels that further studies on the macroeconomic impact of the platform economy are still needed.

3.2 However, there are risks for workers — except for those that are highly qualified — that must not be underestimated, such as the denial of basic rights, including rights to organisation and collective bargaining; precariousness; low pay aggravated by over-qualification; the increasing intensity of work; the extreme fragmentation of work on a global scale; and the non-affiliation of workers to social security schemes.

3.3 A study by EU-OSHA \(^{17}\) indicates that platform work presents increased risks, both physical and social, particularly job insecurity and exposure to various risks (traffic accidents, chemical hazards, etc.) and to risks specific to online activity (cyber-bullying, postural disorders, visual fatigue and stress caused by a variety of factors). The EESC recommends clarifying the responsibilities of all parties involved in matters such as health and safety, data protection, insurance and legal liability, with a view to evaluating, adjusting and harmonising existing regulations.

3.4 Society too is at risk. As the EESC has previously indicated, the Commission points to the increased ‘risk of competition based on undercutting social standards, which also has harmful consequences both for employers, who are subject to unsustainable competitive pressure, and for Member States, who forego tax revenue and social security contributions’ \(^{18}\).

3.5 Consumers are also at risk as regards the quality of the services provided to them because, in the event of accidents or problems with service, they find it difficult to find out who is responsible. The EESC believes that better legal protection for workers represents an increase in quality for consumers.

3.6 The EESC sees the recent debate on the challenges for platform workers as important and innovative\(^{19}\), in particular through its development of a model for analysis covering three main dimensions: work, employment and social relations. The main challenges for platforms are:

\(^{13}\) ILO, Policy responses to new forms of work. International governance of digital labour platforms, April 2019.

\(^{14}\) See footnote 1.

\(^{15}\) See footnote 1.


\(^{17}\) EU-OSHA 2017, Protecting Workers in the Online Platform Economy. An overview of regulatory and policy developments in the EU.


\(^{19}\) Z. Killiofet, op.cit., pp. 48-98.
3.6.1 In the ‘work’ dimension: direction, surveillance, appraisal (via algorithm), autonomy in allocation of work and physical environment, especially for platforms involving ‘low-skilled, on-location or client-determined work’.

3.6.2 In the ‘employment’ dimension: status — possibly the greatest challenge — the determination of the employer and the contract, in particular for platforms with low-skilled work and little autonomy. Other challenges, although common to all non-standard types of work, are social protection, health and safety at work conditions, income and working hours.

3.6.3 In the ‘social relations’ dimension: representation, although this is common to other types of non-standard work. Flexibility and fragmentation make it very difficult to identify, organise and represent those working in non-standard ways. What is more, platform work is by nature solitary, geographically scattered, largely anonymous and has a high turnover of workers, who compete with each other and are active on other platforms. As a rule, platforms do not assume the function of employers and do not belong to employers’ associations, leaving their workers, the trade unions and political office-holders without a negotiating partner.

3.6.4 Adverse social behaviour and discriminatory treatment are also serious challenges on low-skill work platforms, as workers are generally young and from disadvantaged minorities. The use of algorithms and situations where clients influence the allocation and performance of work reinforce adverse behaviour and discrimination.

3.6.5 The increasingly important issue of data protection, in relation to the ownership and use of data, is a major and specific challenge for platform workers and consumers.

4. Worker status in the platform economy

4.1 In order to facilitate the proper and smooth operation of the platform economy system, the EESC considers that efforts must be made at EU and Member State level to clarify and move towards regulating the status of platform workers and to ensure that platforms provide information that ensures transparency, predictability and fair treatment for all stakeholders.

4.2 Bearing in mind the sovereignty of the Member States in social matters, but also the need to uphold the principle of harmonisation in progress, the EESC recommends that guidelines be drawn up defining employment status on platforms in order to provide workers with access to rights and protection.

4.3 A European survey (20) reveals that when workers are asked about their employment relationship, 68.1 % reply that they are employees and 7.6 % that they are self-employed. The majority of those questioned therefore see themselves as employees, regardless of how these platforms classify them.

4.4 The Commission addresses the issue of status (21), considering that a distinction between the employed and self-employed can be made according to three criteria: the existence of a subordination link; the nature of work; and the presence of remuneration. These criteria are defined in order to apply the concept of worker in the EU, but the communication adds that the Member State courts, within their sphere of national competence, tend to apply the same set of criteria.

4.5 The EESC drew up an opinion, arguing that ‘with due regard for national competences, a legal framework should be established for workers that precisely specifies the relevant employment statuses: a decent wage and the right to take part in collective negotiations, protection against arbitrariness, the right to log out in order to keep digital working time within the bounds of decency, etc.’ (22).

4.6 Regarding the definition of the worker concept, European case law has focused on the existence of subordination, the economic and genuine character of the service and the existence of remuneration (23).

4.7 The EESC highlights the importance of two CJEU judgments. One makes an important exception in the application of European competition law (C-67/96, Albany), establishing that when the principle of competition comes into contradiction with social policy, collective agreements for employees fall outside the scope of competition law. In another


(22) OJ C 75, 10.3.2017, p. 33, point 4.4.2.

judgment (C-413/13, FNV Kunste n Inf or matie), it upheld the compatibility of European competition law with collective agreements, ruling that the self-employed were ‘false self-employed’. This has particular relevance for platform work, allowing bogus self-employed platform workers to be treated as if they were workers (24).

4.8 Also in some Member States such as Italy and France, case law already exists which follows this CJEU guideline (2).  

4.9 Many platform workers do not belong to social security schemes or have proper health and safety at work conditions, although these rights are considered to be fundamental and enshrined in national legislation, in the Treaties, in European legislation and in the ILO’s international standards (25). The current pandemic crisis makes clear the importance of social security systems in democratic societies, since these systems have supported the income of a large part of the population and, in parallel, those not covered by such systems have seen their vulnerability increase in terms of social and health protection.

5. Policy tools to improve working conditions on digital platforms

5.1 The EESC takes note of the recent debate on the diversity of national instruments to face the challenges raised by such platforms (27). One group of tools is of a more administrative and ‘harder’ nature (legislation, tribunals and works inspectorates); the other is ‘softer’ (collective agreements (28), action by platforms and action by workers).

5.1.1 Legislation is described as being unusual and less geared to improving working conditions or social protection than to resolving competition issues, although social protection has been extended to self-employed workers in many countries; with regard to tribunals, there is uncertainty on how to resolve conflicts over status; and while countries have sought to strengthen the work of inspectorates, difficulties have arisen with many (on-line) platforms regarding notification. The EESC believes that legislation on platforms should focus on the most relevant problems of economic, labour and social regulation.

5.1.2 Collective bargaining is very restricted (competition legislation makes collective bargaining between ‘self-employed workers’ and platforms difficult), with collective bargaining existing in some countries (transport and distribution sectors); platform actions focus on managing criticism of their practices, joining employers’ unions, self-regulation and signing up to codes of conduct, cessation of operations; workers’ actions are diverse, including protests and strikes, and they have occurred not only in on-location skilled platforms, but also on other types of platforms, as occurred with a project started by IG Metall in 2016 which, together with Swedish and Austrian trade unions, gave rise to the Frankfurt Declaration (Fair Crowd Work, 2016).

5.1.3 The EESC considers it important, in the platform economy, to promote codes of conduct, drawn up in conjunction with platforms, workers and consumers.

5.2 The EESC notes that this wide range of means employed to enshrine and uphold decent working conditions on platforms has not yet succeeded in securing a proper solution. Most initiatives have taken place at national level: attention is drawn to changes, either in the adoption of specific legislation, or within the framework of labour legislation, in some cases by introducing the concept of an intermediate category between subordinate work (employed worker) and self-employment (self-employed worker) (29). The EESC considers this solution to be unsatisfactory.

5.3 The frequency of recourse to work inspectorates and tribunals varies from one Member State to another. Recourse to tribunals has produced uneven judgments, in some cases deciding that the work relationship is of a subordinate nature while in others that platform workers are self-employed.

(25) Judgment of the Supreme Court of Justice No 1663/2020 (Italy) and 17-20.079 of 28 November 2018 (France).
(26) Including Convention No. 102 of 1952, with its subsequent amendments.
(28) Although authors classify collective bargaining ‘soft’, it is a fact that in many Member States collective bargaining has the force of law and is a ‘hard’ instrument.
5.4 The EU and the Member States must adopt the concept of economic dependence and subordination as their yardstick. Platform workers whose livelihoods depend mainly on the pay they obtain from this work and work in a relation of subordination are employed, not self-employed. Similarly, algorithms used by platforms should also be considered in the same way as spoken or written instructions in conventional work. The EESC has already issued an opinion supporting these concepts (30).

5.5 Work inspectorates should be reinforced to give special attention to platform workers so that they no longer lack protection and to stop platforms engaging in unfair competitive practices with regard to other businesses (31).

5.6 The EESC considers that workers must be covered by social security and proper health and safety at work conditions. The European institutions argue that all workers must have access to social security, regardless of the nature of their contracts. In several countries, specific schemes have been set up for self-employed workers reflecting the specific conditions under which they work.

5.7 The report of the Global Commission on the Future of Work (32) proposes establishing an international governance system for platforms (33). In this regard, the EESC has previously recommended that the European Commission, the OECD and the ILO work together with the social partners at all appropriate levels and wider civil society organisations to develop appropriate provisions on decent working conditions and the protection required (34).

5.8 With regard to taxation, the EESC considers that all actors in the digital economy should pay tax. Here, the EESC endorses the recommendations of the European Platform tackling Undeclared Work (35) for the EU to introduce a binding legal instrument to: oblige platforms to report all transactions to the tax authorities of the countries in which they operate; provide the relevant tax authorities with the information necessary to ensure compliance with tax legislation; inform employees about their tax benefits and obligations and protect workers from being falsely classified as self-employed.

6. Best practices for regulating platform work

6.1 In line with international studies (36), the EESC considers that the Commission and the Member States must ensure adequate policies on labour market regulation, social dialogue and collective bargaining, and skills.

6.1.1 In terms of labour market regulation, steps must be taken to ensure that all workers according to national systems and practices have access to a set of rights and to protection, regardless of their employment status or type of contract, guaranteeing that some operators cannot gain a competitive edge by not meeting obligations and responsibilities.

6.1.1.1 The grey area between self-employment and employment must be kept to a minimum, standardising and clarifying these definitions as much as possible and reducing uncertainty for workers and employers;

6.1.1.2 Bogus self-employment must be tackled by strengthening inspection capacity, reducing incentives for businesses to make ‘bogus’ work relationship classifications and imposing significant penalties for these improper classifications;

6.1.1.3 At international level, a joint work process should be launched by the Commission, the OECD and the ILO, possibly leading to an ILO convention on platforms.

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(32) ILO, op.cit.
(36) OECD, Employment Outlook 2019, pp. 32-36.
6.1.2 The imbalance of power between platforms and workers must be addressed through social dialogue and collective bargaining. Unfair market practices must be tackled, with pay, information, rights, duties and responsibilities becoming more transparent.

6.1.2.1 Social dialogue must be stepped up at EU and Member State level, as must collective bargaining within the Member States, contributing — together with legislation, where appropriate — to better working conditions.

6.1.2.2 The role of workers’ and employers’ organisations is essential to put representation of interests into practice within the framework of the European social model.

6.1.3 Codes of conduct must be drawn up with the involvement of platforms, workers and consumers, bringing together the best principles and guidelines on pay, working conditions and quality of service.

6.1.4 The Member States must provide training and career opportunities for workers, since they generally belong to disadvantaged groups, whether migrant or otherwise, with problems as regards training.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
ANNEX I

DIGITAL PLATFORMS: PRACTICE

This small survey is intended to help identify good practice on digital platforms, the main source used being the European Trade Union Institute (ETUI) publication: Isabelle Daugareilh et al., *The platform economy and social law: Key issues in comparative perspective*, ETUI, 2019 (1).

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>PRACTICE</th>
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</thead>
<tbody>
<tr>
<td>1 Germany</td>
<td>An Ombuds Office was set up in 2017 to implement the Code of Conduct on crowdsourcing work by IG Metall, the German Crowdsourcing Association and eight digital platforms (2).</td>
</tr>
<tr>
<td>2 Austria</td>
<td>A collective agreement was endorsed (2019) covering a meal distribution company and employees (messengers), applying from January 2020. Employment status is not clear (2).</td>
</tr>
<tr>
<td>3 Belgium</td>
<td>There is a committee (<em>Commission administrative de règlement de la relation de travail</em>) which takes decisions on how to classify employment relationships (2).</td>
</tr>
<tr>
<td>4 Denmark</td>
<td>Collective agreement concluded in July 2018 between Hilfr (a cleaning DP) and a trade union. Workers start out as self-employed but have an employment contract after 100 hours worked (2).</td>
</tr>
<tr>
<td>5 Spain</td>
<td>Employees of the Deliveroo DP established (2017) a platform on the Ridersxderchos website to defend their interests. In 2017 the UGT launched the Turespuestasindical portal (2).</td>
</tr>
<tr>
<td>6 Spain</td>
<td>In 2018 the Inter-professional Agreement for Catalonia was signed for 2018-2020 between employers’ confederations (Fomento del Trabajo, PIMEC y Fepime) and trade unions (CC OO and UGT). The agreement contains a section on work on platforms (2).</td>
</tr>
<tr>
<td>7 France</td>
<td>Food distribution platform employees have set up trade unions (e.g. Bordeaux) (2).</td>
</tr>
<tr>
<td>8 Italy</td>
<td>A specific law on work on digital platforms in the Lazio region was adopted in 2019. The law defines digital workers and establishes applicable rights (2).</td>
</tr>
<tr>
<td>9 Italy</td>
<td>National collective agreement on the logistics sector in 2018: Introduces the category of ‘rider’ that it describes as subordinate employment. Idem as regards the collective agreement with Laconsegna (digital platform for meal delivery). These contracts are endorsed by the trade unions (2).</td>
</tr>
<tr>
<td>10 Italy</td>
<td>Charter of Fundamental Rights of Digital Workers (Bologna Charter) signed in 2018 between Bologna Municipal Council (2) and two platforms (Sgnam and MyMenu): it does not regulate the employment status of workers (2).</td>
</tr>
<tr>
<td>11 Portugal</td>
<td>The Employment Code lays down criteria for presumption of the existence of a contract of employment. The legislation on digital transport platforms (the so-called ‘Uber law’) explicitly refers to the Employment Code as regards the legal link established between drivers and the platform (2).</td>
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</tbody>
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<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>PRACTICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 Switzerland</td>
<td>Collective agreement covering bike couriers, signed in February 2019 between a trade union and an employers' association (12).</td>
</tr>
<tr>
<td>13 European social partners</td>
<td>European social partners' Autonomous Framework Agreement on Digitalisation — June 2020 (13).</td>
</tr>
</tbody>
</table>

DP = digital platform


(2) Eurofound, see: Platform economy initiatives: https://www.eurofound.europa.eu/data/platform-economy/initiatives


(13) European social partners’ Autonomous Framework Agreement on Digitalisation.
ANNEX II

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussion:

Point 2.9
Amend as follows:

2.9 Worker status is one of the key aspects of platform working. Platforms generally present themselves as intermediaries between supply and demand and consequently not as employers, as there is no subordinate work relationship. In this situation, workers are considered to be ‘self-employed’ rather than ‘employed’, thus avoiding the application of legislation governing employment (including health and safety), social protection and taxation. The EESC, although it believes that genuinely self-employed workers do exist, considers that application of the principle that a platform worker is presumed to be an employee in the absence of proof to the contrary should be properly studied, in all its dimensions with respect to the fundamental differences distinguishing employees from the self-employed (nature of work, existence of a subordination link and remuneration), by the EU and the Member States. This would ensure that the interests of those employees whose main income comes from platforms would be safeguarded. The EESC does, however, consider that genuinely self-employed workers should be allowed to continue to have that status, should they manifestly so wish.

Reason
According to the European Commission, worker status is a controversial issue and one of the most relevant ones from a policy perspective when the main good traded through the platform is labour. The Commission addresses the issue of status, considering that a distinction between the employed and self-employed can be made according to three criteria: the existence of a subordination link; the nature of work; and the presence of remuneration. These criteria are defined in order to apply the concept of worker in the EU, but the Commission communication on A European agenda for the collaborative economy adds that the Member State courts, within their sphere of national competence, tend to apply the same set of criteria. With these criteria there is no need for additional regulation concerning worker status at European level. At national level various different initiatives have been taken, in some cases by introducing the concept of an intermediate category between subordinate work and self-employment.

With regard to worker status, it is also important to note that the recent autonomous framework agreement on digitalisation between the European Social Partners states that it covers all workers and employers in the public and private sectors, including activities using online platforms where an employment relationship exists, as defined nationally.

Outcome of the vote
In favour 65
Against 99
Abstentions 13

Point 5.4
Amend as follows:

5.4 When applying the general criteria for worker status (subordination, nature of work and remuneration), The EU and the Member States should adopt the concept of economic dependence and subordination as one of the key yardsticks to ensure fair working conditions for platform workers whose livelihoods depend mainly on the pay they obtain from this work and work in a relation of subordination are employed, not self-employed. Similarly, algorithms used by platforms can also be considered binding in the same way as spoken or written instructions in conventional work. The EESC has already issued an opinion supporting these concepts.
Reason

According to the European Commission, worker status is a controversial issue and one of the most relevant ones from a policy perspective when the main good traded through the platform is labour. The Commission addresses the issue of status, considering that a distinction between the employed and self-employed can be made according to three criteria: the existence of a subordination link; the nature of work; and the presence of remuneration. These criteria are defined in order to apply the concept of worker in the EU, but the Commission communication on A European agenda for the collaborative economy adds that the Member State courts, within their sphere of national competence, tend to apply the same set of criteria. With these criteria there is no need for additional regulation concerning worker status at European level. At national level various different initiatives have been taken, in some cases by introducing the concept of an intermediate category between subordinate work and self-employment.

With regard to worker status, it is also important to note that the recent autonomous framework agreement on digitalisation between the European Social Partners states that it covers all workers and employers in the public and private sectors, including activities using online platforms where an employment relationship exists, as defined nationally.

Outcome of the vote
In favour 64
Against 98
Abstentions 14

Point 5.8
Amend as follows:

5.8 The EESC asks that national tax systems take account of the collaborative economy and digital platforms, upholding the principles of a fair tax system (i.e. consistency, predictability and neutrality) in this sector, while at the same time guaranteeing the public interest of all relevant parties’ discharging their tax obligations (1). With regard to taxation, the EESC considers that all actors in the digital economy should pay tax. Here, the EESC endorses the recommendations of the European Platform tackling Undeclared Work (2) for the EU to introduce a binding legal instrument to oblige platforms to report all transactions to the tax authorities of the countries in which they operate; provide the relevant tax authorities with the information necessary to ensure compliance with tax legislation; inform employees about their tax benefits and obligations; and protect workers from being falsely classified as self-employed.

Reason

The EESC has recently adopted an opinion on taxation of the collaborative economy (ECO/500 opinion on ‘Taxation of the collaborative economy — reporting requirements’), and it would be more appropriate to refer to that agreed text.

Outcome of the vote
In favour 64
Against 97
Abstentions 14


Point 1.8

Amend as follows:

1.8 It recommends that the EU and the Member States move towards uniformity of concepts in order to achieve decent work in the platform economy. To this end, and to ensure fair working conditions especially for workers whose livelihoods depend mainly on the pay they obtain from this work, the Commission and the Member States should, when applying the general criteria for worker status (subordination, nature of work and remuneration), adopt the following points as their yardsticks: (i) economic dependency and a subordinate employment relationship, since workers whose livelihoods depend mainly on the pay they obtain from this work are employed, not self-employed; (ii) application of the principle according to which a worker is considered to be an employee in the absence of proof to the contrary should must be properly studied in all its dimensions with respect to the fundamental differences distinguishing employees from the self-employed (nature of work, existence of a subordination link and remuneration); (iii) the algorithms used by platforms can should also be considered binding in the same way as spoken or written instructions in conventional work.

Reason

According to the European Commission, worker status is a controversial issue and one of the most relevant ones from a policy perspective when the main good traded through the platform is labour. The Commission addresses the issue of status, considering that a distinction between the employed and self-employed can be made according to three criteria: the existence of a subordination link; the nature of work; and the presence of remuneration. These criteria are defined in order to apply the concept of worker in the EU, but the Commission communication on A European agenda for the collaborative economy adds that the Member State courts, within their sphere of national competence, tend to apply the same set of criteria. With these criteria there is no need for additional regulation concerning worker status at European level. At national level various different initiatives have been taken, in some cases by introducing the concept of an intermediate category between subordinate work and self-employment.

With regard to worker status, it is also important to note that the recent autonomous framework agreement on digitalisation between the European Social Partners states that it covers all workers and employers in the public and private sectors, including activities using online platforms where an employment relationship exists, as defined nationally.

Outcome of the vote

In favour 63
Against 99
Abstentions 15

Point 1.13

Amend as follows:

1.13 The EESC asks that national tax systems take account of the collaborative economy and digital platforms, upholding the principles of a fair tax system (i.e. consistency, predictability and neutrality) in this sector, while at the same time guaranteeing the public interest of all relevant parties’ discharging their tax obligations ('). The EESC calls on the Commission to take into account the recommendations made by the European Platform tackling Undeclared Work on taxation in the platform economy.

Reason

The EESC has recently adopted an opinion on taxation of the collaborative economy (ECO/500 opinion on ‘Taxation of the collaborative economy — reporting requirements’), and it would be more appropriate to refer to that agreed text.

(*) See footnote 1.
Outcome of the vote

In favour 62
Against 99
Abstentions 15
Opinion of the European Economic and Social Committee on ‘Digit alisation and Sustainability – status quo and need for action from a civil society perspective’
(exploratory opinion)
(2020/C 429/24)

Rapporteur: Peter SCHMIDT (DE-II)
Co-rapporteur: István KOMORÓCZKI (HU-I)

Referral
German EU Presidency, 7.4.2020

Legal basis
Article 304 of the Treaty on the Functioning of the European Union

Section responsible
Section for Agriculture, Rural Development and the Environment

Adopted in section
31.8.2020

Adopted at plenary
17.9.2020

Plenary session No
554

Outcome of vote
216/2/3

1. Conclusions and recommendations

1.1 The EESC calls for policies that further embed a digital economy incorporating our societal values, thus ensuring that a digital wellbeing economy is as inclusive as possible, allowing workers, consumers, SMEs, large companies and non-profit economic actors to benefit alike, especially in rural areas. Such policies include:

— developing fiscal policy to ensure that digital businesses pay their fair share of taxes,

— building upon the General Data Protection Regulation (GDPR) to develop a distinctive law on data protection in the workplace, on social media and in e-commerce,

— adjusting current competition and monopoly law in order to regulate digital platform markets;

— fostering open-source software and applications,

— taking a ‘public money — public data’ approach, so that publicly-funded research data is publicly available,

— developing a strategic EU data governance policy, including new legislation for ‘public data trusts’.

1.2 The EESC calls on national and local governments to support cooperative sharing platforms. It also calls for transparent, fair and green ICT production chains, ambitious energy standards and an extension of the EU eco-design directive, and asks the European Commission to:

— adapt EU legislation to make online shopping more sustainable, and develop responsible policies on packaging, deliveries and return of packages,

— protect small operators in the market against monopolistic platforms,

— develop a comprehensive set of criteria and indicators for sustainable software products and a digital product pass,
— improve GDPR regarding data sufficiency and data coupling.

— impose restrictions on online advertising to create ad-free spaces.

1.3 The COVID-19 pandemic led to a sudden and significant decrease in transportation, production and consumption; the increased use of ICT mitigated energy-intensive working practices and lifestyles. The EESC calls for appropriate political measures to help consolidate these positive aspects after the pandemic. This, of course, raises wider questions about the energy efficiency of the ‘cloud’ and the data centres that sustain it. For example:

— establishing an EU inventory of data centres (covering energy efficiency, lifecycle, construction materials, etc.) and a top-runner scheme, to ensure that the most energy-efficient data centres become the norm,

— requiring new data centres to be run by 100% renewable energies,

— using Artificial Intelligence (AI) to support the climate and energy transition,

— suggesting measures for sustainable AI solutions.

1.4 The EESC recognises the central importance of sustainable smart city development, including innovative approaches to integrated mobility, energy and tourism.

2. Background and foundations

2.1 This opinion was requested by the German Council Presidency and seeks to investigate the two global megatrends of digitalisation and sustainability from the perspective of European organised civil society. The EESC welcomes this approach to align the green and digital transitions, as this alignment is key to Europe’s future prosperity and resilience.

2.2 The EU has fully committed itself to the UN 2030 Agenda (1) and its 17 Sustainable Development Goals (SDGs) and acts in the context of international climate accords such as the Paris Agreement (2). To guarantee their proper implementation, the EU needs to develop and finalise an overarching strategy for Sustainable Development.

2.3 The EESC welcomes the European Green – and Social – Deal (3) (EGD) and its Just Transition Fund, as they should deliver the large-scale investment needed for a just transition to a climate-neutral economy. The EESC considers that the European Circular Economy Stakeholder Platform (4) is key to delivering the objectives of the new Circular Economy Action Plan (5) and looks forward to continuing this collaboration. The EESC stresses that the EU must ensure that digitalisation helps deliver the EGD.

2.4 The EESC welcomes the EU’s ‘Next Generation EU’ (6) recovery and reconstruction package, aimed at supporting those hit hardest economically by the COVID-19 crisis.

2.5 The COVID-19 pandemic is an opportunity to reflect on how we can remodel and innovate our economy to make it more environmentally and socially sustainable; the crisis should not distract the EU from its green and sustainability objectives.

2.6 The EESC has previously called for a sustainable and inclusive wellbeing economy (7) that works for both people and the planet; this includes using digitalisation appropriately to achieve this goal.

(1) https://www.un.org/sustainabledevelopment/development-agenda/
(2) https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement
(4) EESP, https://circulareconomy.eropa.eu/platform/en
2.7 The EESC considers a systematic EU approach to **sustainable consumption** (8) to be one of the essential building blocks of the EESC's strategic vision of a sustainable, wellbeing economy that leaves no one behind.

2.8 The EESC has advocated a **European path to a digital future** (9), based on European social values and ethical standards, to ensure that we seize the digital opportunities for the economy, while protecting our privacy and self-determination as well as respecting planetary boundaries.

2.9 The Commission’s recent **White Paper on AI** (10) proposes a strategy to ensure uptake of AI within the EU and the EESC supports the Commission’s ambitions to make the EU an international leader in AI Research & Development and thus to improve Europe’s global competitiveness (11). At the same time, the EESC would welcome the AI strategy being better embedded into current EU sustainability strategies.

2.10 The EESC invites all stakeholders to consider the impacts of digitalisation across different sectors and across the **SDGs** in terms of basic infrastructure, empowerment and transformation.

### 3. Towards a socially, environmentally and economically sound digitalisation

3.1 As we reflect during the COVID-19 hiatus, it is clear that a sustainable digital revolution entails alignment with human factors as well as maintaining non-digital solutions, carefully assessing the risks involved and with special emphasis on resilience. It will be a particular priority to address the digital divide both between and within countries worldwide, with special focus on the Member States, and with an eye on enlargement. Addressing the digital divide within Member States requires public and private investment; the pandemic has highlighted both the opportunities and disadvantages of digital communication, particularly for those living in rural areas.

3.2 This opinion will focus on SDG8 (decent work), SDG12 (consumption and production) and SDG13 (climate action) (12), and will therefore strongly link factors for environmental and social sustainability. Aligning these concerns is key to a form of digitalisation that works for all of us. Other particular points of focus include digital education (SDG4), smart cities (SDG11) and e-health (SDG3), and we recommend more detailed analyses of these areas in the context of civil society in future EESC work.

3.3 The pandemic has transformed many of our daily routines into a large-scale field trial of digital implementation: Governments temporarily closed schools, asking pupils, students and teachers to work online, and employers quickly had to rethink their approach to remote working. As we slowly emerge from confinement, we need to reflect on how much digitalisation is desirable and appropriate, and how we can maintain intra- and inter-generational fairness aligned with the SDGs in the process.

The EESC invites all stakeholders to consider the impacts of this unexpected ‘digital step forward’ in the context of the following three dimensions of digitalisation: Basic infrastructure, empowerment and transformation. To illustrate this, we give the example of our education and work environments, but we recommend employing it as a heuristic in other areas to capture these dimensions with their respective benefits and risks.

#### 3.3.1 Basic digital infrastructure

While we take it for granted that the internet provides near-universal access to knowledge for many of us in Europe, we must continue working to enhance the quality, safety, reliability, inclusiveness and accessibility of online services. As we move into an age increasingly dominated by AI, it is crucial to analyse the scientific, societal and pedagogical experiences and outcomes of this unexpected situation, noting UNESCO’s recent report on AI (13). We are already aware of significant social inequalities in this context, including a lack of electronic devices, training and connectivity.

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(8) EESC opinion: Sustainable production and consumption (see page 51 of this Official Journal).


(11) Competitiveness in this context must not be defined only by quantity but also by quality, so as to balance economic prosperity, environmental aspects and social inclusiveness.

(12) These are the most commonly referenced SDGs according to the World Business Council for Sustainable Development’s 7th annual review of corporate environmental, social and governance reporting and disclosure, 2019.

(13) UNESCO: Steering AI and advanced ICTs for knowledge societies: a Rights, Openness, Access, and Multi-stakeholder Perspective.
In line with the precautionary principle, potential negative factors could include increased screen time, exposure to devices in general, posture, radiation, concerns over the impact of 5G with respect to our health, 'fake news', internet fraud, cyberbullying, and surveillance issues — all of which warrant further serious research.

3.3.2 Digitalisation as a tool for empowerment

On the plus side, we have all had a dramatic reminder of the potential of digitalisation as a tool for empowerment in everyday life. For example, information is readily available and this allows for independent, life-long learning and flexible working. The versatile and rich environment includes audio, video, text, animations, virtual training environments, live chats, augmented reality and virtual reality on a broad range of subjects tailored to our schedule and needs, whether we are pupils, students, employees or simply seeking to acquire new knowledge or skills.

The internet is also serving as a catalyst for civil society movements, and in particular has been powerful in mobilising people to take political or environmental action such as Fridays for Future, or as spectacularly illustrated in the Hong Kong demonstrations in recent years.

At the same time, we appreciate that the use of 'high tech' digitalisation does not necessarily result in greater sustainability — e.g. indigenous communities or groups of elderly people with 'low-tech' approaches tend to have more sustainable, non-digital solutions.

3.3.3 Digitalisation as a tool for transformation

The lessons learned from this 'global lab' experience provide a great opportunity to draw conclusions on how this will affect future developments, such as the ideal mix of tailored distance learning and on-site education. The world’s top-ranked institutions are already offering Massive Open Online Courses (MOOCs) through collaborations such as Coursera, offering everyone some of the rewards of a dream university.

The environmental and social implications are striking. There has been much less business travel, resulting in a reduction of air- and environmental pollution in general, less noise, a decrease in human stress, and it is likely that some of these new patterns will remain even after recovery. For many, there has been more time at home/with family and a focus on local suppliers like farm shops, though plainly, for some there has also been great hardship.

In terms of infrastructure, this is a perfect opportunity to raise and analyse community investment and cost efficiency issues.

3.4 SDG 8: Decent work and the wellbeing economy

Digitalisation bears great potential for the wellbeing economy. But the benefits are unevenly shared, with the risk that an increasing share of capital and assets will accumulate in the hands of a few players. Most digital platforms and software businesses are located in the USA and Asia. European SMEs depend on their services, and for example, with Fulfilment By Amazon, lose a share of their sales due to royalty payments. To counteract this oligopolisation trend, we need to build an inclusive wellbeing economy in Europe. The EESC supports the development of fiscal policy to ensure that digital businesses pay their fair share of taxes.

3.4.1 Digitalisation and its effects on employment

Digitalisation in the work environment holds many opportunities for a desirable rationalisation of work, for example by using ‘cobots’, but it also entails certain risks unless we integrate it firmly into our European social values and ethical standards by using a ‘human-in-command’ approach. Specific challenges in this context are:

(14) Such as Google/Alphabet, Apple, Facebook, Amazon or Microsoft in the USA and Alibaba or Tencent in China.

(15) Such as the Digital Services Tax introduced in France; however, this was perceived to be discriminatory against non-EU companies.

(16) Rationalisation due to robotisation, automatisation, AI, labour efficiency improvements and sectoral change.

(17) A cobot is a collaborative robot that can work together with people by taking over repetitive, undesirable or dangerous tasks and by creating new tasks that are more rewarding.
— A shift in the ratio of jobs to revenues in the new business segments, with digital businesses generating more sales with fewer jobs. Most scientific studies assume that the net effects of digitalisation on the labour market will lead to increased unemployment (18) (19) (20) (21) (22) (23).

— A precarisation of jobs, where fewer people are likely to have satisfying and well-paid jobs, while an increasing number may find themselves reduced to unstable employment conditions in the so-called ‘Gig Economy’, characterised by part-time labour, short-term or zero-hour contracts (24) (25) (26) (27) (28).

— A polarisation of incomes, as the share of gross domestic product (GDP) attributed to wages falls, while the share of investment income (29) rises (30) (31). This polarisation of incomes may depress purchasing power (32) (33) (34).

— A trend towards outsourcing of labour and labour control. The perceived gain in autonomy when working from home should not come at the cost of employees’ interests (e.g. a safe workplace, stable working conditions, the right to disconnect, and data protection in the workplace). The EESC therefore calls for a strong interpretation of the EU’s GDPR and suggests establishing a distinctive law on data protection in the workplace.

— A targeted use of AI to improve labour market functioning, e.g. by anticipating skills needs or effects on working times and conditions, with the aim of achieving a wellbeing economy. (This may include considerations about the introduction of a basic income, a reduction of hours for full time-jobs, or levies for low-paying jobs.)

3.4.2 Power through accumulation of data
The rise of the ‘digital giants’ with monopolisation and oligopolisation has distorted competition. Moreover, the concentration of information and knowledge has implications for political sovereignty and personal self-determination, as large parts of internet traffic (e.g. personal and market-related data, news and public discourses) are in the hands of a few global (non-EU) IT companies. The EESC calls on the Commission to adjust current competition and monopoly law to regulate digital platform markets (36). The EESC also notes the importance of protecting the rights of citizens in the context of GDPR, and that the exploitative aspect of surveillance capitalism needs to be openly discussed and debated.

(18) Muro/Maxim/Whiton, Automation and Artificial Intelligence: How machines are affecting people and places, 2019.
(19) Frey/Osborne, The future of employment: How susceptible are Jobs to Computerisation?, 2013 The authors do not make any precise statements about how rapidly this process could unfold, speaking instead, relatively vaguely, of one to two decades.
(22) Ziehran/Gregorj/Arntz: Racing With or Against the Machine?, 2016.
(26) Uws et al., Crowd work in Europe: Preliminary results from a survey in the UK, Sweden, Germany, Austria and the Netherlands, 2016.
(29) Including shareholder values and dividends from digital platforms, firms leading the way on AI, robotisation etc.
(36) E.g. search engines or Internet of Things, e-commerce and social media platforms.
Moreover, platforms like Amazon act increasingly as market participants within their own markets while controlling the economic infrastructure (i.e. the shopping platform, distribution channels, and advertisements) where thousands of competing sellers offer their products. Amazon uses this data from third-party sellers to push its own products, thus disadvantaging its competitors. A revision of EU competition law along the lines of the Indian FDI-regulation could identify and sanction such abusive practices.

Securing the neutrality of new digital platform markets is vital to ensure fair play for all market participants. The EESC suggests regulations on ‘natural monopolies’ in the digital economy to ensure their governance by civil society or public authorities. This includes interoperability between competing platforms to ensure competition within the digital market, for example with legislation on mandatory predefined interfaces for information exchange.

3.4.3 Data governance: Towards a strategic EU Data Governance Policy

The EESC calls on the Commission and EU Member States to foster Open Source software and applications as tools to encourage business models and applications that allow open access and just benefit-sharing.

In addition, the EESC advocates a ‘public money — public data’ approach, which would require publicly funded research and development projects to make data available, for example, in accordance with creative commons or public copyright licenses.

Moreover, the EESC suggests developing a strategic EU data governance policy to strike a balance between making data as open as possible while ensuring that public economic actors and SMEs do not lose their core business to large internet and data firms. In the past, mere ‘open data’ played one-sidedly into the hands of large internet companies. The EESC calls for the establishment of ‘Public Data Trusts’ to function as intermediaries between actors that generate data and/or intend to use data. Different data trusts could be established for mobility-related data, city-related data, etc. New legislation is needed to create public mandates for governmental or civil society organisations to host such data trusts, including deciding about access to and benefit-sharing of products and services. Data relevant to public services should balance entrepreneurial innovations, public sovereignty, rights of universal access, and citizen welfare. Looking ahead, it is crucial to further develop block chain technologies and ensure algorithmic transparency.

3.5 SDG 12: Responsible consumption and production

Digital apps have great potential to advance sustainable consumption, so the EESC calls on national and local governments to support cooperative sharing platforms as well as e-commerce platforms offering sustainable products. A new smart sustainable system on sustainable food labelling, as recently suggested by the EESC, would provide comprehensive information about products to promote sustainable consumer choices and lead to healthier diets.

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(37) Feiner, Amazon admits to Congress that it uses ‘aggregated’ data from third-party sellers to come up with its own products, 2019.
(38) Indian FDI-regulation 5.2.15.2.4. v: ‘An entity having equity participation by e-commerce marketplace entity [...] will not be permitted to sell its products on the platform run by such marketplace entity.’
(39) Especially those operating in the area of public goods (health, mobility, city).
(40) E.g. a public search engine, a GAIA X cloud server, or civil society-governed social media platforms.
(41) Such as sharing purchases (and experiences) between consumers, second-hand barter, digital forms of ‘prosuming’, local digital platforms to promote local businesses, and, where appropriate, short supply chains.
(42) E.g. ‘La ruche qui dit oui’, a Belgian platform with organic and seasonal produce.
(43) Such as information about production, environmental effects, composition, use, reparability and usability of any given product.
(44) EESC opinion: Promoting healthy and sustainable diets in the EU (OJ C 190, 5.6.2019, p. 9).
To increase the sustainability of online-shopping, the EESC suggests EU legislation to promote good practices to reduce returned packages (e.g. by restricting free returns) (45), prohibit the destruction of returned packages, bundle deliveries and increase utilisation rates of delivery cars.

60% of all data traffic is video streaming. As voluntary limitation during COVID-19 has shown, low-resolution alternatives are widely accepted and more sustainable, so they should be encouraged.

3.5.1 Sustainable ICT

ICT hardware production should apply circular economy standards. Issues include mining rare earths and other materials, and device production, which often involves poor working and environmental conditions (e.g. in China and other countries of the Global South).

The EESC calls for more transparency in ICT production chains. We need an extension of the EU eco-design directive (46) to include comprehensive production standards, including i) sustainable materials (recycled and renewable resources); ii) hardware design (maximise longevity — devices to be modular and repairable); iii) software updates to last until end of a product’s physical lifetime; iv) extended warranty periods; v) reuse of functional devices and increasing recycling of materials; vi) ambitious energy standards, including a dynamic top-runner regulation, in which the most energy-efficient product becomes the minimum standard; vii) sustainability standards for development of software and apps, incentivising developers to design software in a way that data traffic and hardware utilisation during application are as low as possible.

The EESC welcomes the Karlskrona Manifesto for Sustainability Design and calls on the Commission to develop comprehensive criteria for sustainable software products (47) (48).

3.5.2 Transparent product chains

Digitalisation must advance transparency and responsibility along product chains. The EESC welcomes the EGD proposal reiterated by the German government in its recent ‘Digital Policy Agenda for the Environment’ to establish a ‘digital product pass’ with information on materials and standards in production to identify shortcomings in sustainability production in line with the European CSR-strategy (49), including labour standards.

3.5.3 Strengthening cooperative platforms

The EESC calls on the Commission and EU Member States to foster the development of cooperative internet platforms, operating as neutral intermediaries to better distribute benefits amongst producers/service providers, and include citizens/consumers in governance, decision-making and benefit-sharing.

For example, the cooperatively-run federation CoopCycle provides the platform software for bike delivery cooperatives in nine European cities. The rental platform Fairbnb incorporates cities and regions as stakeholders. By donating 50% of its revenues to local community projects, it fosters a new understanding of European tourism that benefits both travellers and hosts.

The EESC calls for political support to help such platforms to scale across Europe. Procurement regulations should be adapted to ensure that local authorities can give them preferential treatment.

(45) Note that on average, every eighth package purchased online is returned. https://www.salecycle.com/blog/featured/ecommerce-returns-2018-stats-trends/
(49) A renewed EU strategy 2011-14 for Corporate Social Responsibility, COM/2011/0681.
3.5.4 Online advertising and consumption

The EESC is concerned by the increasing trend of e-commerce platforms that foster unsustainable forms of consumption. Tracking of online purchasing decisions and personalisation of ads foster unsustainable mass consumption. The EESC considers that the use of data for third party purposes is not sufficiently resolved by the GDPR and calls on the Commission to enhance this legislation on the principles of data sufficiency (data minimisation) and data coupling.

The EESC also calls for restrictions of online advertising. In many Member States, advertisements are prohibited in public spaces such as schools. The EESC would support ad-free spaces on the internet, particularly on search engines and social media. The EESC notes that roughly half of all global online advertising revenues (more than USD 300 billion per year (50)) go to two US companies: Google and Facebook.

The EESC welcomes initiatives such as the AI-based ‘Green Consumption Assistant’ currently developed by the Einstein Center Digital Future and Ecosia.org, which intends to advance search engines to assist consumers in purchasing more sustainable products and services.

3.6 SDG 13 Climate action

3.6.1 Digitalisation for environmental protection and climate change

The EESC welcomes digital solutions enabling environmental protection and sustainability transformation in transport, energy systems, buildings, agriculture and other sectors. For instance, a Swiss study found that ICT could save up to 6.99 million tons of CO₂-equivalents (CO₂e) per year, with an own carbon footprint of 2.69 million tons of CO₂e per year (51). Other studies found even larger potentials (52). However, the EESC notes that overall digitalisation of the economy and society has so far not contributed to a reduction in energy demand and carbon emissions (53). Therefore, reaping the potential of ICT to contribute to climate and environmental protection requires supportive policies, for example to mitigate rebound and induction effects.

3.6.2 Energy consumption of server farms

The ‘cloud’ consists of physical data centres, which are resource-intensive to build and energy-intensive to run. The EESC calls on the Commission to cooperate with EU Member States to establish an EU inventory of data centres, covering energy efficiency, life-cycle, and construction materials. Moreover, the EESC would welcome Commission legislation on integrating data centres into urban dwellings or commercial zones to make best use of waste heat.

The EESC recommends establishing a top-runner scheme in which the most energy-efficient data centres becomes the norm. The EESC would welcome a common agreement among Member States to mandate the building of new data centres with 100% renewable energy.

The EESC recommends the use of AI to support public climate protection and the energy transition.

— as suggested in the White Paper on AI, the Commission should suggest measures how Member States can promote sustainable AI solutions,

— AI-guided autonomous vehicles could reduce greenhouse gas reductions for urban transport through traffic optimisation/eco-driving algorithms or ride-sharing services with fully electric autonomous vehicle fleets,

— AI can enhance the predictability of demand and supply for renewables across a distributed grid or improve energy storage, efficiency and load management.

(50) Emaker.com
3.7 Smart cities and other examples

The EESC welcomes smart city technologies’ cloud-based applications that manage data in real time to enable better decisions, such as streamlined rubbish collection, decreased traffic congestion, better air quality, and improved energy distribution (with 100 % renewable energy systems, grid management, and fluctuating electricity provision and demand).

3.7.1 A key area is that of mobility, including the concept of Mobility-as-a-Service (MaaS), which catalyses better use of public space, data and infrastructure in order to lower carbon emissions by integrating public and private transportation. Multimodal transportation, including bike-sharing, car-sharing, public transportation, taxi and other modes, can make public and shared transportation much more attractive and reduce reliance on cars. Three leading examples from Member States are:

— Amsterdam shares traffic data with interested parties to enable the development of mapping apps integrated with public transport,

— Barcelona’s famous metro line 9 will run for 47.8 km, with driverless trains to the airport and train stations,

— Copenhagen’s innovative smart bike system is used to monitor and manage air quality and traffic congestion.

3.7.2 The EESC welcomes Barcelona’s smart and sustainable policies and EU smart city projects such as:

— the REMOURBAN project (54) will test a range of technical innovations and business models for city renovation, involving Valladolid (Spain) and potentially Serain (Belgium) and Miskolc (Hungary),

— tourist cities such as Valencia (Spain), Dresden (Germany) and Antalya (Turkey) are the ‘lighthouses’ in the EU smart city project MATCHUP (55).

3.7.3 Sustainable tourism is key to the post-COVID recovery. We should build on the recent EESC opinions on this matter (56). In particular, we should encourage pollution-free means of transport such as bikes and collective transport, develop increasingly fuel-efficient aero-engines and promote the renovation of accommodation facilities with ecolabel certification.

3.7.4 The EESC welcomes sustainable approaches in the digitalisation of farming and refers to the current EESC opinion on the Commission’s Farm to Fork strategy (57). The Committee’s ambition is to ensure that small and medium-sized farms also benefit from digital solutions for the necessary agroecological transition if they so wish, provided they are financially sustainable and remain under the control of the farmers themselves. There are lots of innovative technological applications, many of which are clearly beneficial as society moves towards more sustainable food production (e.g. drones for crop and animal monitoring, robots for sowing, weeding, harvesting or milking, and the prospect of ‘vertical farms’ in cities with much lower water use and local supply). In this context, we encourage co-ownership, shared data schemes (58) and other innovative models.

Managing the digital revolution in farming presents complex challenges and we note the importance of initiatives like FAIRshare (59) to promote the use of digital tools to optimise farming practice. Building skills and trust while addressing the special rural digital divide is particularly important in this context.

(54) http://www.remourban.eu/
(55) https://www.matchup-project.eu/
(57) EESC opinion on From Farm to Fork: a sustainable food strategy, 2020 (see page 268 of this Official Journal).
(58) Such as JoinData, an independent data platform for farmers (join-data.nl).
(59) https://www.h2020fairshare.eu/
3.7.5 **E-health** is central to informed, evidence-based decision-making, transparency of care processes, error reduction, improved diagnostic accuracy and cost-efficiency, and reducing waiting times and waste. Social distancing and quarantine pandemic responses have jump-started a far wider awareness of the potential of e-health.


The President
of the European Economic and Social Committee
Luca JAHIER
1. Conclusions and recommendations

1.1. Global supply chains (GSC) are key in economic activities across the world and in global trade with companies operating increasingly across borders. Multinational Enterprises (MNE) are their main drivers and Small and Medium Size Enterprises (SMEs) form important parts of it. They are ‘complex, diverse and fragmented’ with all the opportunities and risks that come along with it. Economic growth, job creation and entrepreneurship are also contested by evidence of negative implications for working conditions as well as for sustainability in some supply chains (1).

1.2. The COVID-19 crisis has unveiled the worrying fragility and significant risks related to highly fragmented and undiversified supply chains. It exposed the vulnerability of workers, highlighting violations of human rights and adverse social, health and safety impacts of business operations in today’s supply chains around the globe.

1.3. The COVID-19 pandemic teaches us that GSCs need to become more resilient, diversified and responsible. Trade will have to play a key role in promoting a sustainable economic recovery allowing companies to rebuild and re-organise their disrupted value chains. However, stronger instruments need to deliver on a socially and environmentally responsible business, trade and investment agenda.

1.4. The EESC calls on the EU to collect more data on vulnerable supply chains, notably on the risks of disruptions of economic activities and the detection of human rights violations. It also stresses the urgency of assessing at global level how international labour standards address decent work deficits in GSC and of closing identified governance gaps.

1.5. A second lesson is ‘policy' and 'genuine' investment in sustainability. Ambitious actions need to ensure that GSCs contribute to a fairer economic and social model, based on sustainability and decent work. Actions must be consistent with international and European principles, notably in the Paris Agreement, the Sustainable Development Goals (SDGs), the International Labour Organization (ILO) fundamental conventions, the European Green Deal and the European Pillar of Social Rights. They must form core elements of the global, European and national responses to the COVID-19 crisis.

1.6. The UN 2030 Agenda recognises trade both as an engine for inclusive economic growth and poverty reduction, and a contributor to the promotion of sustainable development. However, with limitations to global trade and investment in GSCs due to the COVID crisis as well as the already slowing pace of poverty reduction before the crisis, there is an urgent need to intensify reforms, increase investments, promote sustainable trade and GSCs, and to further integrate developing countries into an open global economy, for inclusive and sustainable growth.

1.7. Human rights, sustainability and Corporate Social Responsibility (CSR) have become of increasing importance to the business community. Many companies actively implement the UN Guiding Principles on Business and Human Rights (UNGPs) and other relevant government-supported instruments, notably the Organisation for Economic Cooperation and Development (OECD) Guidelines for MNEs and the ILO Multinational Enterprise Declaration. These voluntary measures have led to some positive behavioural change towards respect of human rights in their business activities, but action for improvement is needed.

1.8. It is vital for the EU and its Member States to act consistently at national, European, and international level, coordinating initiatives and closing identified gaps. The European Economic and Social Committee (EESC) calls on the European Commission (EC) to develop a European Action plan on human rights, decent work and sustainability in global supply chains, in agreement with the European Parliament (EP) and Council, and building on social dialogue and a multi-stakeholder approach.

1.9. It must be ambitious, comprehensive and transversal to respond effectively to GSC realities. Its main objectives should be to promote responsible business conduct, to ensure the respect of human rights and EU social and environmental objectives in business activities and their supply chains, to support businesses and SMEs in adopting a responsible business conduct approach, and to ensure a level playing field for businesses.

1.10. As a general framework for both policy and legislative initiatives, it should recognise the essential, different and complementary roles of the different actors in this area, notably the European institutions, Member States, international bodies, companies, social partners and stakeholders.

1.11. National action plans should implement its objectives and be required to achieve minimum implementation standards of the UNGPs.

1.12. Achieving multilateral progress sometimes starts with ambitious unilateral action. The EESC sees the EU as uniquely placed to take the lead on due diligence, in particular with a view to European companies’ global leadership. Calling on the EU and its Member States to secure more effective and binding international instruments, it reaffirms its support for a UN Binding treaty on business and human rights (2) and calls for an ILO Convention on decent work in supply chains (3).

1.13. The EESC commends the EC for following its call for EU legislation on due diligence (4) to be at the forefront of the Action Plan. In order to level the playing field for European companies, a binding cross-sectoral legislative initiative on human rights due diligence and responsible business conduct should cover all companies established or active in the EU, as well as the public sector, and be responsive to the specific needs of and constraints on SMEs.

1.14. It will be essential to require companies to put in place effective due diligence mechanisms as a preventive approach, but also to ensure effective remedies and access to justice as well as provide for effective enforcement, including through public monitoring, controls and sanctions. Its specific features, including corporate liability, will be followed by a dedicated EESC opinion (5).

(2) OJ C 97, 24.3.2020, p. 9.
1.15. Workers and trade unions must be part of the solution. Due diligence should explicitly cover trade union and workers’ rights, notably the right to collective bargaining and collective action, fair working conditions and remuneration, information and consultation, and health and safety at the workplace. These key human rights form an essential part of decent work.

1.16. European cross-sectoral and sectoral social dialogue and national social dialogue should assist its implementation, including common initiatives and projects, guidelines, capacity building, agreements, support for companies in undertaking due diligence obligations and for trade unions in engaging in discussions and negotiations with the management.

1.17. To deliver on its comprehensive and consistent approach, the Action Plan should also frame an ambitious revision of the non-financial reporting directive to include all companies, being responsive to the specific needs of and constraints on SMEs, and specific key performance indicators and targets. Legislative measures on board of directors’ duties at EU level to act in the interest of all stakeholders and for company activities to contribute to the achievement of social and environmental objectives.

1.18. In the framework of the new recovery instrument Next Generation EU and of other EU funding, the EESC suggests specific conditionality and incentives being linked to the respect for human rights, decent work and sustainability objectives in companies’ activities and supply chains.

1.19. Member States should ensure the full implementation and enforcement of the social clause in the public procurement directives. New EC proposals should ensure that public procurement procedures effectively support and promote human rights due diligence and responsible business conduct in business operations and their supply chains, including decent work.

1.20. The Action Plan should also comprise non-legislative measures, including initiatives to raise awareness of consumers, investors, and other stakeholders, and incentives to responsible businesses, which go beyond the legal obligations and specific support to SMEs to introduce due diligence policies.

1.21. Trade elements of the Action Plan objectives should be reflected in the new EU Trade Strategy Review. Trade and international investment agreements can boost and ensure a more even implementation of standards by both investors and governments. Foreign investors should be required to comply with due diligence before they can benefit from an international investment agreement. Free trade agreements (FTA) must promote best practices on how to include environmental and social criteria in public procurement, and in no way limit their application.

1.22. The new Chief Trade Enforcement Officer (CTEO) must have stronger instruments to enforce Trade and Sustainable Development (TSD) commitments. A revamped Panel of experts should be able to trigger a treaty State-to-State dispute settlement mechanism, with possibilities for financial penalties or sanctions, and remedies for the aggrieved party (1). An independent labour secretariat and collective complaint mechanism should complement enforcement of TSD chapters (2). The impact of Domestic Advisory Group (DAG) recommendations on investigating TSD violations needs to be considerably strengthened. Fresh approaches to labour disputes should look into remedies against non-compliant companies and in addition look into a system inspired by the EU Anti-Dumping measures to cover Social Dumping.

1.23. Leverage to secure ILO ratifications remains greatest during the agreement negotiations and before their conclusion; this should therefore materialise into the signed agreement. The ‘essential elements’ clause should be extended to cover ILO fundamental and up-to-date Conventions ratified by all EU Member States and the ILO be included in the

(*) See footnote 3.
The EESC suggests linking tariff reductions with the effective implementation of TSD provisions.

2. Background

2.1. In this Exploratory Opinion, the German EU Presidency asked the EESC to put forward a range of initiatives to improve sustainability and to ensure respect of human rights and decent work in GSCs. The Presidency provided a detailed list of questions along the following lines:

— How to frame and implement a European Action Plan to deliver on a comprehensive and ambitious strategy for decent work in GSCs, notably exploring the role of, and support to, social dialogue and civil society,

— What should be the core features of a European due diligence regulation, and how to strengthen access to effective remedies for human rights violations in GSCs,

— How to create a level playing field for European companies, considering their challenges and benefits, and how to contribute to GSCs' resilience to crises such as the COVID-19 pandemic,

— How to contribute to the common implementation of the SDGs and the UNGPs, including through minimum standards in Member States' National Action Plans (NAPs),

— How to strengthen the promotion of decent work in sustainable supply chains in trade policy, exploring notably a better enforcement of the sustainability chapters in free trade agreements (FTAs).

2.2. The EESC has already made several relevant contributions. In 2016, it called on the EC to adopt 'a comprehensive and ambitious strategy in order to promote with all its internal (access to EU public procurement, labelling etc.), and external policies (trade, development, neighbourhood policy etc.) decent work' in GSC. It recommended to 'include both, legislative and non-legislative measures, best practices, financial incentives, access to training, and capacity building for social dialogue and the trade unions' (9).

2.3. In 2018, the EESC urged the EC 'to be more ambitious in its approach, in particular with respect to strengthening effective enforceability of the commitments in TSD chapters' (10) and stressed the urgency of ILO Core Conventions' ratification before the conclusion of a trade agreement. With respect to strengthening labour provisions, it recommended looking notably into the establishment of an independent labour secretariat and a collective complaint mechanism.

2.4. In 2019, the EESC called on the European institutions to support the Binding UN treaty process and engage in the negotiations, agreeing on the necessary content of a binding treaty (11).

2.5. The EP Legal Committee has recently asked the EESC for an Opinion on Corporate Due Diligence and Corporate Accountability (12). Several EP resolutions had called for binding due diligence legislation and other initiatives to ensure the respect of human rights in business operations and in GSCs.

2.6. The EU Council has stressed the importance of effective access to justice for victims of human rights abuses in due diligence implementation, recognising corporate respect for human rights as ‘indispensable to sustainable development and achieving the SDGs’ (13). It concluded that ‘doing business in a responsible way may ultimately create a competitive advantage’ (14).

(10) See footnote 7.
(11) See footnote 5.
(12) Conclusions of the Council (10254/16) of 20 June 2016 on Business and Human Rights.
(13) Conclusions of the Council (8833/16) of 12 May 2016 on The EU and Responsible Global Value Chains.
2.7. Following the study presentation by the Directorate General for Justice and Consumers (DG JUST), in April 2020, European Commissioner Didier Reynders committed to put forward a binding cross-sectoral legal initiative on human rights due diligence and responsible business conduct, covering companies' supply chains, including liability and sanctions and based on a comprehensive definition of human rights, including also workers' and trade unions' rights (15).


3.1. Operations in GSCs play a key role in economic activities across the world and in global trade. Multinational companies and their supply chains employ hundreds of millions of workers and these networks make up 80% of global trade (16). According to ILO 2013 data, 453 million or more than one-fifth of jobs were linked with GSCs, an increase by 53% over the preceding decade (17). Digital technology, environmental and social governance and sustainability trends will have multifaceted effects in a ‘decade of transformation’ to come for international production (18).

3.2. ‘International trade is an engine for inclusive economic growth and poverty reduction, and contributes to the promotion of sustainable development’ (19). With the limitations to global trade and investment in GSCs due to the COVID crisis as well as the already slowing pace of poverty reduction before the crisis, there is an urgent need to intensify reforms, increase investments and promote sustainable trade and GSCs. International organisations and agencies strengthen the evidence of key roles in poverty reduction. Development banks stressed the critical role of trade and that the further integration of developing countries into an open global economy will be essential for achieving the goal of ending extreme poverty by 2030. For instance, the development of rural markets and their fair integration into global markets can become an increasingly important source of income for the rural poor. Further evidence shows the importance of decent and productive jobs, sustainable enterprises and economic transformation in poverty reduction.

3.3. GSCs are ‘complex, diverse and fragmented’, with some MNE having over 100 000 direct suppliers. They bear opportunities and risks. They have contributed to economic growth, job creation and entrepreneurship and can contribute to a transition from the informal to the formal economy (20), which is favourable to developing countries. With the increasing amount of global trade and investment occurring through GSC as well as outsourcing and cross-border coordination of global production by lead corporations, business operations have significant social impacts (21).

3.4. The length of supply chains and duration of relationship with suppliers are multifaceted business choices, based on the most interesting business relationships, proximity to consumer markets, logistics, skills, etc. However, systematic contracting out is also a by-product of the competition and economic drivers in a business model where GSCs too often organise themselves around the cheapest cost. Moreover, this pursuit of labour cost efficiency by companies does not necessarily translate into benefits for economies, workers, stakeholders and the wider society.

3.5. The current framework on business activities and human rights is mostly made of non-binding instruments. Violations of human rights, including workers’ and trade union rights, continue to occur in companies’ operations, comprising multinationals, their supply and subcontracting chains. It is furthermore difficult to trace their negative impacts. Specific liability frameworks in subcontracting chains already exist in EU law and have been introduced for example in public procurement, posting of workers and migration legislation.

3.6. The COVID-19 crisis has unveiled the worrying fragility and significant risks related to highly fragmented and undiversified supply chains and exposed the vulnerability of workers who keep them operational. Large-scale disruptions showcased the necessity to strengthen the reliability and resilience of GSCs, in particular in key regions and sectors, both

(15) Speech by Commissioner Reynders in the webinar on due diligence organised by the EP Responsible Business Conduct Working Group on 29 April 2020.
(17) ILO World Employment and Social Outlook (WESO) report in 2015.
(19) The 2030 Agenda for Sustainable Development, point 68.
(20) See footnote 1.
(21) See footnote 3.
within the EU internal market and with third country governments.

3.7. The EESC suggests to collect or process more data on vulnerable supply chains, both with respect to risks of disruptions of economic activities and detecting human rights violations. The annual FTA implementation report could serve as platform for regular information.

3.8. UN General Secretary António Guterres referred to the COVID-19 pandemic as a public health emergency, turning into an economic and social crisis and ‘a human crisis that is fast becoming a human rights crisis’ (\(^22\)). ‘Civil society has exposed the failure of many governments to protect their citizens and of many businesses to respect human rights in accordance with the UNGP. Workers are routinely forced to work without adequate equipment to protect them from contracting the disease, are denied paid sick leave when they get sick or need to self-isolate and are laid off without notice or compensation’ (\(^23\)). \textit{Inter alia}, risks have been highlighted with regard to the presence of forced labour in companies active in the supply chains for the production of gloves and other personal protective equipment purchased in Europe and in the US (\(^24\)).

3.9. The UN Working Group on Business and Human Rights has recognised in a significant statement the necessity to take a ‘sustainable people-centred path’ in the fight against COVID-19. It ‘must not result in lower standards — or even be used as a pretext by governments and business actors to circumvent international human rights commitments’. Making real progress on the UNGP’s implementation will ‘better prepare us for the next crisis, not least when turning our collective attention to the climate crisis and other human rights challenges stemming from injustices and growing inequalities’ (\(^25\)).

3.10. The EESC has called for reviving trade flows to build on strong commitments of social and labour standards and their effective enforcement. The disruption of supply and production processes has demonstrated the importance of having occupational health and safety measures in place and effectively enforced, and to keep workers safe and healthy to supply the world with goods and services. The ratification, implementation and enforcement of ILO core conventions on freedom of association and collective bargaining constitute a key gateway to ensure safe and decent working conditions, together with all ILO core and up-to-date Conventions (\(^26\)).

4. Point of departure: Main existing international instruments and definitions

4.1. There are several international instruments dealing with transnational supply chains. They provide definitions of responsible business conduct, due diligence mechanisms and companies’ obligations with regard to their supply chains, as well as States’ roles, obligations and commitments to ensure the respect of human rights, including effective prevention, controls, remedies and sanctions.

4.2. 17 Sustainable Development Goals (SDGs) form the core of the UN 2030 Agenda for Sustainable Development. The organisation of GSCs and the role of the private sector, are key to promoting and achieving its goals and targets, including ‘sustainable economic growth and productive employment (Goal 8), building inclusive and sustainable industries (Goal 9), reducing inequalities (Goal 10), ensuring sustainable production and consumption (Goal 12), and strengthening partnerships for sustainable development (Goal 17)’. SDG 9 and 12 focus specifically on supply chains, SDG 17 on company behaviour.

4.3. The 2011 UNGPs highlight the ‘States’ duty to protect against human rights abuse within their territory and/or jurisdiction’ and to ‘set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations’. Companies’ responsibility to respect human rights requires them to ‘avoid causing or contributing to adverse human rights impacts through their own activities’ and ‘to seek to prevent

\(^{22}\) António Guterres, COVID-19 and Human Rights: We are all in this together, April 2020.


\(^{24}\) Malaysia medical glove manufacturers see surge in orders due to COVID-19 amid forced labour concerns, Business & Human Rights Resource Centre.


\(^{26}\) See footnote 8.
or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts. ‘Business enterprises should have in place policies and processes’, including ‘a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights’, as well as to actively engage in ‘the remediation of any adverse human rights impacts they cause or to which they contribute’. According to the UNGP commentaries with regard to adverse impacts which occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, ‘the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so’ (27). In addition, the UNGP commentaries state that business enterprises conducting due diligence ‘should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses’ (28). The UNGPs stress the role of public procurement in promoting the respect of human rights and the possibility of responsible disengagement as last resort option as key in supply chain management.

4.4. Several ILO instruments and initiatives deal with supply chains and decent work, including with Member States’ and companies’ responsibilities. The ILO concept of decent work covers four strategic goals:

— promoting jobs creation, skills development and sustainable livelihoods,

— guaranteeing rights at work and in particular for disadvantaged and poor workers,

— extending social protection for men and women in order to provide adequate compensation in case of lost or reduced income, and access to adequate healthcare,

— promoting social dialogue through the involvement of strong and independent workers’ and employers’ organisations.

4.5. The 2016 ILO Resolution on decent work in GSCs touches upon the role of governments in requiring companies to implement due diligence processes within their supply chains, in ensuring the respect of human rights and in promoting responsible business conduct, including through public procurement policies.

4.6. Based on the UNGP and its due diligence process, the Tripartite Declaration of Principles on MNE and Social Policy clarifies that ‘this process should take account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue as an ongoing process’.

4.7. Mandatory upon its member countries, the OECD Guidelines for MNE provide detailed guidelines for responsible business conduct and recommend risk-based due diligence and require states to establish NCPs with the objective to promote adherence to the Guidelines, including awareness-raising and receiving complaints in case of their violation. The EESC had previously called on Member States to ensure National Contact Points (NCPs) are ‘independent and structured so as to involve the social partners as members of the NCPs, or the NCP oversight committee. They should be adequately trained, staffed and funded’ (29). In the context of its supply chains, enterprises should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse

(27) UNGP Principle 22, commentary.
(28) UNGP Principle 17, commentary.
(29) See footnote 7.
impact to the enterprise with which it has a business relationship. In the context of its supply chain, if the enterprise identifies a risk of causing an adverse impact, then it should take the necessary steps to cease or prevent that impact. If the enterprise identifies a risk of contributing to an adverse impact, then it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impacts to the greatest extent possible. In any case, this is without prejudice to any liability established by the EU or states for companies with regard to human rights violations and other adverse impacts in their activities and supply and subcontracting chains, including for violations of due diligence obligations.

5. Levelling the playing field for European companies

5.1. Many companies are committed to and involved in individual initiatives that have led to behavioural change towards respect of human rights in their own business activities. Sectoral initiatives include amfori, Together for Sustainability, Chemie and Bettercoal. European companies enjoy a good reputation beyond Europe with respect to their commitments and contributions to sustainable development through their local presence. However, these voluntary measures have not brought about the full behavioural change needed.

5.2. A recent study by DG JUST presents an effective and comprehensive analysis of the status quo, where ‘only just over one-third of business respondents’ indicated due diligence undertakings on human rights and environmental impacts, the majority of which is only for first-tier suppliers. It stresses the need for a European cross-sectoral binding legislation on human rights due diligence and responsible business conduct. The current crisis has even reinforced the support for action.

5.3. Given their important experiences in implementing effective and ambitious due diligence policies, often on the basis of agreements concluded with trade unions, European companies would indeed benefit from levelling the playing field and from fair competition, based on common minimum standards applicable also to companies established in third countries and active in the EU. The good reputation of the ‘EU brand’ of doing business is also based on its regulatory environment of high standards.


5.5. Various national laws have also recently introduced due diligence, most notably the French corporate duty of vigilance law. It provides an ambitious national legal framework, requiring large companies to define, publish and implement a vigilance plan to identify and prevent human rights violations and negative environmental impacts in their activities, in the activities of the companies they control directly or indirectly and in the activities of subcontractors and suppliers with which they maintain an ‘established business relationship’. It includes a liability framework holding companies to account when breaches of their due diligence obligations result in harm or human rights violations.

5.6. This existing fragmented legal framework negatively affects businesses who then have to comply with different sets of rules. They suffer from unfair competition, legal uncertainty and administrative costs, which should be avoided. A growing number of businesses and investors are thus calling for mandatory due diligence instruments.

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(30) OECD Guidelines, part II, point A.12.
(31) OECD Guidelines, part II, commentary 18 and 19.
(32) See footnote 15.
(33) Study on due diligence requirements through the supply chain, 2020.
(37) French Law 2017-399 of 27 March 2017 on the Due diligence of parent companies and of contracting undertakings.
(38) Call of investors representing USD 1.3 trillion and List of public business statements & endorsements, both Business & Human Rights Resource Centre, 2019.
5.7. In addition, the status quo does not reward responsible companies, because of the lack of common minimum requirements, of comparable processes, of adequate incentives by public authorities, of effective enforcement of existing rules, and of awareness amongst investors, stakeholders and consumers.

6. A European Action Plan on human rights and decent work in global supply chains

6.1. Creating an effective regulatory framework

6.1.1. Decent work, respect for human rights and sustainability in global value and supply chains are high on the political agenda of global, European and national institutions, and of increasing importance to the business community. However, it urgently requires a more effective and consistent regulatory framework to achieve those goals and to promote global and EU social and environmental objectives, fair competition between economic operators and to support European economic activities.

6.1.2. Building on initiatives already undertaken by many European companies and confirming their global leadership in this area, it is paramount to develop an ambitious, comprehensive and transversal strategy that effectively links initiatives and closes identified gaps. ‘Voluntary and binding measures are not mutually exclusive, but must complement each other’ (39).

6.1.3. A European Action Plan should be designed as a general framework for legislative and non-legislative initiatives on human rights, decent work and sustainability in companies’ activities and supply chains. It needs to recognise the essential, different and complementary roles of the different actors in this area, notably the European institutions, Member States, international bodies, companies, social partners and stakeholders. To ensure its success, all actors need to be fully involved in achieving the objectives of the Action plan that should be developed on the basis of social dialogue and a multi-stakeholder approach.

6.1.4. Main objectives should be to promote responsible business conduct, to ensure the respect of human rights and of EU social and environmental objectives in business activities and supply chains, to support businesses and SMEs in adopting a responsible business conduct approach and to ensure a level playing field for businesses. A preventive approach of mandatory due diligence should result in less human rights violations. With all companies having to follow the same basic set of rules, this would also allow for comparable processes for consumers.

6.1.5. A broad definition should cover human rights, including workers’ and trade union rights, and build on a range of international instruments (40), most notably ILO conventions. Rights include, amongst others, freedom of association and the right to collective bargaining and collective action, information, consultation and participation rights, decent working conditions, occupational health and safety, fair wages, social security coverage. In the fight against child labour and forced labour, the EC ‘zero-tolerance approach to child labour’ must be followed by effective and ambitious actions. The Action Plan should further cover wider responsible business conduct, notably social and environmental impacts, corporate governance, anti-corruption, fair tax policy and tax transparency. To take concrete steps towards sustainable supply chains, it is important to implement concrete measures at local level, where companies need to evaluate local legislation and agreements when engaging outside the EU. By acknowledging the importance of government enforcement of labour rules, notably through inspections, governments at national and local levels have to play their full role (41).

6.1.6. Coordination between EU and national level is key. National action plans to be developed in cooperation with national social partners and civil society, should be closely linked with the NAPs for the implementation of the UNGPs and recognise the role of the OECD Guidelines and NCPs, which should be independent and structured so as to involve the social partners as members of the NCPs, or the NCP oversight committee. They should be adequately trained.

(39) See footnote 4.
(40) Including the International Bill of Human Rights, as well as the European Convention on Human Rights and European Social Charter. It should furthermore build on the EU Treaties and the Charter of Fundamental Rights of the EU as well as national instruments and legislation in the area of human rights.
(41) See footnote 7.
staffed and funded (\textsuperscript{42}). The European Action plan could also include minimum standards in different areas to ensure a full and effective national implementation of the relevant international instruments. At EC level consistency and coordination between the different policy areas and Directorates General in charge, notably of Justice, Finance, Trade, or Employment, and the EEAS is necessary.

6.2. Framing a binding European due diligence legislation

6.2.1. The EESC welcomes that the EC follows its recommendation (\textsuperscript{43}) to propose EU legislation in this area and calls for a European Action Plan to have at its forefront a binding cross-sectoral legislative initiative on human rights due diligence and responsible business conduct, taking into account the findings of the study commissioned by DG JUST and in line with the commitment by EU Commissioner Reynders.

6.2.2. In order to avoid unfair competition and an uneven playing field, it should cover all companies established or active in the EU and their activities, including their whole supply and subcontracting chains, as well as the public sector, and be responsive to the specific needs of and constraints on SMEs. This follows the UNGP approach of covering ‘all enterprises regardless of their size, sector, operational context, ownership and structure’ (\textsuperscript{44}). Companies should abide by high standards of responsible business conduct that cover human rights, environmental and social impacts, corporate governance, anti-corruption and fair taxation.

6.2.3. Based on the main steps of due diligence processes identified by the relevant UN, ILO and OECD instruments, companies should be required to map and assess actual and potential adverse impacts, act upon the findings (ceasing operations which are causing adverse impacts), develop and implement a due diligence plan to prevent any potential risks and the materialisation of negative impacts, establish an early-alert mechanism, verify and monitor effectively and in a transparent manner the implementation of the due diligence plans and report on its implementation. The due diligence process through which they meet their responsibilities should be proportional to the severity of potential impacts and their operational context.

6.2.4. The legal instrument should be based on a preventative approach but ensure at the same time effective remedies and access to justice for victims and their representatives, including trade unions and human rights defenders. Public monitoring of company obligations and legal consequences in case they are not respected are key. Its specific features, including corporate liability, will be followed up by a dedicated EESC opinion (\textsuperscript{45}). However, any EU initiative in this area should not prejudice or limit joint and several liability mechanisms or other liability frameworks at international, European or national level.

6.3. Key role of social partners and civil society

6.3.1. Social dialogue should play a key role in due diligence and in responsible business conduct, ensuring the respect of human rights in companies’ activities and supply and subcontracting chains. Any Action Plan and legislative initiative should be based on its value and of collective bargaining and ensure respect of workers’ information and consultation rights. These elements are unfortunately not addressed in the DG JUST study.

6.3.2. Companies and trade unions can negotiate, at the relevant level, agreements to define the concrete application of the obligations included in the directive. This underlines the good practice and positive contribution of several existing agreements on due diligence processes. In addition, workers’ representatives should be informed and consulted for the definition of the due diligence plan and its implementation.

6.3.3. European cross-sectoral and sectoral social dialogue should help to deliver improvements in those areas, by including common initiatives and projects, guidelines, capacity building, agreements.

\textsuperscript{(42)} See footnote 7.
\textsuperscript{(43)} See footnote 4.
\textsuperscript{(44)} UNGP para 14.
\textsuperscript{(45)} See footnote 5.
6.3.4. Previous experiences have shown how initiatives based on social dialogue can bring important steps forward in terms of decent work in GSC. The Accord on Fire and Building Safety in Bangladesh was signed in May 2013 as a legally binding agreement between over two hundred mostly European garment brands and retailers and two global unions, namely IndustriALL and UNI Global Union, as well as several local trade unions and witness signatories.

6.3.5. The Action Plan should include also measures to raise awareness amongst consumers and investors on the importance of social and environmental impacts of companies, promote instruments to allow the comparability of companies’ performances and better identify those which are putting forward effective responsible business conduct strategies. All initiatives should be based on the involvement of stakeholders, including social partners and NGOs, which can act as multipliers of information and contribute to raise awareness about positive and negative behaviours.

6.4. Measures to complement a European Action Plan

6.4.1. Revision of the non-financial reporting directive. Supporting an ambitious revision to include all companies in the personal scope that is also responsive to the specific needs of and constraints on SMEs. The material scope should be better defined for non-financial reporting to be comprehensive, comparable and effective. Considering that reporting is a key element in due diligence mechanisms, it should be consistent with the respective legal initiative and include specific key performance indicators and targets (e.g. on the basis of the Paris Agreement and of SDGs), as well as for it to be based on the UNGPs and other relevant international instruments.

6.4.2. Board of Directors’ duties, sustainable corporate governance and company law. Supporting legislative measures on directors’ duties at EU level to act in the interest of all companies’ stakeholders and for companies’ activities to contribute to the achievement of social and environmental objectives. Furthermore, identifying other legislative and non-legislative measures to promote more sustainable, forward-looking, and long-term oriented corporate governance and company law.

6.4.3. Public funding and public support. Proposing specific conditionalities and positive incentives linked to the respect for human rights, decent work and sustainability objectives in companies’ activities and supply chains for the access to public and EU funding and support, in particular in the context of the COVID-19 EU and national economic recovery plans.

6.4.4. Public procurement. Ensuring the full implementation and enforcement of the social clause in the public procurement directives by Member States and putting forward proposals for public procurement procedures to effectively support and promote human rights, due diligence and responsible business conduct in business operations and their supply chains, including decent work. This could be achieved inter alia through a revision of the public procurement directives, capacity building for contracting authorities and exchange of best practices, including their promotion through FTAs.

6.4.5. Incentives. Proposing initiatives to offer support for companies which go beyond the legal obligations with regard to responsible business conduct and positive environmental and social impacts. Those could include, for example, support to develop specific policies and instruments, promotion of networks of sustainable companies, capacity building for social partners’ initiatives.

6.4.6. Synergy with the international trade and investment agenda. Foreign investors should be required to comply with due diligence before they can benefit from the coverage of an international investment agreement. Similarly, Parties to a FTA should guarantee that companies resident on their territories do comply with due diligence requirements. Canada, for instance, enhanced its Corporate Social Responsibility Strategy by focusing on Canadian companies’ behaviour abroad and created a multi-stakeholder Advisory Body. In April 2019, the first Canadian Ombudsperson for Responsible Enterprise was appointed, with a mandate to review and report publicly alleged human rights abuses arising from Canadian companies’ operations in mining, oil and gas and garment sectors abroad, including recommendations for trade measures for companies (46).

6.4.7. The Action plan should be attentive to a wider range of elements, notably tax transparency, including country-by-country reporting and fair tax behaviour, sustainable finance and obligations for investors. The conflict minerals Regulation and of the timber Regulation could be assessed with a view to the necessity to revise or reinforce them.

7. Trade to deliver on decent work and effective enforcement

7.1. Trade constitutes an important transversal element in the implementation of the objectives of a European Action plan, linking it with third countries and the multilateral angle. The new EU Trade Strategy Review urgently needs to reflect this. The EU has the largest trade network in the world, giving bilateral trade agreements a particular important leverage that needs to be used effectively before their conclusion and throughout their implementation and enforcement.

7.2. The EU-Vietnam negotiations showcased the progress the EU can achieve on improving labour conditions when engaging with a partner country. However, years after FTAs were concluded, we still witness a lack of progress in compliance with TSD commitments in some partner countries, most notably in the years long EU-Korea labour rights’ dispute over non-ratification of fundamental and up-to-date ILO Conventions. This evidences that the highest leverage to secure core ILO ratifications remains during the negotiations and before their conclusion; this should therefore materialise into the signed agreement.

7.3. Trade is not the driver of climate policy but can become a key enabler. Making the Paris Agreement an ‘essential element’ for all future comprehensive trade agreements, meaning to suspend them in case of non-compliance, is a positive step that should be extended to cover ILO fundamental and up-to-date Conventions ratified by all EU Member States. As the recognised body at international level, ILO should be involved in monitoring the implementation of ILO Conventions in FTAs (47).

7.4. The EESC has previously recommended both that there should be a specific clause to promote the SDGs in all future mandates for TSD chapters, and for the reform of the World Trade Organization (WTO) to establish rules that ensure countries respect and implement the SDGs. Here, the EU and its Member States should use their leverage and advocacy throughout the various WTO committee structures, especially covering those new areas such as trade and decent work.

7.5. TSD chapters form an increasingly important part in all new-generation EU FTAs but effective enforcement and enforceability must now become key to realising these commitments, not least to ensure a level playing field for EU businesses abroad. The impact of DAG recommendations on investigating TSD violations needs to be considerably strengthened.

7.6. The EESC further encourages the EC to look into new approaches to labour dispute settlements that would allow for an ad hoc international dispute settlement panel to impose remedies on a noncompliant facility. A rapid process is already in use for EU Anti-Dumping measures and could be extended to Social Dumping. In line with the French and Dutch non-paper (48), the EESC suggests in general for the effective implementation of TSD provisions to be linked to a staged implementation of tariff reduction.

7.7. The EESC calls for a revamping of the current TSD expert panel mechanism where trade lawyers, but also labour, climate or human rights experts, could investigate complaints under TSD chapters. Should such panels find violations, it should trigger a treaty State-to-State dispute settlement mechanism, with possibilities for financial penalties or sanctions, and remedies for the aggrieved party (49). In this respect, the EESC had also suggested an independent labour secretariat and collective complaint mechanism (50).

(47) See footnote 8.
(48) Non-paper from the Netherlands and France on trade social economic effects and sustainable development, May 2020.
(50) See footnote 7.
7.8. The new CTEO needs to lead the way on enforcement of commitments ‘in particular […] related to TSD chapters and social and environmental concerns arising in relation to other chapters in trade and investment agreements’ and must start ‘timely, effectively initiated investigations, backed by adequate resourcing and include a clear role for recognised stakeholders, both to submit complaints and to participate in any subsequent public hearings’ (\(^{(51)}\)).

7.9. Businesses play an important role by ensuring compliance with labour and social rights, by supporting and implementing laws that protect workers’ rights and through decent standards agreed with trade unions both in their direct operations and throughout their supply chains. The EESC called on the EC to develop CSR clauses with solid commitments and in line with the UN and OECD instruments (\(^{(52)}\)). This would ensure trade agreements support good business behaviour, and prevent social dumping and undercutting social standards.

7.10. Trade and international investment agreements play a key leverage role in an even implementation of these standards both by investors and governments. A recent OECD report (\(^{(53)}\)) lists numerous existing or emerging initiatives at national and regional levels. This variety of regulations is a challenge as some approaches are horizontal, others issue-specific. They affect businesses differently due to diverse thresholds and scopes. Even OECD countries have varied reporting standards. There is a clear case for a level playing field: upward convergence between all the applicable standards would guarantee legal certainty and fair competition for all.

8. Closing the governance gaps: Importance of EU global leadership

8.1. A European due diligence standard is an indispensable step to ensure the respect and enforcement of human rights and decent work in supply chains. It would contribute to the implementation of the UNGPs, the ILO Tripartite Declaration and the OECD Guidelines. It would also complement national initiative taken to reach the SDGs, notably with regard to the eradication of child labour and forced labour.

8.2. It would further contribute to establishing more reliable, sustainable and well-managed supply chains, thus increasing resilience and management effectiveness in times of crisis. This would be particularly important for example with regard to health and safety at the workplace.

8.3. European actions need complementary improvements of the international normative framework to deliver global policy coherence. Achieving multilateral progress sometimes starts with ambitious unilateral action. The EESC sees the EU as uniquely placed to take the lead on due diligence, in particular with view to European companies’ global leadership.

8.4. The EESC calls on the EU and its Member States to deliver real progress towards more effective and binding instruments at international level, accompanied by renewed initiatives to promote the effective implementation of the existing instruments and frameworks. These have to include support for an UN Binding treaty on business and human rights (\(^{(54)}\)) and call for the establishment of an ILO Convention on decent work in supply chains (\(^{(55)}\)), in line with the 2016 International Labour Conference discussion and be based on the ILO core and up-to-date Conventions and the ILO Declaration on Principles and Rights at work. The EESC sees an urgent need for a Global Survey to analyse how international labour standards address decent work deficits and to close any identified gaps.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

\(^{(51)}\) See footnote 7.
\(^{(52)}\) See footnote 7.
\(^{(54)}\) See footnote 2.
\(^{(55)}\) See footnote 3.
III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

554TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,
16.9.2020-18.9.2020

Opinion of the European Economic and Social Committee on ‘Communication from the Commission
to the European Parliament, the Council, the European Economic and Social Committee and the
Committee of the Regions – An SME Strategy for a sustainable and digital Europe’

(COM(2020) 103 final)

(2020/C 429/26)

Rapporteur: Milena ANGELOVA
Co-rapporteur: Panagiotis GKOFAS

Referral European Commission, 22.4.2020
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Section responsible Section for the Single Market, Production and Consumption
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Plenary session No 554
Outcome of vote 219/0/0
(for/against/abstentions)

1. Conclusions and recommendations

1.1. The EESC welcomes the eagerly awaited and necessary SME Strategy. It appreciates the strategy’s comprehensive and systematic approach and commends the fact that it takes stock of existing tools, instruments and measures that have proven to be useful, and further improves and positions them as a part of a common, well-coordinated framework. The EESC calls upon the European Commission (EC) to implement the strategy by adopting a coherent, integrated and cross-cutting approach, placing SMEs at the heart of all key political decisions, such as the Green Deal, the Industrial Strategy and when shaping the EU budget and empowering the Recovery Plan for Europe.

1.2. The EESC is committed to contributing to delivering the strategy promptly for SMEs and advocates applying multi-level governance; at EU level, a Cross-Directorate-General SME Taskforce has to ensure that:

— the ‘Think Small First’ principle is applied in all policy areas impacting SMEs, and especially for the Recovery Plan for Europe, the Invest EU Programme, the Solvency Support Instrument and the European Green Deal Investment Plan,

— the implementation of the ‘Next Generation SME Strategy’ and the Small Business Act is properly carried out and evaluated within the European Semester exercise and the SME scoreboard that has been created,
— the Member States (MS) strongly commit to implementing the SME Strategy, since many EU policies have failed due to negative reactions, inaction or evasion, including gold-plating, at national level; here, a special attention has to be given to the position of women in this business environment,

— organisations representing SMEs and social partners have a central and greater role and can make constructive contributions, as this is somewhat lacking in the EC’s current proposal,

— the concept of ecosystems as priority areas for funding is only introduced after thorough consultations with the organisations representing SMEs at EU, national and regional level to guarantee that it properly reflects the actual situation of SMEs, as it seems to be too bold a step.

1.3. While taking note of the fact that the proposal was released prior to the outbreak of COVID-19, the EESC asks the EC to draw up a ‘Next Generation SME Strategy’ which must take stock of the SME supporting measures in the Recovery Plan for Europe to help them to mitigate the negative effects of the lockdown, social distancing and health security measures on their business and to recover quickly. The EESC welcomes the creation of a Recovery and Resilience Instrument linked to the EU budget, but would like to see a real guarantee that it will reach all SMEs in need by providing tailored support measures. This requires a more comprehensive policy review and more precise and specific proposals on how to boost digitalisation, innovation and sustainability in SMEs.

1.4. The ‘Next Generation SME Strategy’ will need a strong implementation framework and policy coherence. The EESC suggests that a Multiannual Implementation Roadmap be agreed between the EC, the Council, the EP, the consultative bodies and the EU agencies, with specific milestone indicators and a timeline for action targets for the short, medium and long term.

1.5. The EESC calls for SME organisations to be given more ownership in the SME Strategy implementation process, including by devoting EU programme providing SME organisations and social partners with capacity building and support for joint actions to act as a one-stop-shop for information and technical assistance, involving them closely in designating and shadowing the SME Envoy, and by adopting a monitoring system to measure the effectiveness of the envoys. In order for the Enterprise Europe Network (EEN) to play a greater role in advising SMEs, as envisaged by the EC — especially regarding the sustainable transition — the EEN must be fundamentally reformed, as in most of the MS, the EEN does not reach SMEs and certainly not craft companies. The EESC believes that the progress of implementation and the effectiveness of the strategy must be regularly monitored, assessed and scrutinised by a specially designated Independent EU Observatory with a view to promptly developing and proposing corrective measures whenever necessary.

2. General comments and a forward-looking approach

2.1. The EESC asks the EC and the MS to strongly consider widening the scope — and ensuring the effective delivery of — the measures for promoting SMEs’ competitiveness and innovative capacity, and for helping them improve their multi-factor productivity, as well as supporting their routine business operations. While acknowledging the importance of innovation and digitalisation, the EESC points out that the vast majority of SMEs in the EU badly need support to modernise their technology, deal with HR issues and improve business performance.

2.2. The EESC greatly appreciates the EC’s intention to implement measures targeting the specific needs of all the SME subgroups, e.g. value-generating, micro-, small, public, family and traditional companies as well as those operating in remote areas, the self-employed and craft companies, and also social economy SMEs, as closely matching their specific needs is a key success factor.

2.3. All SME-focused components within the European Recovery Fund need to be systematically monitored to guarantee their ability to provide SMEs with the necessary support, such as the new Solvency Instrument.

2.4. The EESC calls on the EC to draw up a realistic Multiannual Implementation Roadmap, clearly outlining appropriate resources and measures, consultations and joint action with the social partners, an independent progress report, monitoring and impact assessment mechanisms. For the digital transition to succeed, it is vital that the ambitious proposals...
for the Digital Europe and Horizon Europe programmes in the next Multiannual Financial Framework be better targeted to SMEs and provide for a fairer geographical outreach. The EESC stresses the importance of efficiently channelling SME funding and support measures to micro companies, including traditional businesses.

3. Pillar 1

3.1. The EESC praises the recognition of the need to tailor the support measures to SMEs to help them thrive in a climate-neutral, resource-efficient, digitally proficient and agile manner. Sustainability advisers and digital volunteers can help SMEs become digitally fluent, update their technology, prepare for a successful transition to sustainability and identify resource-efficient, climate-neutral solutions. Their role and responsibilities must be facilitated and enhanced by EU, national and regional SME organisations.

3.2. The EESC appreciates the special role that social partners are expected to play and hopes that the partnership principle will be further strengthened and MS will apply it more effectively. EU, national and local SME organisations have a key role to play in helping SMEs become aware of and understand the SME policy support measures, especially those SMEs — representing the vast majority — that are traditional and/or micro-companies and/or are operating in remote and rural areas, and need to catch up with the rapid pace of the digital revolution. The EESC is ready to land its support in making these organisations and social partners part of a network for collecting and exchanging best practices and ideas for support measures and specific social conciliation, within the framework of social dialogue.

3.3. The EESC welcomes the broad assortment of mechanisms for facilitating SMEs’ transitions towards sustainability/circularity and their respective compliance with legislation. The Committee stresses the importance of swiftly implementing the Circular Economy Action Plan (CEAP) and introducing an ambitious carbon price floor, as well as the carbon border adjustment mechanism. The EESC underlines the Just Transition Mechanism’s ability to support the rise of the new economy and recommends that, where necessary, social and support measures be taken to prevent the crisis and the transition to a low-carbon circular economy from harming the weakest, including support for the private sector, when negative effects are felt, and especially for SMEs. To encourage SMEs to become greener, their potential for radical and disruptive innovations must be stimulated so as to bring forward the green transition. With the right in-kind and legislative support, SMEs will be able to capitalise on innovative and sustainable practices more quickly than larger firms.

3.4. An effective intellectual property rights (IPR) policy is key to the success of innovative businesses, in particular SMEs and start-ups. IPR, including patents, trademarks, copyright and other knowledge-based assets, need to become an integral part of many SMEs’ business strategies. Businesses need a solid and reliable IPR framework that is fit for the digital age. The single EU patent system should rapidly become operational, so as to provide legal certainty and allow SMEs to develop and protect their inventions at a reasonable cost and with reduced administrative burdens. A collaborative approach between the EC, the MS and the European Patent Office (EPO) to expand patent application services, including financial support, to improve SMEs’ access to justice in the event of patent infringement, notably through a ‘before-the-event’ insurance scheme, and to redesign the EPO appeals process, would be essential to further strengthen the development and protection of SMEs’ know-how.

3.5. Entrepreneurship is the driving force behind SMEs. The EESC asks the EC to concentrate more on promoting, enhancing and cultivating entrepreneurial initiative, an entrepreneurial mindset and an informed approach to risk-taking, as well as providing a more positive image of entrepreneurs in financial distress. As important as it is, it is not enough to just focus on entrepreneurial education and training, at all levels of learning, but on upgrading the societal appreciation of the role of entrepreneurs, including by promoting good examples and showcasing role models. Upskilling and training of entrepreneurs should be promoted. The strategy could set out measures for further enhancing intra-EU and third-country labour mobility, and explore instruments in addition to the simplified EU visa scheme. The EC, together with the MS, must provide SMEs with infrastructure for innovation, i.e. laboratories, ICT facilities, office buildings, and legal and intellectual-property (IP) support, which, at adequate levels, would substantially lower the threshold for start-ups and open up the field for part-time entrepreneurs. The EC could also incentivise government agencies to provide environments where SMEs can test their prototypes, thereby facilitating the financing of innovative SMEs by reducing the technical risk for investors. Developing effective skills intelligence by influencing schools' curricula is also key.
3.6. Human resources are a key determinant of competitiveness, especially for SMEs, which usually have fewer organisational, managerial and financial tools to attract, motivate and retain qualified staff. Therefore, the EESC stresses the importance of helping SMEs recruit experienced and skilled staff, including by financial means, and expects this to be a key part of the dedicated SME component of the future Pact for Skills. The EESC supports the shared responsibility for up/reskilling of workforce with governments, employers, regions and individuals. Vocational education and training (VET) needs to become a first-class option, together with promoting tertiary education to support the labour market transition. It is important that curricula are oriented around learning outcomes as this will help to foster timely and effective transitions.

3.7. Improving SMEs’ digital capacity is vital. This must begin with the least-prepared SME groups, e.g. micro-companies and very traditional businesses with limited or no experience in digitalisation. They must be the targets of digital crash courses aimed at both SME entrepreneurs and employees and their needs must be further addressed when shaping the Digital Innovation Hubs (DIH), so as to allow them to upgrade and improve their professional skills and become proficient users of technology. DIH should be properly equipped to help SMEs carry out risk assessments and should efficiently protect data. The EESC supports the announced European strategy for data, aimed at making data more widely accessible and enabling data flows between businesses and governments. The free movement of data must be ensured. Business-to-business data sharing should be encouraged to improve cooperation within value chains and provide opportunities for increasing our economy’s economic power by improving the availability and accessibility of information (from the government or the value chain) on data sharing and portability.

3.8. The broadband network in the EU — as an essential prerequisite for digitalisation — needs to be comprehensively expanded so that companies can become more digitalised, with none being left behind. Since the EU still achieves too limited progress in it, especially in rural areas where many SMEs are located, all other EU-wide initiatives should take this into account from the ground up and take action there.

3.9. The EESC calls for targeted support measures focused on the digitisation and enhanced connectivity of sectors such as health, education, public administration, food and agriculture, manufacturing and transport. The digital transformation should be founded on openness (i.e. non-dependency), simplicity, intelligence, automation, trust and security as we look to build new business models, processes, software and systems. It is at the heart of the EU’s climate leadership and economic recovery. The EU should accelerate investments in energy efficiency, transport, low-carbon buildings and industrial processes, where digitalisation has a key role to play.

3.10. The EESC recommends accelerating the roll-out of ubiquitous high-capacity and secure networks, incentivising private investment and boosting funding for rural and sparsely populated areas. Planned spectrum allocations that may have been delayed due to the COVID-19 crisis should also be accelerated once normal operations recommence. At that time, governments should also prioritise further new spectrum allocations — both licence-exempt and licensed — to make wireless connectivity more robust.

4. Pillar 2

4.1. The EESC welcomes the special attention given to SMEs and the rigorous application of the ‘once only’ and ‘digital by default’ principles. The EESC asks the EC to also implement the new strategy on the basis of the ‘act for SMEs’ principle, and warns that any delay in the implementation of the support measures for SMEs would be counterproductive. After all, SMEs are currently facing more challenges than ever before: the negative effects of the COVID-19 outbreak, fierce competition, a shortage of skilled labour, new forms of work and consumption, an increasingly complex and heavy flow of information, limited resources for innovation, a constant downgrading of the role of entrepreneurs, volatile financial markets, difficulties accessing finance, a high dependence on the external environment and limited bargaining power. Regarding the assessment of the impact of ‘gold-plating measures’ on SMEs, the EESC reiterates its view that regulatory burden reduction targets should be based on a thorough SME-test, sound impact assessments, and comprehensive evaluation including civil society and stakeholder dialogue. The existing level of protection of citizens, consumers, workers, investors and the environment in Member State must not be questioned when implementing the EU legislation.

4.2. The issue of late payments continues to require careful consideration, and the planned review of the Late Payment Directive is an important step that should closely involve the consultation of SME stakeholders. It could be useful to intervene on a cultural level so as to promote virtuous behaviour. In this sense, a specific measure for supporting this
process could be to create a tool, for example a website, asking companies to commit to certain principles related to timely payments. To protect SMEs from the superior bargaining power of larger companies, the EESC suggests that the EC expand and strengthen its provisions on unfair business-to-business and platform-to-business trading practices, extending them to all sectors, possibly as part of EU competition law, with the option for SMEs to lodge confidential complaints with a central authority, which in the case of the EU could be DG COMP.

4.3. In line with its previous opinions, the EESC expresses doubts about the actual usefulness of the Network of SME Envoyos, which is not fully operational in all MS, and its ability to deliver real added value. It recommends that the role of SME organisations be enhanced rather than a new role being created in the form of an EU SME envoy, which will provide no guarantee whatsoever of SME-friendly regulations. The EESC suggests that the national SME envoy be appointed upon agreement with the national SME organisations, which must be in constant contact with the envoy and hold them accountable on a regular basis. The implementation of the ‘Next Generation SME Strategy’ and the Small Business Act must be included in the European Semester exercise and the SME scoreboard that has been created.

4.4. Regulatory sandboxes have proven to be a useful tool and the EESC calls for them to be more widely used when introducing regulations for SMEs, and better promoted among national lawmakers. The EC should clarify how, where and why these regulatory sandboxes will be applied. There is still a clear need to improve the SME test in the impact assessment to make sure all proposed legislation is SME-friendly. The EC’s new ‘Fit for Future Platform’ should focus heavily on checking for potential burdens that could create obstacles to socio-economic regeneration. The EU should also set up regulatory sandboxes at EU level so as to enhance the single market, ensure it fosters harmonisation, and to promptly provide innovators with legal security for innovative solutions across Europe. The EU has more start-ups and innovative SMEs than the US or China, but several studies show that these businesses prefer to deploy their innovative solutions outside of Europe. There are many reasons for this, including the lack of financial incentives in Europe and the fragmented single market. Hence, the importance of introducing regulatory sandboxes: these would encourage companies to stay in Europe and hopefully help create European champions in the longer term.

4.5. Making procurement more accessible and SME-friendly prevents cross-border criminality and market abuses. Encouraging SMEs to be more actively involved in solidarity and strategic and essential sectors, such as health and safety goods/services, aerospace and defence, is an effective way of better integrating them within value chains and would certainly be welcomed in an open trade system fighting against rising protectionism. Moreover, the COVID-19 outbreak has shown how important it is to have diversified supply chains, but also to have them onshore/nearshore, and it is essential to help SMEs find their place in this process. The crisis has also provided many examples of how fragile the single market still is; an action plan is needed to ensure that each and every sector runs smoothly, which is key for SMEs, as well as to encourage SMEs to actively expand to external markets.

4.6. The EC must be more ambitious in its efforts to open up public procurement to SMEs, endeavouring, in cooperation with public service providers, to make public procurement more transparent and to safeguard the compliance of public contracts with the EU’s single market rules. The EESC suggests that this be done in particular by:

— increasing and constantly monitoring the SME participation rate,

— simplifying administrative procedures and providing better public and digital services,

— appointing a Single Point of Contact in every MS where complaints about or issues with public procurement can be registered and monitored,

— improving access to processes for appealing the outcome of tender procedures.

4.7. Similarly, the EU must continue its efforts towards greater transparency and closer cooperation with EU industry as a whole during trade defence instrument investigations and must continue to facilitate SMEs’ access to these instruments.

4.8. The EESC is concerned about the difficulties being experienced by the retail sector, especially during the COVID-19 lockdown, and calls for specific support and promotion measures.
4.9. The Single Digital Gateway, linked to one-stop-shops in the MS, will provide information and support to SMEs, with national and regional SME organisations helping them identify and recognise the solutions best suited to them.

4.10. Facilitating business transfers is extremely important as it will further motivate an entire generation to keep family businesses operational, and will make transfers of ownership easier in cases where the owner(s) lack(s) the skills, resources and ideas required to continue running the business. Workers’ buy-out of businesses through the creation of a cooperative and other forms of employee ownership can also be explored in such cases. It is also extremely important to identify the two different types of business transfer in order to understand how the specific legislation affects each type. A distinction needs to be made between ‘intra-family business transfers’ and ‘external business transfers’, with each given a separate definition. The legislative framework needs to be more flexible to make it easier to buy an existing company where great risks, significant costs and complicated procedures are currently involved. Special attention should be paid to cross-border SME transfers to address the high costs associated with these transactions and the substantially different MS regulations. Beyond the question of transfers, the EESC recommends establishing a European company 2.0 for SMEs in the form of a revamped European Private Company (Societas Privata Europaea (SPE)) to facilitate cross-border expansion and scale-ups by SMEs.

4.11. To allow SMEs to fully reap the benefits of trade agreements, the EESC calls for SME chapters to become a standard approach in future EU bilateral trade negotiations with third countries, and for SME committees to be set up to launch initiatives for sharing information about FTAs and technical standards with SMEs and for monitoring the use of FTAs by SMEs in both the EU and the other country(ies) party to the agreement. The EEN, as a tool for supporting SME internationalisation, should be improved, as well as cooperation and synergies with national service providers, and sectorial and national SME federations.

4.12. The EC should continue to explore the option of a European company law form designed for SMEs, taking inspiration from the work done on the European Private Company proposal. In its SME Strategy, the EC plans to assess the need for additional company law measures to facilitate cross-border expansion and scale-ups by SMEs. A specific proposal for addressing such goals is the creation of a European company law form designed for SMEs, as mentioned above. As only 2% of European SMEs invest abroad by establishing branches there, due to linguistic, administrative and legal differences between the MSs, which make it difficult to create subsidiaries abroad, the need for a legal mechanism allowing companies to better manage their expansion within the EU should be considered.

4.13. Given that promoting trade is essentially the competence of national governments, the successful implementation of FTAs ultimately relies on the capacity, ability and willingness of individual MS to promote a given EU trade agreement within their national business community. The EESC invites the 27 MS and the EC to commit voluntarily, and in accordance with their respective competences, to implementing specific measures and activities at home, through European Implementation Action Plans, to complement at intra-EU level the ‘external’ implementation roadmaps set up alongside the EU’s FTAs. Such Action Plans should further contribute to effective monitoring of the actual transposition of negotiated FTA commitments in the respective third country, while enabling the monitoring and benchmarking of specific measures undertaken by governments and the business community at national and regional level.

5. Pillar 3

5.1. The EESC reiterates its proposal that the MS be incentivised to create and develop a network of ‘financial ombudsmen’, coordinated by the EU. With the support of the proposed SME liquidity task force, this network should use appropriate methodologies to monitor the implementation of the new EC measures geared towards the short-term liquidity of micro-SMEs, which have been proposed at EU and MS level. As well as helping SMEs access funds on a daily basis, the network may also help the EC collect and analyse qualitative data to learn how intermediary banks use financial instruments to reach the SMEs most in need of financial resources and why credit is not granted to them, in line with the principles governing feedback from banks. The network should also settle more overarching disputes between SMEs and banks, other financial service providers and liquidity providers.

5.2. The EESC is satisfied with the dedicated efforts to diversify sources of funding for SMEs by promoting equity financing and the use of SME growth markets and by finding alternative listing options for them. The EESC asks the EC, with the active assistance of SME organisations, to consider introducing specific measures to educate managers about the
benefits and opportunities offered by the various funding options and to help them choose the one that best matches their needs, as well as to promote further tailor-made solutions provided by experts.

5.3. In line with previously adopted positions to encourage and to stimulate female entrepreneurship, the EESC particularly and warmly welcomes the proposal of the Commission to launch a gender-smart financing initiative to stimulate funding for women-led companies and funds and to empower female entrepreneurship. Indeed, the greater and stronger presence of women, also in the entrepreneurial environment, is an absolute necessity for the realisation of the Europe of the future.

5.4. The EESC welcomes the development of a private-public fund focused on initial public offerings (IPOs) and fully supports the creation of additional equity, quasi-equity, venture-capital and risk-sharing financing instruments for SMEs. The EESC believes that promoting them and ensuring their accessibility is particularly important for innovative small and mid-caps.

5.5. While the EESC recognises that SME listing provides opportunities for businesses, it also notes that it is not for all businesses due to the nature of the associated administrative burden and costs. The use of non-voting stocks could be a good way to encourage SMEs, especially family-owned businesses, to access capital without losing control over their business. Treating equity financing in the same way as debt financing is another challenge.

5.6. While the next EU budget will logically focus on leveraging money for investment, the value of funding pan-EU SME capacity-building activities and joint actions should not be underestimated and is of particular relevance in the current situation. The EU budget is particularly important for skills development measures, internationalisation, the promotion of the circular economy, entrepreneurship, support for businesses in difficulty and access to public services. Such initiatives can deliver a tremendous return on investment for EU taxpayers and the individual SMEs that benefit directly, so they should also be firmly factored into the revised MFF.

5.7. Concerning the use of crypto assets and digital tokens by SMEs, the EESC invites the EC, in cooperation with the SME representative organisations, to closely monitor their use, since crypto assets possess unique characteristics that differ from traditional financial assets and as such pose new challenges for businesses (including SMEs), especially around security and internal controls. SMEs should thus first understand the risks and benefits associated with crypto assets and design an effective control environment that can ensure security. In addition, since crypto assets are highly unregulated, SMEs may face fraud investigations should their investors file complaints against them.

6. Implementation and commitment from MSs

6.1. The MS’ full support and commitment is a key success factor for the swift implementation of the strategy’s measures. The EESC believes that fully applying the partnership principle, by working closely with the Strategic Entrepreneurship Ambassadors — whose work should bring added value — to implement these measures will produce tangible results. The EESC again stresses the importance of also closely involving in this process organisations representing SMEs at EU, national and regional level, as they are the direct liaison with the business community.

6.2. The EESC understands the EC’s reasons for not amending the definition of an SME, although there are different views as to what extent it is fit for purpose, and welcomes the commitment to assess and report on the specific issues raised in the consultation process. Meanwhile, in line with its previous opinions, the EESC asks the EC to help the MS be flexible when choosing the implementation method.

7. SMEs strive and thrive in the time of COVID-19

7.1. The tragic and worsening impact of COVID-19 on economic systems has hit SMEs hardest, especially micro-companies. This huge negative impact fundamentally threatens the systemic role of SMEs in the economy and has proven the importance of fully and systematically including the social partners and relevant civil society organisations (CSOs) in all stages of decision-making and in the establishment of the rescEU knowledge and training network, under the current EU Civil Protection Mechanism, as already proposed by the EESC.

7.2. The EESC is open to further discussing the new approach proposed by the EC to favour support provided to ecosystems rather than to companies according to their sizes. The Committee notes that, currently, the EC recognises 14 ecosystems and would like to underline the need to provide for effective communication and governance, so that the voices of all stakeholders within these ecosystems are heard and the active involvement of organisations representing SMEs at EU, national and regional level is ensured.
7.3. Priority short-term emergency measures, which are key for SMEs, especially micro-businesses, should be aimed at providing liquidity transparently and in good time, with a fair interest rate, using financial intermediaries, and without unjustified obstacles and unreasonable administrative banking burdens. At the same time, SMEs that conclude that their business model has become obsolete deserve help with liquidating the company in an orderly fashion and with starting a new business.

7.4. EU-level support measures need to effectively reach SMEs as fast as possible, with their implementation being assessed and monitored closely at EU and MS level based on an appropriate common feedback mechanism, where SME organisations, financial intermediaries, and the banking and credit guarantee sectors can share their data. The aim is to prevent unjustified delays being imposed and arbitrary, discretionary decisions being made in response to the urgent liquidity needs of the craft industry and SMEs, which might be caused by existing differences in the implementation of such measures by national credit systems and financial intermediaries.

7.5. It is vital that a harmonised and rapid EU liquidity response system be devised and made fully operational, focused on micro- and small businesses. The EESC suggests that the EC set up a permanent EU ‘High-level Expert Micro- & Small Business Liquidity Task Force’ aimed at facilitating SME liquidity flows based on analyses of independent data provided periodically, and at better understanding how to overcome existing obstacles to SME liquidity. Economic and financial data and practices could periodically be assessed by the Independent SME Observatory.

7.6. The EESC asks the EC to consider amending Annex III the VAT Directive so as to give MS the freedom to temporarily decrease VAT rates for some of the most severely affected sectors, such as tourism and the connected hospitality sector (Horeca), the self-employed, the craft industry, etc. The EESC supports such actions on condition that they will not create unfair competition, and believes that this will be fulfilled, due to the temporary character of the measure.

7.7. Special support measures are needed to help workers get back to work, especially those working for SMEs. These measures include a ‘yellow pass’, support to enable minor local public works to begin immediately, information and advice for people on how to behave and comply with hygiene and health and safety measures to further reduce the risk of COVID-19 contamination, and a COVID-19 risk assessment to be carried out by national and external occupational safety and health (OSH) bodies to ensure that such measures are properly implemented and to reduce the related burdens and costs. It is crucial to provide the necessary personal protective equipment to enable employees to go back to work and to boost the production capacity of SME manufacturers that produce them by making direct investments and providing technical assistance, as well as by adopting relevant harmonised standards. SME organisations have a key supporting role to play by exchanging protocols and practices among their members to facilitate recovery and reduce the time required to get back to work.

7.8. Yet another request from the EU social partners was fulfilled in the recent amendment to the Temporary Framework for State Aid Measures regarding SMEs. While it has taken into account special benefits given to companies during the COVID-19 crisis, such as tax deferrals and loans, it has left the general de minimis rule unchanged. Remote and rural regions and islands traditionally benefit from transportation subsidies that can easily account for the bulk of the de minimis amount. In the aftermath of the COVID-19 crisis, such regions will be left with few if any tourists and will need to take advantage of the restored trade in goods to recover.

7.9. An effective recovery will need a huge amount of public and private investment to finance the twin transitions, allow companies to stay competitive and enable new businesses to start up. However, SMEs face difficulties when it comes to adapting to changes and complex regulations in transition. To make such extraordinary investments possible, the EU will have to enlarge its existing funding instruments (the MFF, InvestEU, the Cohesion and Structural Funds, Horizon Europe, Digital Europe, and so on), and financial support from the EIB Group, plus the deployment of the ESM), ensure their long-term flexibility and establish a permanent recovery fund to help MS meet the upcoming challenges. To support SMEs in financial difficulty across Europe, it is of utmost importance that MS fully implement the Insolvency Directive concerning preventive restructuring frameworks and provide professional support to SMEs so that they can complete a viable turnaround or get a second chance.

7.10. The EESC calls for an EU programme providing SME organisations with capacity building and support for joint actions to act as a one-stop-shop for information and technical assistance, which will be urgently needed after the exit phase. It is equally important that the EU finance freely accessible, multilingual databases of product-group life-cycle analyses to allow SMEs, which cannot generate these data directly, to manufacture in a greener way.
7.11. Even before the crisis, SME organisations were involved in developing and providing various services to help SMEs in financial difficulty, including the Early Warning Europe initiative. Such support will be in even greater demand during the coming months and years. The implementation of the early warning tools defined in the Insolvency Directive must be ramped up to guarantee access to effective support for businesses in difficulty.

Brussels, 18 September 2020.

The President of the European Economic and Social Committee
Luca JAHIER
1. Conclusions and recommendations

1.1. The EESC believes that the European Commission Communication COM(2020) 550 final should be a strategic policy tool for rethinking the EU sustainable model of tourism and transport. The EESC calls for a comprehensive package of measures, with guidelines and recommendations aimed at:

(1) the safe restoration of unrestricted free movement, coordinated reopening of internal borders and the lifting of controls at internal borders;

(2) the safe restoration of transport and connectivity following the adoption of a common political framework agreement for all EU Member States:

— the safe continuation of the provision of services in the field of food tourism and hospitality,

— striking a balance by agreement between EU Member States on the safe and common management of decisions and policies on borders and transport. As long as COVID-19 checks are carried out, there will be sufficient staff to manage the immediate and rapid transit of people,

— securing funding for the training of workers in hotels, restaurants, catering establishments, museums, nautical tourism, etc., so that they can properly implement COVID-19 prevention measures;

(3) ensuring that health and safety is top priority in any context, travelling or otherwise, as this is the only way to regain trust in the movement of persons;

(4) adopting a new Passenger Locator Form (PLF) at EU level, because such a system could achieve further added value at EU level in a number of areas:

— EU-level monitoring: if all Member States agreed to share both the new PLF information and the laboratory result information for travellers, we could reach economies of scale in terms of testing resources (1). If all EU countries agreed to use this technology (as Belgium and Germany have so far) and the same new standard PLF form, reliable

(1) Greece performs 7 000 tests per day, and we are able to pin down the incidence in the most problematic countries with a very high level of confidence.

Rapporteur: Panagiotis GKOFSAS

Referral
Commission, 17.6.2020
Legal basis
Article 304 of the Treaty on the Functioning of the European Union
Section responsible
Section for the Single Market, Production and Consumption
Adopted in section
4.9.2020
Adopted at plenary
18.9.2020
Plenary session No
554
Outcome of vote
217/2/0
(for/against/abstentions)
estimates and projections could be made at city level, thus informing both country-level policies as well as EU-level policies. Such an effort would epitomise the role of the EU: through innovation and cooperation we can achieve our common goals — public health and economic activity at a time of crisis.

— COVID-19 passport: one of the most challenging tasks of our tourist-season experience has been confirming the validity of PCR tests. If all Member States decided to adopt the same PLF platform, then all accredited laboratories could communicate the results through the platform itself, hence creating a COVID-19 passport for all travellers that could be trusted and ensure minimal risk associated with travelling;

(5) establishing an EU common strategic plan to help the Member States implement economic and support measures for tourism SMEs, restaurants, hotels, travel agencies, tour guides, etc.:

— addressing the lack of liquidity, with direct financing for micro-enterprises in particular, and restoring business confidence as well as arranging travel vouchers,

— immediate access to and approval of loans to all Member States under the supervision of the ECB and the EU, with guarantees from the EU and the Member States,

— establishing immediately a European mechanism for monitoring the implementation of support measures for SMEs and workers, particularly liquidity, lending and transparency in support measures;

(6) strengthening and extending the SURE programme covering workers’ unemployment and SMEs’ wages compensation; SMEs should be exempted from paying part of their wages and be required to integrate workers through national schemes supported by SURE;

(7) SME organisations should be properly consulted by European and national institutions competent to deploy the SURE programme;

(8) the SURE programme should fully cover the wages and social security contributions of workers in the tourism and transport sector who have lost their jobs because of the pandemic, for instance in catering, hotels, airlines, cruise ships, tourist buses, airports, port terminals, nautical tourism and tour guides until at least 30 June 2021;

(9) tax relief with a moratorium on tax obligations, an ad hoc tourism and transport fiscal stimulus package for all tourism SMEs for 2020-2024. The EESC believes that under a harmonised EU VAT system, reduced VAT should be applied to hotels, restaurants, travel services, nautical tourism (boat chartering, marinas), buses, tour guides, etc. Such measures, however, should be conditional to safeguarding workers’ rights and providing guarantees not to make redundancies. Furthermore, any financial support such as state aid, loans or tax exemptions should only be granted to businesses that:

— safeguard employment/create decent jobs and respect workers’ rights,

— are not registered in tax havens and have always paid their fair share of taxes and social contributions;

(10) regulating the collaborative economy in tourism and especially in the tour guide sector. Inviting Member State governments to regulate the collaborative economy in the tour guide sector and to apply legislative and administrative measures designed to ensure a level playing field;

(11) all liquidity, monetary and fiscal policy support programmes for hotels, restaurants, tour guides, buses, travel agents, nautical tourism, etc. and self-employed workers should be continued for at least 10 months after life gets back to normal in accordance with the WTTC (World Travel and Tourism Council).

1.2. Since Eurogroup/EUCO/ECB monetary and fiscal policy is not transmitted symmetrically to all Member States, especially the most vulnerable and hardest hit, the Commission has to step up its role as guardian of the Treaties and safeguard the symmetrical recovery of the single market as follows:

(a) issue guidelines to governments and banks on how to support the tourism and hospitality sectors and provide suitable assistance (e.g. through a joint task force on each state, made up of Commission and EESC officials); and
(b) enforce proper implementation of EUCO endorsed policy through a ‘name and shame’ policy. The Commission needs to highlight and pinpoint questionable banking practices or government choices upstream of the Country-Specific Recommendations (CSRs), and both outside and procyclically in relation to the European Economic Semester;

(c) a ‘gentlemen’s agreement’ on airlines brokered and monitored by the European Commission, competent national authorities, representative economic and social partners and organisations representing consumers and passengers is urgently needed to avoid predatory behaviour;

(d) tax relief measures for SMEs in the tourism sector, with a moratorium on tax obligations and a suspension of overdue tax liabilities incurred up to 31 December 2020, as well as the creation of sufficient repayment instalments from 1 April 2021.

1.3. Due to the lack of data on the development and situation of tourism businesses, the EESC created an online questionnaire in order to better assess the proposals contained in this opinion. More than 170 organisations across the EU, representing approximately 3 500 000 members from the tourism sector, including restaurants and the hospitality sector, hotels and accommodation services, tourism agencies, the leisure industry, nautical tourism, tour guides, transport services, etc. replied to the questionnaire. The main data to emerge from the questionnaire are the following:

— 88 % of respondents indicated they were impacted very negatively by the pandemic crisis,

— for 81 % of respondents the crisis will have long-term consequences on the sector they represent,

— almost 55 % of respondents indicated that the sector they represent is unlikely to survive in 2021 (45 % unlikely and 10 % very unlikely),

— for 77 % of respondents the employment level in the sector they represent decreased in 2020,

— business turnover rate decreased for 90 % of respondents in 2020 (for 49 % of respondents it was by more than 70 %),

— 51 % of respondents expect the crisis to end after 2021,

— 73 % of respondents indicated the sector they represent will need more than one year to restore its economic performance and confidence in the internal market and in international tourism flows,

— according to the respondents, national and European policy priorities for the tourism sector are: a vaccine against COVID-19 (for 66 % of respondents), direct funding/financial support schemes (63 %), health protocols (56 %) and tax deferrals (45 %).

1.4. Intensive social dialogue and a substantial policy agenda are urgently needed to negotiate updated sectoral collective agreements for the tourism and transport sectors which include SMEs and representative SME organisations most affected by COVID-19.

2. General comments

2.1. The COVID-19 outbreak has paralysed the tourism industry, leaving travellers trying to return home and devastating economies that are heavily dependent on tourism.

2.2. The EU tourism sector employs around 22.6 million people (\(^\text{1}\)). It represents 11.2 % of total employment in the EU, contributed 9.5 % to EU GDP in 2019, there were 600 154 tourist establishments in the EU-27 in 2018, and the demand for overnight stays in tourist accommodation is around 1 326 049 994 nights. For many Member States, European regions and cities, tourism makes an important contribution to the economic and social fabric. In addition, it provides much needed jobs and income, often concentrated in areas with no alternative sources of employment and using low-skilled workers (\(^\text{2}\)).

2.3. The EU tourism industry, which employs around 13 million people (\(^\text{3}\)), is estimated to be losing around EUR 1 billion in revenue per month as a result of the COVID-19 outbreak.


2.4. In many other popular tourist destinations, hotels have been abandoned and restaurants, bars, tourist attractions, marinas, museums and centres have closed. The situation is particularly difficult in several EU countries that are key tourist destinations, such as Italy, Greece, Portugal, Malta, Cyprus, Spain and France. Italy stands to lose around 60% of its tourists this year. The WTTC predicts that in 2020, the travel and tourism market could lose 75 million jobs worldwide and 6.4 million jobs in the EU (5).

2.5. The International Air Transport Association (IATA) says global air travel could lose more than USD 252 billion (EUR 228 billion) in 2020. Two million passenger flights had been cancelled by 30 June. In France, the hotel occupancy rate was 3.3% on 17 March (compared to 65.3% on 26 February). By 30 May, restaurants and bars had closed in almost all EU Member States, with the exception of Sweden. Hotels, restaurants, bars and marinas have laid off thousands of workers permanently or temporarily. European railways lost 90% of passengers at the peak of the crisis and are still running at low capacity.

2.6. The impact on ancillary sectors related to tourism should be recognised, such as the production of equipment for the leisure industry (e.g. boat-building). These industries should be supported through the promotion of tourism and development of international trade opportunities.

2.7. The European tourism ecosystem covers a range of activities such as travel, transport, accommodation, food, recreation on land and water, culture and nature. Directly and indirectly, it contributes nearly 10% to EU GDP and has made the EU the world’s leading tourism destination, with 563 million international arrivals and 30% of global receipts in 2018 (source: EC). With 30% of international arrivals in 2018, the EU is the main tourist destination in the world (source: EC). The composition of these international flows could be used to devise an appropriate EU short-, medium- and long-term strategy and agenda.

3. PILLAR I: Sustainability of tourism and transport

3.1. The EESC believes that this communication should be the first step in the next generation of EU sustainable tourism policies and programmes. It should combine the needs and situations of SMEs and workers with a view to restoring public confidence as tourists and consumers. It should defend health and safety rights and standards and ensure the sustainability and liquidity of businesses in the context of a renewed European strategy for SMEs for 2030, in accordance with the principles of the Small Business Act.

3.2. The EESC does not consider it realistic to simply adopt a back to normal approach to tackle the most serious crisis ever to hit the EU’s tourism and transport sectors. The EESC calls for a complete overhaul of these policies with a view to restoring the confidence and stability of businesses and workers, through the adoption of a next generation EU solidarity pact for sustainable tourism by 2030.

3.3. The EESC is of the opinion that we now have the opportunity to ensure a fair recovery and rebuild our economies rapidly in order to make them greener, fairer and more resilient to future shocks. The contribution of the EU integration plan to the European model of sustainable tourism and transport development needs to be revised, avoiding any measure that poses a risk of further fragmentation and unfair conditions/practices in the internal market.

3.4. In the tourism sector, fair and sustainable reconstruction requires:

(1) taking into account the European 2050 targets on carbon neutrality in line with the objectives of the Paris Agreement (Conclusions of the European Council of 12 December 2019).

(2) In order to help achieve these objectives, the EESC considers it necessary first to address the issue of modes of transport by encouraging slow and non-polluting mobility such as cycling and rail transport.

(3) With regard to tourist accommodation, the EESC recommends that renovation should be encouraged and that the EU Ecolabel for such accommodation should be used. These facilities must be encouraged to display their energy consumption and carbon impact.

(*) EPRS_A3TA(2020)649368_EN.
In order to reduce \( \text{CO}_2 \) emissions in tourism, the EESC strongly encourages the use of local food products and other consumables that can be recycled.

In order to fill the existing information and data gaps on international tourism flows towards the EU as a tourist destination, the EESC proposes establishing an independent sustainable tourism observatory.

3.5. Responsible tourism operators must commit themselves to displaying the carbon footprint of the holiday and of the activities they offer.

3.6. The EU recovery plan and national recovery plans should provide sufficient funding for the environmental and digital transformation of the tourism industry and its infrastructure through investment that achieves the aim of making tourism more attractive to consumers and provides real benefits for tourism companies.

3.7. The EESC believes that fair tourism is based on socially responsible business that provides good quality jobs. This requires the development of non-seasonal tourism able to guarantee sustainable jobs. To this end, the European Commission must support initiatives and projects that meet these criteria. European studies on the social and environmental costs of unsustainable tourism should be carried out.

3.8. Tourism sectors that offer non-mass tourism (e.g. outdoor tourism, nautical tourism) are increasingly popular with consumers in the context of social distancing rules. These consumer trends offer the opportunity to speed up the recovery of the wider European tourism industry and of employment. These sectors should be supported, especially in cases where they can take place in a regional, domestic or European environment. In the case of nautical tourism, this offers distinct opportunities across Europe for islands, rivers, canals, lakes and coastal areas.

3.9. The EESC believes that under a harmonised EU VAT system, reduced VAT should be applied to hotels, restaurants, travel services, nautical tourism (boat charter, marinas), buses, tour guides, etc. This should, where necessary, include swift changes to the VAT Directive that ensure equal treatment of all sectors in the tourism industry.

3.10. The coach business, which is made up of many SME companies, has been badly hit by the pandemic. Many coach companies’ turnover has fallen to 0-10% of the figure for the same period last year. The EU now has an opportunity to help this sector by acting on the proposals it has made, including harmonised legislation for low emission zones within the EU and a one stop shop for VAT refunds.

3.11. In this context, action must be taken to help international, continental and national tourism resume for the sake of broad sectors of the EU economy. Railways can help develop tourists destinations that are not adequately served by aviation, open new routes and foster new value chains. For European railways it is an opportunity to meet the growing demand of climate-minded tourists on the market. The Year of Rail should be an opportunity to create public awareness of sustainable tourism and the new touristic routes that European citizens can discover thanks to rail connections. In this context, the European Year of Rail should also be an opportunity to give better visibility and foster public awareness regarding historic and scenic train routes across Europe (6).

3.12. For several reasons a substantial number of young Europeans have never or rarely travelled within Europe. Although educational exchange programmes exist, the EU has just started a tool that would allow for any European to be provided with a travel experience that would better connect young people with the European identity, raising awareness of the core values of the European Union, and familiarises them with a sustainable and clean mode of transportation. DiscoverEU is an initiative of the European Union that gives people the opportunity to discover Europe through learning experiences. Travelling predominantly by rail (there are exceptions to allow those living on islands or in remote areas to participate), young Europeans can discover Europe, its cities and towns (7).

4. PILLAR II: Liquidity, employment recovery and the restoration of business confidence

4.1. It is important to support the recovery and short-, medium- and long-term liquidity of European tourism companies, especially micro and small enterprises. This should be done in part by setting up an EU liquidity task force immediately, which should be able to measure the effectiveness of the measures concerned partly by ensuring transparency with regard to unjustified credit refusals, delays and unnecessary bureaucratic burdens and partly by taking appropriate corrective measures concerning the European Investment Funds, new insolvency procedures and their national ombudsmen.

(7) See footnote 6.
4.2. Concerning tour guides, the EU must ensure a level playing field with equal terms and conditions and fair competition in the tourism market between the profession of tour guides and illegally operating tour organisers and ‘guides’. The EESC calls on the European Commission, as guardian of the Treaties, to ensure the balanced development of the EU collaborative economy (*) in the Member States, as stated in the European Parliament briefing of 16 November 2016 introducing the European agenda for the collaborative economy for tour guide services.

4.3. Banking, liquidity and financial policies have not been handled properly. Some banks (in Greece for instance) choose to use QE (PEPP transactions by the ECB) to solidify their position and not to support the real market. These banks are extending loans to viable and unaffected businesses (like supermarkets) and not taking the risk of lending to vulnerable sectors such as tourism and services. Restaurants, cafes, hotels, buses, etc., are no longer on the banks’ lists of borrowers; banks are asking for guarantees for their loans that these businesses cannot provide, even the ones which the banks would lend to. The interest rate is higher than 4,5%, despite all guarantees and subsidies from the ECB.

4.4. Employment in the EU tourism sector requires a harmonised and advanced approach, based on national social partners and consolidated practices. In order to avoid unemployment and loss of trained workers, short-term working measures must be agreed at national level between the responsible governments and social partners. We should also take into consideration the fact that in large cities where public and private offices are currently promoting work from home measures, there is a danger that most restaurants, pubs, bars and cafés may shut down. Policy and employment measures are needed to avoid permanent closures in city centres and surrounding areas. Furthermore, home offices (or teleworking) must not become a substitute for strong European labour mobility in the long term. Reduced European conferences, fairs, congresses and business travel would lead to a huge loss of jobs, SMEs, knowhow, creativity and innovation partnerships in Europe and to more national ways of thinking.

4.5. Support should be provided for the organisation of trade fairs, which are crucial for the tourism industry and ancillary sectors, as well as being in themselves a major source of tourism, travel and employment. Guidelines should be put in place for trade fairs to be held safely and receive funding from the EU and Member States.

4.6. Tourism sector, managing expectations. All available data suggest that this season has been lost. Tourist arrivals will not come close to outweighing the sector’s operating costs. All businesses will suffer huge losses, jeopardising their viability. The Eurogroup triple package (SURE 100, EIB 200 and ESM 250 billion packages) are not enough and/or governments are mishandling policy transmission. In Greece for example, the government opted not to use the ESM facility and the other two elements are lagging behind: not targeted enough, not enough money, not enough stimulus.

4.7. A comprehensive marketing and communication campaign should promote the European tourism industry both within and outside the EU in order to support the sector’s recovery. A European Year of Sustainable Tourism in 2021 or 2022 would establish an EU-wide framework and allow activities to be launched throughout the EU.

5. PILLAR III: Data knowledge networks and preparedness, health and safety, risk mitigation and preparedness

5.1. The EESC considers that, following the COVID-19 pandemic and the lessons learned by the Member States facing difficulties in coordinating cross-border and common policies, a more effective coordinated approach is needed in the tourism and transport sectors. This could be done by developing pilot training programmes for effective joint preparedness response, deploying European knowledge networks open to the social partners and civil society organisations, on a yearly basis until 2024.

5.2. The EESC deems it necessary to ensure that national risk mitigation platforms within the EU Civil Protection Mechanism in the UN Sendai Framework become effective more rapidly. Therefore, the EESC asks the European Commission and the Member States (Emergency Relief National Coordination Plan), the economic and social partners and scientific bodies to include the tourism and mobility sector in joint pilot projects during and after the COVID-19 crisis as well as in the European training network in order to prepare the EU’s response.

5.3. In order to have European, harmonised and up-to-date data on tourism, transport mobility, market bottlenecks and best practices, the EESC asks the European Commission to establish specific programmes and regional pilot projects in partnership with EU and national social partners and academic and independent research networks, thereby pooling research and training resources. Furthermore, to better coordinate the relaunch of the EU as an international tourist destination at global level and attract Foreign Direct Investment, the EESC asks the European Commission to encourage the Member States to promote specific programmes and joint pilot initiatives.

5.4. Cross-border routes for tourism and leisure activities can play a key role in reconnecting regions and Member States while providing opportunities to develop tourism in less developed regions. Following the example of the EuroVelo network, this should be extended with the support of EU funds to other sectors and extensively promoted to consumers (e.g. nautical tourism routes).

6. PILLAR IV: Governance and resources: next generation sustainable tourism and transport policies

6.1. The EESC welcomes the urgent and necessary communication on European tourism and transport in 2020 and beyond (9). Lessons learned should lead the EU institutions and Member States to rethink current tourism and transport policies on the basis of new EU shared competences on a voluntary basis through reinforced cooperation between interested governments and multilevel authorities. This could be achieved with the active involvement of EU and national social partners and consultative bodies and by launching a European Year dedicated to sustainable tourism.

6.2. The EESC stresses that we urgently need an effective medium- to long-term EU policy to restore the confidence of individuals and society as a whole in the ability to travel safely throughout the European Union. This policy must cover other EU tourism ecosystems, such as accommodation, food, health and safety, trade, telecommunications and agriculture. Tourism and transport in the EU is one of the ecosystems most severely affected by COVID-19.

6.3. To restore confidence, relaunch and increase tourism, the EESC supports the use of an internal ‘EU health passport’ (along the lines of the Passenger Locator Form (PLF) and QR codes) with an ‘EU interoperable multilingual Health Assistance Platform’. People could use the QR code to access information and health services in the country they are visiting and have emergency access to health and social security systems.

6.4. The PLF, which targets testing and EU-level data sharing, was introduced in Greece in order to welcome visitors from the European Union and a few more countries, as a strategy to balance a trade-off between public health, epidemiological surveillance and the socio-economic benefits associated with the flow of travellers. The PLF is based on the following two pillars:

1. efficient, data-driven surveillance: testing is the most crucial ingredient when deploying mitigation strategies in the presence of a global pandemic. Tests are a precious resource and it is of utmost importance to use them effectively to collect data, predict outbreaks and design general interest harmonised policies;

2. effective tracing: immediate communication with confirmed positive cases and contact tracing is one of the few effective alternatives to lockdowns.

6.5. The EESC calls on all relevant European and national institutions to draw up a multiannual EU action plan immediately after the emergency phase. This action plan must completely rethink EU tourism and transport policy making and facilitate the coordination of tourism in the internal market, as well as international tourism flows from around the world.

6.6. With these two pillars in mind, the online PLF was developed and together with the EVA Artificial Intelligence Tool, it allows:

(a) targeted testing based on the traveller’s characteristics (country and state of residence, countries visited, age and gender) that maximises the effectiveness of testing resources; and

(b) fast tracing based on the self-declared contact information, destination information etc.

6.7. The EESC welcomes and fully supports the proposals set out in the communication and the medium- to long-term view chosen by the European Commission under the Next Generation EU Plan and the overall EU budget for 2021-2027 which will require appropriate budgetary measures. In particular, these measures should focus on the implementation of the next generation of sustainable tourism policies and programmes, including national business plans for the tourism sector aimed at capacity-building in SMEs, representative organisations and social partners, while taking sufficient account of other EU priorities which are not necessarily linked to the pandemic.

6.8. Predatory practices of airlines: leisure and business travellers alike lose money when airlines book flights that are cancelled shortly after payment. Airlines decide on the spot whether to keep or cancel routes, flights and slots, without any prior warning to their customers. Customers are entangled in voucher and rerouting practices. Refunds take too long and account for less than 20 % of total cancelled/booking volume, draining precious liquidity from consumers and business.

6.9. The EESC notes with concern the delicate balance between consumer rights and COVID-19-based airline liquidity problems due to cancellation of flights. The EESC calls on airlines, passengers and EU and national authorities to find suitable solutions during the COVID-19 transition period regarding alternative options or reimbursement deadlines. The EESC rejects unlawful practices of airlines sometimes only offering vouchers or rebooking. The EESC urges airlines to comply with European legislation concerning passenger rights (Regulation (EC) No 261/2004 of the European Parliament and of the Council ([10])), including the right to receive a full refund after cancellation by the airline.

6.10. A harmonised approach to the issue of vouchers and reimbursements is needed for the entire tourism sector, including individual tourism activities that are currently not covered and where treatment differs between sectors and Member States.

6.11. Intensive social dialogue generating strong sectoral collective agreements that cover all employees is needed for the tourism sector, especially in the COVID and post-COVID situations; the same applies to the transport sector. This is the best way of protecting employees in the sectors effectively and of safeguarding social peace, thus helping at-risk companies. Every effort needs to be made by all the relevant parties to step up social dialogue and collective bargaining at all levels in the sector.

6.12. Value added policies must be coordinated with national tourism recovery programmes at EU Commission level to rebuild the European tourism sector. This should of course be linked to the coordination of national anti-crisis programmes and the rebuilding of air, sea and coach transport which is suffering significantly in many EU countries (Poland, Italy, Spain and others).

6.13. Intensive social dialogue, including SME organisations, is needed to negotiate updated sectoral collective agreements for the tourism and transport sector, because they will provide social peace and, thanks to agreed solutions, will be the most effective way of protecting employees and thus helping at-risk companies and the entire sector.

6.14. In order for the tourism industry to restart and grow, a comprehensive approach is needed for skills and qualifications that are not always harmonised between countries and where there is a lack of mutual recognition (e.g. licences for skippers of small commercial vessels).

6.15. The European social partners in the tourism services and transport sectors should coordinate their efforts to come to an agreement on social standards in these sectors.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

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(COM(2020) 55 final)

(2020/C 429/28)

Rapporteur: Judith VORBACH
Co-rapporteur: Tommaso DI FAZIO

1. Conclusions and recommendations

1.1. The EESC welcomes this review because a revision of the economic governance framework is necessary. We are living through a historic phase in which there is an urgent need to breathe fresh life into the founding values of the European Union and achieve a genuine economic and social union in order to form the basis for a political union based on democracy and cohesion. The EU must demonstrate that it is a solidarity-based community, promoting the well-being of the people, as set out in the Treaty on European Union (TEU) (1), (2). The COVID-19 crisis is a massive shock, requiring full financial power. Harmony of purpose is needed to contain the economic and social consequences of this pandemic and to share the burden of the resulting damage equitably within and between Member States. Important short-term measures have already been established like the activation of the fiscal framework’s general escape clause. Instead of a ‘return to normal’ too quickly, the EESC recommends a ‘turn’ towards a revised economic governance framework as set out in the present opinion.

1.2. The EESC points out that to be comprehensive, this second five-yearly review of the specific measures introduced since the financial crisis, known as the ‘Six Pack’ and ‘Two Pack’, would also have to cover all the rules established since 2010 aimed at ensuring the implementation, closer coordination and greater convergence of the economic and financial policies of the Member States. The EESC also calls for the pivotal question of how to shape economic governance to be debated at the upcoming conference on the future of Europe. In such a context, adapting the TFEU’s economic governance provisions to the EU’s current economic reality should not be taboo. For example, despite a very expansionary monetary policy, we are facing the threat of deflation.

1.3. The EESC believes that a proper review of economic governance requires a comprehensive review of economic policy objectives. The EESC advocates a prosperity-focused economic governance, where people’s social and economic well-being is prioritised so that no one is left behind. Therefore, the Committee calls for a balanced economic policy that stresses the importance of and gives equal weight to a range of key policy objectives such as sustainable and inclusive

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(2) Treaty on European Union, Article 3(1).
growth, full employment and decent work, fair distribution of material wealth, public health and quality of life, environmental sustainability, financial market stability, price stability, well-balanced trade relations, a competitive social market economy and stable public finances. Within the economic cycle, flourishing public and private investment is both the basis and the result of a stable economic environment.

1.4. Stable public finances create economic resilience and confidence and are in the self-interest of each Member State. However, they depend on many parameters and in many instances cannot be steered at national level. Efforts to reduce public expenditure, particularly if poorly designed, are likely to have adverse short to medium term effects on other key policy objectives, as well as impacting, potentially negatively on other Member States. The current fiscal rules and country-specific recommendations have led to restrictions on government expenditure and public investment, especially in health systems, resulting in a prolongation of the economic crisis and massive hardship for many citizens. Enforcing the rules in this way turned out to be in part procyclical. In times of downturn they even further depressed economies, again putting pressure on public finances. A solidarity-based economic governance should be carried out in such a way that a Member State is not punished but enabled to strengthen its crisis resilience and achieve sustainable and inclusive growth and public finances.

1.5. The EESC calls for the Commission to begin work on a reform of European economic governance which, particularly in crisis situations, avoids asymmetric effects in the Member States and makes sure that no one is left behind. Decisive action is needed to stimulate economic recovery by implementing the golden rule and activating and coordinating wide-ranging investment plans. In response to the COVID-19 crisis, extraordinary countercyclical policies must be established at EU and national level. The EESC urgently recommends tackling the crisis on the basis of solidarity, as set out in its resolution in June 2020 (3). EU investments are needed in fundamental and priority sectors such as tangible and intangible infrastructure (focusing on health infrastructure), training at every level (particularly vocational and professional lifelong training), ecological recovery and energy, and research (particularly to solve the climate and health crises and to achieve a fair framework for international competition). The best way forward would be to revise and rebalance the economic governance framework as follows:

1.6. Make public finances sustainable in the long run and eliminate macroeconomic imbalances by:

— acknowledging that economic difficulties make budget consolidation and countercyclical fiscal policy extremely difficult;

— supporting sustainable growth and thereby enabling public finances to be strengthened;

— prioritising sustainable and inclusive growth while being aware of fiscal multipliers;

— ensuring sufficient revenues and a fair distribution of the tax burden by combating aggressive tax planning and tax fraud;

— implementing symmetrical indicators showing surpluses as well as deficits;

— placing more weight on employment and social development within the Macroeconomic Imbalance Procedure (MIP) or the European Semester, where an integrated scoreboard with a set of indicators representing key economic objectives should be considered.

1.7. Ensure that fiscal policies safeguard sustainability while allowing for short-term stabilisation by:

— strongly mitigating the influence of economically and technically questionable indicators;

— placing more weight on increasing revenue;

— conducting further analyses in the event of significant deviations, instead of threatening the Member States concerned with financial sanctions.

1.8. Bring about key reforms and stimulate sustainable investment by:

— applying the ‘golden rule’ and safeguarding the amount of public assets required to ensure future productivity and prosperity;

— implementing a strategic investment plan;
— making public support conditional on sustainable and social criteria.

1.9. Put forward an economic governance framework based on solidarity with responsibility, by:

— developing solutions together with the affected countries on an equal footing in the event of significant deviations by targeting sustainable and inclusive growth;
— basing economic governance on a balanced technical assessment as well as on a more democratic decision-making process by enhancing the role of the European Parliament;
— involving the social partners and civil society to a greater extent so that all interests are reconciled;
— making consultation of the EESC mandatory as the competent EU body to pass on civil society’s views to EU decision-makers.

1.10. Provide balanced economic governance by deepening the Economic and Monetary Union (EMU) in the following areas:

— reinforcing its financial, economic, social and political pillar in a balanced way;
— implementing a stabilisation function in order to pursue a common countercyclical policy;
— combating the disastrous consequences of the COVID-19 crisis in a solidarity-based way;
— issuing a long-term common debt instrument accompanied by measures to distribute the tax burden fairly;
— deepening the banking and the capital market unions to further consolidate the single market by introducing effective regulation.

2. Background

2.1. Following the financial crisis of 2008, the SGP was tightened through the 2011 ‘Six Pack’ legislative package. The preventive part of the SGP requires countries which deviate from their medium-term budgetary objective to improve their structural budgetary positions by at least 0.5 % of GDP per year. An expenditure benchmark was also set. For countries with debt levels exceeding 60 % of GDP, it also requires a debt reduction of approximately 1/20th per year, with the prospect of an EDP under the corrective arm of the SGP in the event of non-compliance. A procedure for addressing macroeconomic imbalances (MIP) was also introduced. Non-compliance with the SGP or ‘Six Pack’ rules was generally associated with the prospect of harsh penalties (4). Closer surveillance of budget policy and macroeconomic indicators was embedded in the European semester, thus imposing a timeline. The 2013 ‘Two Pack’ rules created a framework for countries experiencing, or having experienced, financial difficulties. It also provided for a specific EU review of the euro area Member States’ draft budgets before their adoption by national parliaments.

2.2. The European Commission is reviewing the economic governance framework, in particular the ‘Six Pack’ and ‘Two Pack’. It noted even before the COVID-19 crisis that the environment had changed, referring to lower potential growth, lower interest rates and inflation and the challenge to become more climate-friendly and adjust to digitalisation and an ageing population. The Commission has drawn positive conclusions about the EDP, as all Member States had respected the 3 % of GDP deficit criterion, while noting that the preventive component of the SGP has lacked traction, as some countries still had deficits that do not provide a sufficient safety margin with regard to that deficit criterion. Debt-to-GDP ratios in the euro area have fallen overall, but discrepancies between countries have widened.

3. General comments

3.1. The EESC welcomes this statutory five-year review process of the economic governance framework. It is now coinciding with the biggest crisis in peacetime for a century. This review must reflect the impacts of that shock, and provide equitable solutions for a governance framework that restores growth and prosperity to all Member States. This can only be

(4) So far, this procedure has never been used, either because the Commission was satisfied with the reforms offered by the Member State or because it considered it politically unfeasible. (See The European Semester for economic policy coordination: A reflection paper, European Parliament, October 2019, PE 624.440).
achieved if they all firmly support a genuine economic and social union, which is the basis for a political union based on democracy, cohesion, mutual assistance, solidarity and responsibility. However, the Commission’s Communication is incomplete because it focuses mainly on evaluating the results of the ‘Six Pack’ and ‘Two Pack’ rules without giving equal consideration to the other approved measures for fostering economic policy coordination. The EESC calls for the pivotal question of how to modernise economic governance to be debated at the Conference on the Future of Europe. Adapting the TFEU’s economic governance provisions should not be taboo. As the questions for the public debate (see section 4) are formulated in a way that limits the ability to gain a comprehensive overview, the EESC puts its general reflections in this section.

3.2. The EESC advocates prosperity-focused economic governance, where people’s social and economic well-being is prioritised so that no one is left behind. Therefore, the Committee calls for a balanced economic policy that stresses the importance of and gives equal weight to a range of key economic and societal policy objectives that are highly interconnected: sustainable and inclusive growth, full employment and decent work, fair distribution of material wealth, public health and quality of life, environmental sustainability, financial market stability, price stability, well-balanced trade relations, a competitive social market economy (1) and stable public finances. These objectives are consistent with both the objectives set out in Article 3 of the EU Treaty and with the current UN Sustainable Development Goals (SDGs).

3.3. In terms of policy measures, the above means, firstly, achieving sustainable and inclusive growth by increasing demand, and therefore output, through sustainable consumption and productive investment; secondly, addressing social inequalities through a high level of social protection, high-quality jobs and living wages within the Member States and the EU as a whole; thirdly, tackling the climate and health crises by promoting public and private investment in digital technology, healthcare, energy saving, infrastructure, training, research and development. Stable public finances and the ability to boost demand during economic downturns are in the self-interest of every Member State. However, economic policy goals are highly interconnected and many parameters cannot be steered at national level. A solidarity-based economic governance should help Member States to achieve sustainable and inclusive growth and finances and become resilient against crises.

3.4. The EESC regrets that the economic governance adopted so far has mainly been focused on achieving stable public finances by reducing sovereign deficit and debt. The EESC acknowledges that the MIP and the European Semester may have played a role in putting forward country-specific recommendations aimed at promoting structural reforms. In order to implement a balanced economic policy, it will be important that these tools also focus on key economic and societal policy objectives (see point 3.2) and play a more prominent and effective role in any governance reform. The Sustainable Growth Survey considers the environment, productivity, stability and fairness. Nevertheless, the procedural imbalance remains: The Sustainable Growth Survey is a non-binding process based on the principle of naming and shaming, whereas the SGP provides for a procedure with clearly defined time limits and specific sanctions (see point 4.7.1).

3.5. Economies in which national fiscal policies recognise the need to build revenue reserves in times of growth, while still ensuring the investment necessary for future prosperity, will be more resilient in combating the adverse impacts of an economic downturn. Poorly designed and implemented budget-balancing — particularly if this comes at a time when countries are still in an early phase of recovery — dangerously restricts room for manoeuvre in fiscal policy, and if undertaken in an uncoordinated way within the euro area also leads to significant falls in demand in other Member States. Adjustment via national fiscal policy is especially important in the euro area, given that national monetary, interest rate and exchange rate policies are not an option at Member State level. Some concurrent fiscal consolidation measures across the EU dragged out the economic and financial crisis until 2014, and austerity during the downturn meant massive hardship for many ordinary people. Although social indicators in the euro area have improved overall between 2014 and 2020, they have remained below pre-crisis levels in a number of countries. Public investment also shrank from 3.7% of GDP in 2009 to 2.7% of GDP in 2017. Moreover, this has negatively affected GDP growth and therefore also the debt-to-GDP ratio. The Commission must pay greater heed to the worsening consequences of the slowdown in growth. The EESC draws attention to its previous recommendations (2) — not, as yet, taken on board — regarding a review of the rules.

(1) See the concept of competitiveness outlined in EESC opinion on National Competitiveness Boards (OJ C 177, 18.5.2016, p. 35).
3.6. Safeguarding price stability nowadays and very likely also in the near future actually means avoiding deflation rather than inflation. Monetary policy is vital for the stability of public households and the economy as a whole. The ECB’s apparent role as a lender of last resort must be consolidated so that countries do not have to rely solely on refinancing through the financial markets. In the context of the COVID-19 crisis, the EESC welcomes the ECB’s measures to keep bond market spreads under control. In the face of an economic emergency, the ECB must be ready to extend quantitative easing. However, a balanced economic policy would be served by both an inflation target and a target for inclusive and sustainable growth for monetary policy.

3.7. In response to the COVID-19 crisis, a decisive and extraordinary common countercyclical policy approach must be taken to prevent mass unemployment and provide services of general interest and public infrastructure with more resources and personnel, where needed, especially in the social security and healthcare systems. As the experiences of the 2008 financial crisis and the 2020 pandemic crisis force us to conclude that equally critical situations may well occur in the future, the EMU must be deepened (see point 4.6). The EESC reafirms that, in the face of any crisis, the EU must demonstrate that it is not only a community of economic interests but also — and above all — a solidarity-based community (7). This principle must govern EU policies, as well as the principle of promoting the well-being of the European people, set out in the Treaty on European Union (TEU) (8).

3.8. The EESC welcomes the activation of the fiscal framework’s general escape clause, which has fortunately been introduced as an option for all EU Member States as part of the ‘Six Pack’. The question is how quickly a return to the ‘normal’ fiscal rules will be demanded. The EESC warns against ‘returning to normal’ too quickly as it could trigger a new recession. Instead of a ‘return’, the EESC recommends a ‘turn’ towards a revised economic governance framework as indicated below.

4. Specific comments on the issues identified in the European Commission’s public consultation

As observed in point 3.1 above, the EESC points out that the questions for the public debate are formulated in a way that limits the ability to gain a comprehensive overview. The specific answers below should be seen in conjunction with the general points made by the EESC on the economic governance framework in section 3.

4.1. Improving the framework to ensure sustainable public finances in the long term and eliminating macroeconomic imbalances

4.1.1. The Commission continues to argue for an effective preventive arm and for the swift implementation of the fiscal policy recommendations without supplying solutions to the difficulties some Member States face and without addressing the effects on other key economic objectives. Achieving the debt benchmark has proven to be extremely difficult, especially in highly indebted countries with low growth, low inflation and high debt financing costs. Cutting current expenditure and public investment to comply with the medium-term objective goes hand in hand with significant repercussions in the form of lower levels of social spending, employment and economic growth. However, the present economic crisis is a wake-up call to create fiscal space for countercyclical fiscal policy.

4.1.2. The EESC points out that ensuring sustainable finance will not work by tightening the procedures but by changing economic policy perspectives. The EU governance framework has an essential role to play in enabling Member States to make progress on strengthening public finances and supporting them to bring public expenditure and revenues into long-term balance. Firstly, it needs to focus on sustainable and inclusive growth and take into account fiscal multipliers. When GDP slows, a fiscal stimulus may accelerate income and reduce the debt-to-GDP ratio. Higher growth creates room for more investment and sufficient financing of the social pillar and thereby triggers demand. In this connection, a further analysis to determine the extent to which improvements of fiscal indicators are due to the economic governance framework or to favourable economic developments could also help.

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(7) See footnote 1.
(8) Treaty on European Union, Article 3(1).
4.1.3. Secondly, more emphasis is needed on increasing revenue than on cutting expenditure. The pressure to reduce taxes on mobile factors of production together with aggressive tax avoidance and tax fraud limits the design of revenues and distorts competition. However, on top of that, it also creates pressure to cut the expenditure of the social, educational and health sectors, often seen as the easiest way to reduce debt in the short run. To safeguard a sustainable public budget fairly, this shortcoming has to be countered by coordinated tax policies. Measures against tax fraud already do much to ease pressure on public budgets. However, annual losses due to VAT evasion and avoidance alone are estimated to amount to EUR 147 billion (9), whereas the sum of the deficits of all the EU Member States was EUR 114 billion in 2018.

4.1.4. Thirdly, surpluses and deficits should be treated equally seriously for the purposes of economic governance. This is the only way to correct imbalances between countries. The Commission makes the welcome argument that bringing current account balances, both deficits and surpluses, more into line in the euro area would help promote upward convergence and have a positive impact on nominal growth. In fact, some countries should have reduced current account surpluses by means of more expansionary policies aimed at stimulating domestic demand, but have not done so. And other countries with structural imbalances due to low levels of productivity and competitiveness should have stepped up investment in training, increased spending on research and development, and upgraded productive activities. However, limited financial resources have not allowed this.

4.1.5. A welcome step is the expansion of the MIP to include adjustments in relation to employment and social developments. Notwithstanding the scope of the MIP, surveillance has remained anchored to aspects that the Commission considers relevant for macroeconomic stability such as productivity and competitiveness. This perspective is too narrow, since imbalances in social spheres also pose a risk to macroeconomic stability. For instance, high unemployment has a negative impact on economic demand, the financial system (bad debts) and government budgets. Greater attention should be paid in particular to the issue of wage growth lagging behind labour productivity in 15 Member States since 2010. Environmental factors are not addressed, even though the climate crisis could have a huge negative impact on macroeconomic sustainability.

4.2. **Responsible fiscal policies to safeguard long-term sustainability while allowing for short-term stabilisation**

4.2.1. Redesigning the preventive component of the SGP was intended to ensure that the automatic stabilisers can take effect during difficult periods. This intention is welcome, but nonetheless procyclical policies have persisted. The main reasons were long-lasting economic difficulties in many Member States, which made countercyclical fiscal policy difficult. Another cause was severe problems with the indicators, such as a lack of certainty over how to define the output gap and different calculation methods for estimating potential GDP in the various countries. The complex procedures for estimating structural budget balances mean that results are repeatedly subject to major corrections (10). However, GDP itself is also a result of statistical estimates which are subject to errors and major retrospective revisions. Moreover, there is no way to directly influence the value of these indicators through policy measures. The EESC recommends strongly mitigating their considerable influence on the development of current economic policy and, particularly, abandoning the concept of structural budget balances.

4.2.2. As an alternative, an indicator that captures the relationship between medium-term expenditure and revenue trends could become more relevant. For instance, growth in nominal expenditure can be adapted to the medium-term growth rate of potential output plus the ECB inflation target, corrected for discretionary revenue measures. But no matter how fiscal rules are designed, they can always produce unfavourable scenarios. Therefore, deviations should not entail automatic consequences, but trigger a more detailed technical analysis taking on board all key economic policy objectives and a decision-making process involving relevant stakeholders (see point 4.4). After all, budget deficits are caused by a multitude of factors. Country-specific circumstances, the overall economic situation, and the complex interplay between economic policy goals must be considered.

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(9) COM(2019) 8 final, p. 4.
(10) The uncertain nature of estimated structural balances can be seen in the case of Germany. In May 2017 the Commission estimated the balance to have shrunk by 0.25 % between 2016 and 2017. In May 2018, these estimates were revised to show an increase of 0.35 % over this period, resulting in an adjustment of the structural balance by 0.6 % of potential economic performance. This is a very stiff adjustment, bearing in mind that Germany is a relatively stable economy and that no large shocks took place in 2017.
4.3. **Incentives for key reforms and investment** to tackle economic, social and environmental challenges while preserving safeguards against sustainability risks

4.3.1. Even with investment and structural reform clauses included in the SGP, it has not been possible to prevent public investment from falling during consolidation phases. Although it is sensible to make the implementation of fiscal rules more flexible, it has proven to be insufficient. Therefore, the EESC recommends applying the ‘golden rule’ for public investment to safeguard productivity and the social and ecological base for the well-being of future generations. This means removing net investment for the future from the calculation of relevant deficit indicators. It is incomprehensible why, unlike with private investments, the depreciation of public investments over a clear time span, defined by the serviceable lifetime of the asset, is not applied.

4.3.2. Public assets are needed in order to secure prosperity, and generate future income and competitiveness in the long term. This is particularly true when it comes to implementing the Green Deal and guaranteeing a modern health, education and technological infrastructure. Since this also ensures economic, social and environmental sustainability for future generations, who will also gain from potential returns, those generations should be expected to help finance such investment. Macroeconomic imbalances can also be reduced through key investment for the future. In addition, public investment is an important way to promote countercyclical but growth-friendly policy, while boosting demand fosters short-term sustainable growth.

4.3.3. The EESC also recommends a common strategic investment plan, whose scope should range from tackling the climate crisis to developing the technology sectors, and supporting structural change in traditional industrial sectors and the modernisation of social services. The Committee welcomes the announced strengthening of InvestEU, the creation of a strategic investment facility and a solvency instrument as well as the planned recovery instrument and the finance available from the EIB agreed in April 2020. As always, public aid and guarantees must be transparent and evaluated alongside social, environmental and fiscal concerns.

4.4. **A simpler and more transparent EU framework focusing on the surveillance of Member States with more pressing challenges and ensuring quality dialogue**

4.4.1. The complex regulatory system reflects the difficulty of capturing highly diverse developments in harmonised rules. As an alternative, the EESC recommends a clear set of indicators and detailed analysis in the case of significant deviations from these, covering all Member States in terms both of surpluses and of deficits. Pecuniary sanctions make no sense, particularly as part of excessive deficit procedures. Reputational damage can further compromise creditworthiness and competitiveness. Sanctions also amplify centrifugal forces and it will not be possible to deepen EMU without solidarity. Economic governance should be carried out in such a way that a Member State is not punished but enabled to achieve sustainable finances.

4.4.2. Instead of discussing different kinds of incentives, economic governance has to be based on a balanced technical assessment taking into account all key economic policy objectives and on a broad democratic and transparent decision-making process. The European Parliament is to be given a much more prominent role in ongoing decisions within the economic governance framework. Since many aspects of the SGP only concern the euro area, a special EMU grouping could be responsible for this in the European Parliament. The Eurogroup’s decisions should become more transparent.

4.4.3. The EESC also points out the need to involve civil society to a greater extent in economic decision-making at EU level and therefore also highlights the importance of social dialogue. This way, a balanced economic policy can be established, where all interests are reconciled and basic needs can be better taken into account. Given its economic and social stance, the European Economic and Social Committee considers itself to be the competent EU body to contribute to such a bottom-up approach. However, the EESC is not mentioned at all in Title VIII of TFEU on Economic and Monetary Policy, nor in the provisions on economic dialogue in the ‘Six Pack’ and ‘Two Pack’ rules. This omission should be corrected in any future changes to the economic governance provisions in the TFEU, the ‘Six Pack’ and ‘Two Pack’.
4.4.4. In the event of significant deviations from indicators representing the economic policy objectives, a more detailed analysis should follow, as well as a discussion with the Member State concerned on an equal footing about the reasons for imbalances and the introduction of positive incentives. Promotion of inclusive and sustainable growth must be the key criterion in recommendations. Addressing deviations from, for example, deficit criteria by proposing, for instance, a green industrial policy, is in a country’s own interests and makes the imposition of sanctions obsolete.

4.5. **National fiscal frameworks and their interaction with the EU fiscal framework**

4.5.1. The budget rules of the fiscal compact and the ‘debt brakes’ anchored in the constitutions of some countries are less flexible than economic governance at EU level. This can result not only in complexity and discrepancies but also in counterproductive adherence to fiscal policy rules. At Member State level, balancing the budget should be part of a prosperity-oriented economic policy.

4.6. **Taking account of the euro area dimension and the agenda for deepening EMU**

4.6.1. The EESC fully shares the Commission’s view that the effectiveness of economic governance would be improved by deepening the EMU. The EESC recommends reinforcing the monetary policy/financial, economic, social and political pillars in a balanced way (\(^1\)). Overall, a plan for the deepening of the euro area is needed that goes beyond the limits set out in the Maastricht Treaty. Efforts must be immediately directed towards the key economic policy objectives of an economic policy geared to well-being. Member States that have not yet joined the euro area will need to join it and they should do so as soon as possible. In the light of current developments, the objective of economic recovery in particular needs to be given the highest priority.

4.6.2. The EESC notes that the Commission repeatedly mentions that, in the absence of a central fiscal capacity with stabilisation features, the ability to steer the fiscal stance remains limited. In the past, the EESC has stressed that enhanced fiscal capacity is key for the proper management of the EMU. Common countercyclical economic policy is needed to underpin countercyclical policies at national level. A stabilisation function has to be introduced, but its support must be tied to conditionalities in line with the SDGs and the European Pillar of Social Rights. If the European Stability Mechanism (ESM) is used for this purpose, its intervention must not be bound to conditions harming sustainable and inclusive growth.

4.6.3. The EESC strongly supports the idea of kick-starting the recovery on the basis of solidarity, as set out in its resolution of June 2020 (\(^2\)). In the long run, an instrument backed by common guarantees from euro area countries would help to reduce budgetary imbalances. However, it can only be a safe asset and resilient against major crises affecting the eurozone as a whole if public revenues are not further jeopardised by tax evasion. The EESC therefore recommends implementing accompanying measures to combat aggressive tax planning and tax fraud. A safe asset should be issued via a vehicle under democratic control and focus on supporting social progress and sustainability. Joint government bonds would also lessen the fragility of the financial sector.

4.6.4. Financial markets and public finances are highly interconnected. Financial crises have shown the potential for market participants to increase instability by raising borrowing costs for governments in difficulty. Within a ‘doom loop’, the government may need to raise debt to recapitalise banks, resulting in a decrease in confidence in public finances and the value of bonds, again putting pressure on banks. Trying to avert these risks mainly through restrictive fiscal rules puts even more harmful pressure on public budgets. To efficiently mitigate the financial market risk, the banking and capital market unions also need to be deepened by prioritising efficient regulation. After all, fiscal stability will be compromised unless systemic financial market risks are contained. Finally, the international role of the euro needs to be strengthened on the basis of a stable, economically strong and socially balanced EMU.

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\(^1\) EESC opinion on A new vision for completing the Economic and Monetary Union (OJ C 353, 18.10.2019, p. 32).
\(^2\) See footnote 3.
4.7. Interplay between the SGP and the MIP in the European Semester

4.7.1. The general intention is for both the European semester, together with the sustainable growth survey, and economic governance to be based on the goals of a prosperity-focused economic policy. This being the case, together with a more democratic approach, the European semester should become more binding. An integrated scoreboard with all social, environmental, economic and fiscal targets would help to introduce a balanced approach.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
1. Conclusions and recommendations

1.1 Following the unprecedented exogenous symmetric shock from the COVID-19 pandemic, forecasts indicate that unemployment and poverty will rise dramatically, while a significant number of businesses will go bankrupt.

1.2 The EESC fully supports the initiative of the Commission to use the EU budget to mobilise investment and offer financial support during the post-COVID-19 recovery.

1.3 The COVID-19 crisis has generated uncoordinated responses across Member States, depending on the national and regional capacities. The EESC considers that certain amendments to the CPR proposal are absolutely necessary and salutes the intention to add simplification and flexibility for the seven shared management funds.

1.4 The EESC considers that the proposed flexibilities are the right approach in a complicated economic and social situation and shall allow Member States to use the available funds where they are most needed. The post-COVID-19 recovery should follow sustainable principles and a correlation of efforts between the ERDF, Cohesion Funds and other European programmes.

1.5 On the other hand, the EESC is dissatisfied with disparities on how different Member States include and involve the social partners and civil society organisations in the preparation of Partnership Agreements and in the setting up and implementing of programmes, as well as within the monitoring committees.

1.6 The EESC considers that special attention must be given to the regions severely affected by the COVID-19 crisis and which face the most difficulties to resume sustained economic recovery. Social inclusion and reducing disparities both between Member States and between different regions are and should be the top priority of Cohesion Funds.
1.7 The EESC agrees that extended timeline flexibility is absolutely necessary and supports the proposal that the transfers could be done at the beginning of the programming period or at any other point during the implementation phase.

1.8 Furthermore, ensuring temporary measures to enable the use of the Funds in exceptional circumstances will increase trust and correct imbalances in the economy. Expected high public debt shall have an important impact on the economy, if not efficiently supported by all necessary means.

1.9 The Committee believes that it is imperative that the EU budget is allowed to be more flexible when dealing with adverse shocks, especially those that are not economic in origin.

1.10 The EESC recommends that the EU should pursue policies for improving trans-border cooperation in times of crisis. Better protocols and enhanced collaboration would allow for a streamlined and prompt European response to any kind of catastrophe.

2. Introduction and the legislative proposal

2.1 More than two years ago, the European Commission proposed the Common Provisions Regulation (CPR) (1) composed of legislative norms for the use of the cohesion policy funds in the period 2021-2027. The proposed legislative framework has added simplification, flexibility to respond to emerging needs, and efficiency in the use of financial instruments. The text was debated with the Member States and relevant stakeholders.

2.2 The proposed Regulations introduces certain provisions that would allow room for manoeuvre for the use of the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime and Fisheries Fund. It also amends the financial rules for the above-mentioned funds as well as for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument. The EESC salutes the intention to add simplification and flexibility for the seven shared management funds.

2.3 Following the unprecedented exogenous symmetric shock from the COVID-19 pandemic, increased pressure on the European health systems has been immediately followed by severe social and economic difficulties. Forecasts indicate that unemployment and poverty will rise dramatically, while a significant number of businesses will go bankrupt.

2.4 For the remaining financial framework (end of the year), two legislative proposals have been immediately adopted as an immediate response to the possible effects of the pandemic: two amendments to Regulation (EU) No 1303/2013 of the European Parliament and of the Council (2) adopted on 30 March 2020 and 23 April 2020 respectively, trying to provide flexibility for the Member States in their attempt to manage the programmes to respond to the COVID-19 crisis.

2.5 Ongoing discussions about the sustained exit strategy focus on two pillars: the European Recovery Fund and a strong reinforced multiannual financial framework. The proposed Regulation goes in the direction of supporting the cohesion policy investments in the medium and long term.

2.6 The EESC fully supports the initiative of the Commission to use the EU budget to mobilise investment and offer financial support during the post-COVID-19 recovery. This should come in the support of wider plans of increasing the competitiveness and sustainability of the European economy and implementing the European Pillar of Social Rights.

2.7 The current COVID-19 crisis has shown us the importance of flexibility and fast coordinated Member State and EU responses. These lessons should be reflected in the new legal and financial framework, which must prove its flexibility and ability to respond to extraordinary circumstances in the future.

3. General Comments

3.1 The COVID-19 crisis has generated uncoordinated responses across Member States, depending on the national and regional capacities. This could result in an asymmetric recovery and at the same time contribute to increased regional disparities and inequality, which in the long run could undermine the single market and the financial stability of the European Union. The EESC considers it vital to act immediately to prevent further fragmentation of the single market and respect the Treaty objective to promote convergence and reduce disparities.

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3.2 The economic recovery needs strong public investment, which could be hindered by the significant pressure on public finances, thus extending the downturn. Therefore, for the next multiannual financial framework, certain amendments to the CPR proposal are absolutely necessary.

3.3 The European Semester is closely linked with the cohesion policy investments, which, in turn, are well suited to deliver on the needs identified in the European Semester process and actively contribute to the economic recovery. The EESC has repeatedly called for ‘the need to put in place a common European framework — similar to the Partnership Agreement under the EU Structural Funds — guaranteeing that there can be strong and meaningful participation of social partners and civil society at large at all stages of the design and implementation of the EU Semester’ (3).

3.4 Article 6 of the Regulation laying down common provisions on the seven funds sets up the way in which each Member State should organise partnerships with competent regional and local authorities, by including at least the urban and other public authorities, economic and social partners, as well as relevant bodies representing civil society, environmental partners and entities representing fundamental rights, etc. All Members States should involve these stakeholders in the preparation of Partnership Agreements and in the setting up and implementing of programmes, as well as within the monitoring committees.

3.4.1 Although these lines are clear, the EESC is dissatisfied with disparities on how different Member States include and involve the social partners and civil society organisations. The EESC has already pointed out that ‘various Member States have received recommendations on strengthening social dialogue in this year’s country-specific recommendations. To further the involvement of the social partners, minimum standards should be introduced concerning the consultation of the national social partners by national governments at various stages during the European Semester’ (4).

3.5 Regarding the current implementation period, the EESC acknowledges certain difficulties for the beneficiaries to finalise in time the approved programmes. Flexibility is key for enabling the successful implication and possible prolongation of the implementation period, while ensuring the correct phasing of operations.

3.6 The EESC considers that the proposed flexibilities are the right approach in a complicated economic and social situation, where exceptional situations are expected for the next implementation period. It is more and more clear that the economic impact of the COVID-19 pandemic shall have long-term effects on the Member States and the only way to ensure a sustainable exit is through debt. Hence, it is extremely useful to create immediately the framework for all countries to be able to add flexibility to their exit strategy and use the available funds where they are most needed.

4. Specific Comments

4.1 The EESC believes that special attention must be given to the regions severely affected by the COVID-19 crisis and which face the most difficulties to resume sustained economic recovery.

4.2 Social inclusion and reducing disparities both between Member States and between different regions are and should be the top priority of cohesion funds. As the tourism and cultural sectors have been strongly impacted by the COVID-19 crisis, they should be especially supported. At the same time, social inclusion is not limited to these sectors and the principles of the European Pillar of Social Rights should be fundamental in any approach. Therefore, the EESC supports the creation of a separate objective under policy 4 of the ERDF.

4.3 The EESC salutes the intention to allow more flexibility to the Member States in terms of transferring certain amounts between the different EU funds at any point they deem necessary. The legal framework of the cohesion policy should be quickly adapted to the new realities in order for specifically designed mechanisms to be easily adopted and implemented. Flexibility and derogations to the existing rules could prove paramount in such difficult economic and social stance. Therefore, the EESC supports the empowerment of the European Commission to adopt the necessary implementing acts.

4.4 The proposed amendments introduce some flexibility for the Member States to request transfers between the Funds or from the Funds to any instrument, through direct or indirect management. The EESC agrees that extended timeline flexibility is absolutely necessary and supports the proposal that the transfers could be done at the beginning of the programming period or at any other point during the implementation phase.

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(4) OJ C 47, 11.2.2020, p. 113.
4.5 The Stability and Growth Pact supports coordination among the fiscal policies and the application of sound public finances, essential for a sustainable economic recovery and growth. The EESC considers that ensuring temporary measures to enable the use of the Funds in exceptional circumstances would increase trust and correct imbalances in the economy. Expected high public debt shall have an important impact on the economy, if not efficiently supported by all necessary means.

4.6 The EESC believes that there should be clear mechanisms of complementarity between the various European funding streams. That being said, the post-COVID-19 recovery should follow sustainable principles and a correlation of efforts between the ERDF, Cohesion Funds and other European programmes.

4.7 The EESC salutes the adding of exceptional and unusual circumstances regarding the measures linked to sound economic governance. In line with the need for greater flexibility in responding to extraordinary circumstances, such as the COVID-19 crisis, the EESC finds the proposed change to the title of Chapter III for title 2 necessary.

4.8 The EESC fully supports the proposed introduction of Article 15a. The Committee believes that it is imperative that the EU budget is allowed to be more flexible when dealing with adverse shocks, especially those that are not economic in origin. Furthermore, the flexibility introduces a correct approach that interim payments could be exceptionally increased up to 10% above the co-financing rate applicable, but not exceeding the 100% quota.

4.9 The EESC finds relevant the inclusion of a justification for transfers in Article 8(d), as this would allow for better oversight and transparency.

4.10 Furthermore, the modification of recital (71) ensures the implementing powers regarding temporary measures for the use of the Funds should be granted to the European Commission without committee procedures. Additional flexibility is proposed in any transfer that any Member State might request up to 5% of the total allocation of any Fund to another Fund. Additional transfer of up to 5% can also be asked under the Investment for jobs and growth goal, between the ERDF, the ESF+ and the Cohesion Fund.

4.11 The EESC agrees with the importance of the SMEs in the economy and welcomes the added attention to them. Additionally, special focus should be given to SMEs that generate growth and create high-quality jobs, necessary in reducing inequalities and disparities.

4.12 The COVID-19 pandemic has shown that digital education presents a lot of challenges. Simply ensuring access to ICT and digital equipment to learners in a disadvantaged background is not enough. The EESC recommends that Member States analyse ways to enable access to digital platforms. Furthermore, learners from disadvantaged backgrounds and some elderly teachers do not have the necessary skills to properly work with digital tools and content. Therefore, the EESC calls for additional immediate investment in upskilling.

4.13 The EESC supports the proposed decrease of the threshold from EUR 10 million to EUR 5 million for an operation subject to phased implementation, provided that all the other conditions stipulated in Article 111 are met.

4.14 In addition to increased medical equipment and supplies capacity, the EESC recommends that the EU should pursue policies for improving trans-border cooperation in times of crisis. Disasters and natural crises do not stop at the state border. During the pandemic, Member State coordination and joint responses have been very limited, disorganised and driven by inward-looking tendencies. Better protocols and collaboration would eliminate many of the initial bottlenecks and allow for a streamlined and prompt European response to any kind of catastrophe.

Brussels, 18 September 2020.

The President
do the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council on the public sector loan facility under the Just Transition Mechanism'

(COM(2020) 453 final – 2020/0100 (COD))

and on 'Amended proposal for a Regulation of the European Parliament and of the Council establishing the Just Transition Fund'

(COM(2020) 460 final – 2020/0006 (COD))

(2020/C 429/30)

Rapporteur: Petr ZAHRADNÍK

1. Conclusions and recommendations

1.1. The EESC strongly supports and appreciates a big increase in the JTF (Just Transition Fund) financial allocation to facilitate a changeover from a carbon intensive economy and society to a more modern, sustainable and diversified one.

1.2. The EESC is deeply convinced that for reaching an optimal result in the Just Transition process, not only sufficient financial resources of a modern type addressed to precisely defined areas of support, but also the flexible interpretation of State Aid rules is of great importance.

1.3. The EESC very much appreciates the proposal for a public sector loan facility and considers it innovative, original and highly demanded by the public sector entities on their way to climate transition.

1.4. The EESC underlines that after the new proposals connected with the Recovery Plan and the Next Generation EU, the JTM has a real chance to become a very important tool of the future MFF 2021-2027 with its benefits not only for the EU Green Deal, but also for the post-COVID recovery and reconstruction.

1.5. The EESC calls on the relevant EU institutions to accelerate the preparatory, approving and implementation works with the adjusted JTM as much as possible to introduce it to practical functioning soon. In this game, time is a fatal parameter.

1.6. The EESC welcomes the specific attention paid in the public sector loan facility to the less developed regions in the just transition.

1.7. The EESC is convinced that the innovative idea on which the public sector loan facility is based could also serve as a source of inspiration for a similar type of financial products at the Member States level.

1.8. The EESC considers the eligibility selection criteria as well as the proposed investment areas very relevant for the purpose of a just transition.
1.9. The EESC also welcomes and supports additional financing in favour of the InvestEU programme and its dedicated just transition scheme which increases the potential to utilise financial instruments in the process of just transition.

2. The issue and context

2.1. At its June 2020 plenary, the EESC adopted the opinion on the Just Transition Fund (1), which in many details explains the EESC’s position on the topic of the just transition process and also works with a post-COVID reflection. Its general results, conclusions and recommendations, of course, remain valid.

2.2. However, in this turbulent period, at the end of May, the European Commission released its Recovery Plan and all three pillars of the Just Transition Mechanism (JTM) represent a substantial part of the Next Generation EU Programme; in comparison with the original proposal of January 2020, the JTM should operate with a visibly higher financial allocation and base. The newly proposed set of documents is reflecting a symbiosis and feasible coexistence between the EU Green Deal targets and the post-COVID recovery and resilience plan.

2.3. It also works now with the title of Just Transition Platform (JTP), which is to provide technical and advisory support for public and private stakeholders in coal and other carbon-intensive regions to have sufficient information on funding opportunities.

2.4. The adjusted JTM would work further with its three pillars:

— a Just Transition Fund,

— a just transition scheme under the InvestEU programme,

— a public sector loan facility.

On the other hand, the COVID pandemic has shown the rationale behind continuing to fulfil reasonable Green Deal targets and support the process of economic restructuring, especially in the vulnerable regions and territories. That is why the JTM was proposed to robustly increase its financial allocation and base.

2.5. The main changes in comparison with the January 2020 proposals include:

— a robust increase in financial allocation, mainly in case of the JTF, the original basis financial allocation is proposed to increase from EUR 7.5 bn to EUR 40 bn (additional EUR 2.5 bn within the ordinary MFF and a new sum of EUR 30 bn within the Next Generation EU); the rule to multiply (1.5 up to 3 times) the JTF financial base through the ERDF, or ESF+ transfers is related only to the sources within the MFF 2021-2027, not to those in the Next Generation EU instrument,

— increased sources in favour of InvestEU — the guarantee amount would be doubled; the sustainable infrastructure window is to work with EUR 20 bn, the research, innovation and digitalisation window with EUR 10 bn, the same amount is allocated for the SME window, the social investment and skill window has EUR 3.6 bn, and the financial allocation for the newly proposed strategic European investment window is EUR 31 bn,

— the public loan facility receives through this package a legal base for this proposal and represents a unique and innovative combination of practical implementation of financial instruments and subsidies.

2.6. The other proposed elements in the European Commission’s January 2020 package remain unchanged and valid in full content; these are related to the activities and areas supported (and also excluded from the support), to the implementation processes (several alternatives for the Operational Programmes), the role of the territorial just transition plans as the main background documents that are decisive for the support as well as the types of beneficiaries.

2.7. It is suitable to understand the proposals related to the adjusted JTM as just one element in the structure of a comprehensive and internally interconnected mosaic represented by the Next Generation EU Programme package as well as the adjustment of the MFF 2021-2027 proposal to increase the fiscal (budgetary) base of the EU and to address it to the current urgent needs. The proposed fiscal measures also complement the already adopted emergency steps in the monetary and structural policies as well as in the regulatory frameworks. They also need to be supported by parallel efforts to improve the Banking Union and the Capital Markets Union areas.

(1) OJ C 311, 18.9.2020, p. 55
2.8. The package to establish a Recovery Instrument and to adjust the MFF 2021-2027 to the needs of the post-COVID situation is considered an extraordinary step in EU financing, but also a necessary and urgent one. The EU budgetary policy under the current circumstances and rules would have been simply insufficiently flexible and not able to make an action that could visibly help to solve the crisis situation. On the other hand, the proposal can seem to be highly possible in the current political situation.

3. General comments

3.1. The EESC welcomes this proposal as it recognises the structural reforms and support for economic diversification as a very important long-term EU priority.

3.2. The EESC looks at the JTM adjustment from the whole Recovery Instrument perspective and considers it a fair, innovative, inclusive and effective tool to support the regions and territories facing the green transition from coal and carbon-intensive industries to modern and sustainably diversified economic activities. Combined with the most flexible possible interpretation of State Aid rules, it now offers a real possibility of facilitating the achievements of a Just Transition in these areas.

3.3. The EESC supports the idea to utilise the additional JTF funding within the Next Generation EU (EUR 30 bn) in a fast-track mode to help accelerate green transition investments robustly until 2024 at the latest.

3.4. The EESC calls upon the European Commission to create the relevant framework to have the increased JTF instrument ready already at the beginning of 2021, when particular regions could suffer hard from the consequences of the crisis in their economic performance as well as social and environmental conditions. On the same occasion, the EESC calls upon the Member States to accelerate the work on the territorial just transition plans, the sine qua non strategic planning document necessary for accessing funding under all three pillars of the JTM.

3.5. The EESC also welcomes the InvestEU Programme’s additional allocation that brings benefits for particular regions to absorb their green transition needs. The Committee welcomes the fact that under the just transition scheme, a support in favour of investments in just transition regions will be possible through any of the InvestEU policy windows, depending on the specific investment needs identified by Members States in their territorial just transition plans. The EESC also supports the participation of the newly proposed strategic European investment window in the activities covered by the JTM.

3.6. The EESC appreciates that the inclusion of the InvestEU projects into the second JTM pillar addresses economically viable and market-tested investments by private and public sector entities through an innovative type of financing.

3.7. The EESC strongly supports and appreciates the idea of a public sector loan facility that represents a very innovative solution for the public sector that integrates a joint product developed by the European Commission and the EIB, where it is intended to combine a loan component with a grant. This mix is to mobilise as much as EUR 30 bn of public investments for the benefit of energy and transport infrastructure, district heating networks, public transport, energy efficiency measures, social infrastructure and other types of projects for support of affected communities and regions and improvement of their well-being and competitiveness.

3.8. The EESC underlines the innovative and original character of the public sector loan facility that on a project level supports the implementation of financial instruments by a supplementary grant. The EESC supports the idea put forward that this instrument is additional to the JTF and the InvestEU cross-cutting financial scheme. Against this background, the requirement that projects supported under the public sector loan facility cannot receive other EU funding sources seems reasonable.

3.9. The EESC respects that the grant component would be managed directly by the European Commission and until the end of 2024 it will be redistributed through a system of national envelopes. In this context, the EESC calls on the Commission to proceed rapidly with the launch of calls as soon as a number of territorial just transition plans are adopted and on Member States to proceed as of now with the preparation of projects. This could ensure that the resources earmarked for Member States are exhausted through the calls launched by end-2024.
3.10. The EESC is well aware of the exclusivity and originality of the innovative instrument of the public sector loan facility to support public entities’ investments that fulfil the climate transition requirements and do not guarantee sufficient revenues. The grant element is therefore decisive for practical provision of the economic, social and environmental projects that are not sufficiently financially viable and thus cannot be financed by the financial instruments only.

3.11. The EESC underlines the great importance of territorial just transition plans that are equally relevant for all the three JTM pillars. The EESC agrees that only Member States with an already approved territorial just transition plan can access the funding. These plans are indeed a key means to trigger commitments from Member States to progress towards a climate-neutral economy.

3.12. The EESC welcomes the concept that projects in less developed regions (i.e. with a GDP/capita not exceeding 75% of the EU average) receive a 5 p.p. higher grant over the loan than projects in other territories (up to 20% against 15%). However, the EESC is concerned by the fact that the effective grant rate may be as low as 5-7% compared to the total project cost. This may not result in sufficient incentive for projects getting financing.

3.13. The EESC also considers that the involvement of finance partners other than the EIB would be beneficial for the implementation of the resources proposed for the facility. It could open a space for financial institutions based in the Member States to develop this original and innovative type of product and offer it to their relevant clients.

3.14. The EESC considers the JTP important, especially to offer to beneficiaries appropriate and equal information and technical service that contribute to the efficiency of allocated funding. In this context, the EESC also underlines the importance of the assistance available for Member States to develop their territorial just transition plans through the corresponding call and support launched by the Commission.

4. Specific comments

4.1. The EESC asks the European Commission to specify more precisely the extent of the just transition scheme within the adjusted InvestEU programme and eligibility of Green Deal-based projects in the strategic European investment window as well.

4.2. For the public sector lending facility, the EESC appreciates the proposal for support of public investments through preferential lending conditions, targeted to the territories most negatively affected by the climate transition and being in accord with the territorial just transition plans.

4.3. The EESC respects the requirements for project selection criteria and their prioritisation and agrees with the concept of their detailed specification in the calls at national level.

4.4. The EESC recommends that the European Commission define and more precisely specify the areas for synergy with the other instruments of the Next Generation EU to support the integrated approach and, in parallel, to eliminate overlaps.

4.5. The EESC highly appreciates that the eligible beneficiaries are the stakeholders from all relevant areas, namely the public sector institutions (the state, regions, cities and municipalities), businesses, research institutions and universities, schools, education institutions, labour market advisors and NGOs.

4.6. The EESC calls on the Council and the EU Member States to complete as soon as possible all the necessary preparatory work to implement the JTM. The European Commission is requested to approve the Member States’ JTM programmes as soon as possible under a fast-track procedure. Only in this way will it be possible to minimise delays in the disbursement of the funding and to achieve the desired positive effects on the economic situation of the EU.

4.7. The EESC underlines that the intended transfer from the ESF+ in favour of the JTF is not to jeopardise the implementation of regular ESF+ projects; the intention consists of creating a sufficient financial base for socially oriented projects (re-skilling, education, training, etc.) within the JTF.
4.8. In the case of the public sector loan facility, the EESC considers the wide range of areas to be supported as adequate and appreciates its compatibility with the other JTM pillars as well as some other MFF financial tools and instruments.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Amended proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus (ESF+)’


(2020/C 429/31)

Rapporteur-general: Krzysztof BALON
Co-rapporteur-general: Carlos Manuel TRINDADE

1. Conclusions and recommendations

1.1. The European Union’s economy, labour market, social welfare and health systems have suffered an unprecedented and profound shock as a result of the COVID-19 pandemic. The pandemic poses numerous and enormous social challenges, such as the worsening of inequalities and the rapid increase in poverty resulting from job loss and a foreseeable increase in social and labour exclusion of vulnerable groups. A Europe that wants to remain competitive in the global economy and to protect, respect and implement the principles of the European Pillar of Social Rights (EPSR) needs to properly align its economic and social policies, especially in times of crisis. In order to meet these challenges, the EU should take appropriate action, not least concerning the Multiannual Financial Framework (MFF), including the European Social Fund Plus (ESF+).

1.2. In the recovery phase, it is important to ensure consistency in the use of the different European funds in order to avoid the fragmentation of interventions at national level. Therefore, the EESC is strongly in favour of allowing the ESF+ operations to be co-financed using the Recovery and Resilience Facility (RRF). Moreover, the use of the ESF+ to fund operations in support of the green and digital transformation should be focused on upskilling and reskilling, complementary to the other European funds under the MFF and to the RRF.

1.3. The ESF+ regulation is not adequately funded to meet the needs of social cohesion policy. Therefore, the EESC is strongly opposed to reducing the overall financial envelope for the ESF+ for the 2021-2027 period. The obligatory reallocation lever from ESF+ and/or ERDF resources to the Just Transition Found should be abolished. The co-financing rates from the current MFF should be maintained.

1.4. The EESC reiterates its request from the previous opinion for the allocation of 30% of all resources earmarked for economic, social and territorial cohesion policy to the ESF+ and, in addition, for the allocation of 30% of existing resources under the ESF+ to social inclusion measures. Since the amended proposal provides for allocating 5% of resources to tackling child poverty, this request is the absolute minimum needed. At the same time the EESC supports increasing the minimum envelope for inclusion of NEETs to 15%; the higher NEET rates for women in some EU regions should be taken into account by specific allocation of funding.
1.5. Given the role of the ESF+ in implementing the EPSR, the EESC strongly urges the European Commission (EC) and Member States to consider a more adequate monitoring of the social situation in the European Semester by including a list of agreed indicators able to provide reliable and adequate information on the social developments in the EU. The EESC will prepare its own proposal for such a list in the near future.

1.6. Acknowledging the important role of the social economy, including the providers of social services, in the EU’s social dimension and its essential role in times of crisis and recovery, the EESC reiterates the request it made in its previous opinion (1) that support for action on the social economy, including non-profit organisations providing support and services to the people, should become a specific stand-alone objective under the ESF+.

1.7. In the case of using the ESF+ to co-finance social services of general interest, the regulation should stipulate that such services must meet the criteria of universal access, high quality and affordability. In connection with the removal of the health strand from the ESF+, it is necessary to better define the target group to which the resources for supporting healthcare — but also long-term care for vulnerable persons — are addressed. Moreover, families and informal carers must be identified as an explicit target group of the ESF+ to ensure they are fully supported to address future shocks.

1.8. To promote European solidarity, which has been severely affected by the current crisis, a substantial increase in the envelope for transnational or cross-country projects, networks or components is needed.

1.9. Even if the ESF+ includes a specific objective targeting the integration of third country citizens, the EESC recommends the introduction of a recital clarifying that there are no restrictions coming from EU regulations on access of refugees, asylum seekers and migrants from third countries to active measures or access to social support when accessing such measures. The EESC also urges Member States to refrain from using restrictions that aggravate the social exclusion of migrants. This also applies to other vulnerable groups, such as ethnic minorities.

1.10. Furthermore, it is more important than ever to fully implement the principle of partnership, involving social partners and other civil society organisations. An essential precondition for achieving this is the proper funding of the capacity building of social partners and other civil society organisations, especially of their networks and federations.

2. Introduction

2.1. On 30 May 2018, the EC adopted its proposal for a regulation on the ESF+ (2) reflecting additional challenges that the EU is facing — shortfalls in skill levels, under-performance in active labour market policy and education systems, challenges arising from new technologies and new forms of work, low labour mobility and social exclusion. On 17 October 2018, the EESC adopted an opinion on that proposal, the main content of which remains valid (3). Responding to the social and economic consequences of the COVID-19 pandemic, on 28 May 2020 the EC adopted an amended proposal for the ESF+ (4) — the subject of this opinion — drawn up on the EC’s request of 28 May and the European Parliament’s request of 9 June 2020.

2.2. The EU’s economy, labour market, social welfare and health systems have suffered an unprecedented and profound shock as a result of the COVID-19 pandemic. The direct and indirect effects of the COVID-19 pandemic are having, and will continue to have, a significant and damaging impact on all Member States, causing not only a sizeable short-term fall in GDP, but also — especially in the medium to long term — widening social inequalities and increasing poverty and unemployment, including among young people. The key challenge will be the rapidly increasing poverty resulting from, among other things, job losses and the ‘new’ social and labour exclusion of vulnerable groups, including persons with disabilities, Roma and migrants.

2.3. On the other hand, the EU is having difficulties managing the longevity challenge, as the numbers of older people dying of COVID-19 in care facilities in several Member States tragically show. There are not only problems faced by the elderly, there are also European fragilities in intergenerational solidarity, which need strong interventions at EU and national level.

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(2) COM(2018) 382.
(3) See footnote 1.
(4) COM(2020) 447.
2.4. Further recent and ongoing developments have aggravated the structural challenges arising from economic globalisation, the management of migration flows and the increased security threat, clean energy transition, technological change, ageing labour force and growing mismatches between demand and supply of skills and labour in the same sectors and regions experienced particularly by SMEs. The EU needs to be prepared for the current and future challenges by investing in relevant skills to support green and digital transitions, making growth more inclusive by improving employment and social policies, while taking into account economic and industrial sustainability. The EESC welcomes the support from the ESF+ for the measures necessary to achieve these objectives, as described in the proposal’s new recital 14.

2.5. In order to meet these challenges, the EU should take appropriate action, not least by adapting the MFF — including the European Social Fund Plus (ESF+) — to the new boundary conditions.

2.6. Even in times of crisis all stakeholders at the European, national and regional level should follow the rules of good governance and obey the rule of law in planning, implementing and evaluating ESF+ operations. The EC should ensure that applications to the ESF+ submitted by social partners and civil society organisations are assessed fairly on transparent criteria. Furthermore, it is more important than ever to defend and properly implement the principle of partnership, based on the Code of Conduct, involving social partners and other civil society organisations. An essential precondition for achieving this is the proper funding of the capacity building of social partners and other civil society organisations, including of their networks and federations.

2.7. The EESC deeply regrets the option not to proceed with consultations with external stakeholders in this amended version of the regulation. The argument of urgency is not strong enough to justify disrespecting the fundamental principle of stakeholder consultation on changes to such an important regulation. However, the EESC welcomes the information that consultations are taking place with Member States and the European Parliament, which will hopefully lead to significant improvements in some aspects of the proposal.

3. The key aspects of the European Commission’s amended proposal

3.1. Increasing thematic concentration requirements for youth employment, given the dangers of an extremely high youth unemployment rate and the growing proportion of young NEETs (not in employment, education or training): Member States with a NEET youth rate (15-29 age group) above the EU average should earmark at least 15% of their ESF+ resources under shared management (as opposed to 10% under the original Commission proposal) to targeted actions and structural reforms to support young people.

3.2. Addressing child poverty: the EC proposes including a recital and an article requiring that Member States allocate at least 5% of the ESF+ resources under shared management to address child poverty.

3.3. Promoting the green and digital transitions in line with the EU Industrial Strategy (5): based on the presumption that a ‘new normality’ will set in following the COVID-19 pandemic, new models will emerge in European industrial ecosystems, including new local value chains, which will require new skills for new types of jobs.

3.4. Strict adherence to the horizontal principle of gender equality by all Member States: given the fact that the COVID-19 pandemic had a disproportionate socio-economic effect on women.

3.5. The removal of the health strand from the EFSA, while at the same time keeping the provisions calling for synergies and complementarity of actions between the ESF+ and the new EU Health Programme, given the need to closely coordinate the two programmes: linked to the EC proposal to establish a much stronger and stand-alone programme for health (6).

3.6. Ensuring that the legal framework for cohesion policy provides for mechanisms that can be quickly invoked should exceptional circumstances arise in the next decade: the EC proposes temporary measures for the use of the ESF+ in response to exceptional and unusual circumstances, covering derogations to certain rules to facilitate the response to such

(6) COM(2020) 405.
4. EESC proposals on the amended draft regulation

4.1. A Europe that wants to remain competitive in the global economy and to protect, respect and implement the rights embedded in the EPSR — particularly high quality jobs, good quality education and training, widely accessible and equal access to health and social services, social inclusion and active participation in society of persons with disabilities and other vulnerable groups — needs to properly align its economic and social policies, especially in times of crisis.

4.2. In this connection, the financing of the EU’s social dimension needs to be properly addressed through the RRF and the EU’s budget for the 2021-2027 financial perspective, including the ESF+. Therefore, the EESC is strongly in favour of allowing the ESF+ to be co-financed using the RRF.

4.3. Moreover, the use of the ESF+ to fund operations in support of the green and digital transformation should be focused on upskilling and reskilling, complementary to the other European funds under the MFF and to the RRF. In the recovery phase, it is important to ensure consistency in the use of the different European funds, in order to avoid the fragmentation of interventions at national level.

4.4. The EESC is strongly opposed to reducing the overall financial envelope for the ESF+ for the 2021-2027 period from the previously planned figure of around EUR 101 billion (at current prices) to the current planned figure of some EUR 97 billion; this reduction is not justified by the removal of the health strand (for which some EUR 413 million had previously been earmarked).

4.5. A significant reduction of the ESF+ could result from Article 21a of the Common Provisions Regulation, which obliges the Member States to reallocate between EUR 1,5 and 3 from the ESF+ and/or the ERDF per EUR 1 from the Just Transition Fund (up to 20 % of the respective fund). Therefore, this obligatory reallocation lever should be removed.

4.6. The proposed reductions in EU co-financing rates are unacceptable and difficult for existing funding structures to cope with. Member States pass on a large part of the co-financing to project promoters. Instead of generating additional national funding, the lower EU co-financing rates put the project-implementing organisations in financial difficulties. The co-financing rates from the current funding period should therefore be maintained.

4.7. Bearing in mind that the ESF+ is the main financial tool for implementing the EPSR, the EESC had — even in its previous opinion (1) — called for 30 % of all resources earmarked for economic, social and territorial cohesion policy to be allocated to the ESF+ and, in addition, to allocate 30 % of existing resources under the ESF+ to social inclusion measures.

4.8. Furthermore, the EESC believes that the magnitude of the economic and social challenges faced in the post-COVID-19 social crisis require a guarantee that the ESF+ is used across Europe in a balanced way. The EESC therefore reiterates its disagreement with the elimination of the minimum share (currently set at 23.1 %) of cohesion policy funding. Additional support for outermost regions and sparsely populated areas as well as support for labour mobility is one of the targets of ESF+ and it closely correlates to cohesion policy as well.

4.9. Whereas the amended proposal provides for a 25 % allocation of resources to social inclusion and 5 % to tackling child poverty, the request to allocate 30 % for social inclusion is the absolute minimum needed. In addition, depending on the actual situation in a specific territory, it should be possible to allocate more than 5 % of funds to combat child poverty (as part of the 30 % of funds for social inclusion). In this regard, measures to tackle child poverty should be carried out in accordance with the Commission recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage (2), also taking into account the Feasibility Study for a Child Guarantee (Final Report) (3).

(1) See footnote 1.
(2) OJ L 59, 2.3.2013, p. 5.
(3) https://ec.europa.eu/social/main.jsp?catId=1428&langId=en
4.10. The EESC supports increasing the minimum envelope for inclusion of NEETs to 15%. The EESC supports the Commission’s action to promote targeted measures to increase the labour market participation of young people, including those with a migrant background. These measures should be aimed at supporting young people’s employability with the appropriate skills, ensuring social protection and collective bargaining coverage. In this connection, the Committee draws attention to the significantly higher NEET rates for women in some EU regions, which should be taken into account by allocating correspondingly higher rates of funding specifically for women, supporting innovative measures negotiated at enterprise level, aiming at improving work-life balance.

4.11. The EESC is in favour of thematic concentration, as it ensures that policy priorities at EU level are enforced by Member States. Nevertheless, the EESC calls for combining thematic concentration with some flexibility and autonomy for Member States in the adjustment of programming funds to avoid creating an administrative burden on programme management. Should it, however, lead to any reduction of thematic concentration requirements for social inclusion, the EESC calls for accompanying measures, for example allowing for co-financing rates of up to 100% for actions related to these specific objectives.

4.12. Given that the ESF+ is geared towards implementing the EPSR, the ESF+ regulation should take account of plans for implementing the EPSR at EU and national level — as core guidance documents with which the partnership agreements and operational programmes should be aligned — and these plans should be monitored as part of the European Semester. The EESC therefore strongly urges the EC and Member States to consider more adequate monitoring of the social situation in the European Semester by including a list of agreed indicators able to provide reliable and adequate information on the social developments in the EU. The EESC has already given its opinion (10) on this topic, asking for new social indicators in the European Semester process to monitor the implementation of the EPSR and for social country specific recommendations, and will prepare its own proposal for such a list in the near future. To this end, the EC should draw up rules and procedures to verify the correlation between, on the one hand, draft national documents programming ESF+ expenditure for the 2021-2027 period and, on the other, the principles of the EPSR (the policy framework for the labour market, education and training which are primarily laid down in Chapters I and II, whereas the framework for combating poverty and social exclusion should be laid down in Chapter III).

4.13. The ESF+ does not adequately address issues that are part of the transition period we are living in, such as the need to consider, using social dialogue and in collective bargaining, adopting strategies for reduction of working hours without pay reduction, a better reconciliation of professional and family life, the promotion of voluntary part-time work, new forms of employment, especially in the silver, circular and social economies and, more generally, a redistribution of work that allows everyone to work while living a meaningful and healthy life. The ESF+ should support social partners and other civil society organisations in the development of those strategies, as well as in the dissemination of good practice, while promoting actions aiming at the implementation thereof by Member States. Another area in which the ESF+ could be proactive and innovative is support for socially useful work.

4.14. In the case of using ESF+ to co-finance social services of general interest, the regulation should stipulate that such services must meet the principles of solidarity and transparency as well as the criteria of universal access, high quality and affordability, according to the standards set out in the Voluntary European Quality Framework for Social Services (11).

4.15. In connection with the removal of the health strand from the ESF+, it is necessary to better define the target group to which the resources for supporting healthcare access for vulnerable persons are addressed, spelling out that this specifically concerns homeless people, irregular immigrants and others without health insurance as well as persons with disabilities and the elderly experiencing vulnerability. Moreover, it is necessary to clarify that the ESF+ also includes in its scope long-term care for vulnerable groups, taking into account that, after the pandemic, several Member States will likely face the need to rethink, reorganise and/or develop their long-term care services.

4.16. Family carers (mostly women) are already providing 80% of long-term care in Europe, and as an effect of COVID-19 from one day to the next became the sole supporters of their family members. Reconciling work and family life became completely impossible, and they had to provide care and rehabilitation for which many had no training and without a moment of respite throughout the lockdown. Families and informal carers must therefore be identified as an explicit target group of the ESF+.

4.17. Acknowledging the important role of the social economy, including the providers of social services, in the EU’s social dimension and its essential role in times of crisis and recovery, the EESC reiterates the request for supporting actions on the social economy as a specific stand-alone objective under the ESF+. The social economy creates high quality jobs and promotes social inclusion, not least by providing social, health and educational services of general interest while at the same time contributing to the development of participatory democracy and civil society. Moreover, the social economy sector as well as non-profit organisations providing support and services to the people have shown great resilience and contribution to mitigating the effects of the COVID crisis. This should lead to a strengthening of existing social non-profit actors and boost investment in new ones, in a spirit of ensuring not only economic growth but also the common good and well-being.

4.18. The extensive collection of data, especially personal data, has caused major problems in project implementation. Participants in ESF projects are often not considered for funding purposes if they do not submit their complete data. Despite efforts to simplify the ESF, the European Commission has not amended its proposal on indicators in Annexes I and II of the ESF+ Regulation. The EESC therefore recommends refraining from collecting irrelevant data and adapting the required indicators to the specific programme. The number of indicators should be further reduced.

4.19. Several countries introduced some kind of restrictions on refugees, asylum seekers and other migrants from third countries either to access active measures or to access social support. Therefore, even if the ESF+ includes a specific objective targeting the integration of third country citizens, the EESC urges the EC to include a new recital clarifying that no restrictions of access to active measures or social support when accessing such measures come from EU regulations, though Member States may limit this access through their national regulations. The EESC also urges Member States to refrain from using restrictions that aggravate the social exclusion of migrants.

4.20. Given the need to promote European solidarity, which has been severely affected by the current crisis, the EESC also calls for a substantial increase in the envelope for transnational projects, networks and components. This is necessary in order to build cross-country mutual support networks, but also to foster a sense of European identity among citizens of different Member States and make the financial support offered by the EU to its citizens more visible. Co-funding requirements for these transnational networks and projects must be more flexible given the negative impact of COVID-19 on transnational working and financial sustainability.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Union’s action in the field of health for the period 2021-2027 and repealing Regulation (EU) No 282/2014 (“EU4Health Programme”)’

(COM(2020) 405 final – 2020/0102 (COD))

(2020/C 429/32)

Rapporteur-general: Antonello PEZZINI (IT-I)
Co-rapporteur-general: Alain COHEUR (BE-III)

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Section responsible Employment, Social Affairs and Citizenship

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1. Conclusions and recommendations

1.1. The EESC points out that the coronavirus pandemic has demonstrated, more than ever before, the need to strengthen the European Union’s role on health, its capacity to react, manage and coordinate, and its powers by means of a ‘European Union of Health’. This will enable it to respond to the plight of the public and of those in the health sector, including frontline medical and paramedical staff, and to meet their expectations of an effective European public health policy, providing for interaction between European, national and regional levels through ‘multilevel governance’ (1).

1.2. The EESC welcomes the European Commission’s ‘EU4Health Programme’ proposal of May 2020, mobilising dedicated funds both in the ‘Next Generation EU’ proposal and in the Multiannual Financial Framework 2021-2027. It regrets, however, that cuts were made by the European Council in July 2020 despite the fact that public health is facing, in both the short and the long term, complex political, social, economic, digital and environmental challenges for which innovative, cross-cutting and integrated measures and major strategic investments (in the social and healthcare sectors) are needed.

1.2.1. The EESC considers that ‘Europe à la carte’ (2) (or ‘multi-speed Europe’) will not enable the Union to meet the current challenges which go beyond national borders, nor to seek to achieve ambitious and solidarity-based European integration founded on being ‘united in diversity’ and steered by common goals of cooperation.

1.3. The EESC calls on the EU institutions and the Member States to demonstrate the political will to implement a ‘Health Pact for the Future of Europe’ that reflects the fundamental values of the European Union, including European solidarity, and the pledges made both internationally (Sustainable Development Goals, the promotion of human rights and the application of international conventions) and at European level (priorities of the German Presidency of the Council of the European Union and delivering on the European Pillar of Social Rights).

1.4. The EESC calls on the European Parliament, in its capacity as co-legislator, to negotiate with the Council to both step up funding for the health programme and other instruments promoting synergies in health (research, cohesion and cross-border cooperation) and tap European Stability Mechanism funds to lead us out of austerity.

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(1) Committee of the Regions, Charter for Multilevel Governance in Europe.
(2) EUR-Lex.
1.5. The EESC insists that when implementing the programme particular heed be paid to: combating social inequality in health; access to high-quality healthcare; continuity of care (including cross-border care) in all circumstances; support for and consolidation of universal health coverage systems; and the development of multidimensional European action in the sphere of public health in line with the principles of the European Pillar of Social Rights, including ‘health care’, ‘inclusion of people with disabilities’ and ‘long-term care’.

1.5.1. More specifically, the EESC calls for European guidelines to be adopted to meet the needs of the most vulnerable among us: people with a precarious existence, the elderly and people with disabilities, particularly those who have to live in facilities accommodating considerable numbers of people, which have been hit hard across Europe by the pandemic and its aftermath.

1.5.2. Special attention must be paid to strengthening the rights of the elderly and people with a disability; in particular, a framework for joint assessment needs to be drawn up providing for a personalised care plan, prioritising assistance in the home or in small residential homes, ensuring that residential care is governed by criteria of quality and accessibility, and providing the long-term care that these people need. The very high mortality rates in many care homes for the elderly and for people with a disability must focus attention on the need to improve care home management, something that has been called into question in many EU countries. As a general principle, the entire policy of support for elderly people should be reviewed, partly in connection with the European Commission’s work on the impact of demographic change in Europe. In line with work already carried out on specific determinants of health, the EESC calls for clear and innovative guidelines to be drawn up, putting human beings and the human rights of the elderly and the most fragile people at the heart of priorities.

1.6. The EESC regards coordinated European governance in health as a priority. This should include methods for implementing the health programme, with appropriate funding and initiatives to make the ‘Europe of Health’ a reality. The Committee also calls for an operational approach to ‘Health in all policies’.

1.7. Given the ongoing emergency, the risk of a resurgence in pandemics and the inspiration offered by experience with the ‘Europe of energy’ and defence and civil protection measures, the EESC proposes that a European mechanism for coordination and rapid intervention should be deployed as soon as possible.

1.8. A task force of experts must be set up immediately to act as a knowledge and resource coordinator to create a network of the best virology and epidemiology centres and the best diagnostic capacities.

1.9. The EESC’s idea is that, working in part with the army’s emergency response units, this task force must make an inventory of available and easily allocated resources, including emergency departments, and must provide for the dispatch of mobile units. It must link up the best available resources, in terms of artificial intelligence and IT support, to develop simulations and strategies.

1.9.1. The task force should also delve into the state of health of the whole health workforce itself, which is critical not only for the right to health, but also for an effective response to any further crisis. The task force could also lay the foundations for a European specialisation of ‘crisis and emergency medicine’, as suggested by the Commission document.

1.9.2. The cost of this crucial operation would appear to be very modest, since most of the members are already employed by universities, research institutions or military health services.

1.9.3. The EESC considers that it is vital that this task force be made operational immediately.

1.9.4. The EESC regrets that during the pandemic, which is still ongoing, the authoritative voice of the European Commission was missing: by drawing on top-level European experts, the Commission could have shed light on both the use of cordons sanitaires to restrict people’s movement and the impact of the virus on the population, and could have debunked often contradictory ideas regarding aspects of and developments in the disease. The European institutions responded to previous epidemics with tangible measures, such as setting up the Directorate-General for Health (DG SANTE) or establishing the European Centre for Disease Prevention and Control (ECDC). The EESC feels that this dynamic needs to be kept up.

1.10. The EESC believes that the health programme can only achieve real results by adopting an inclusive approach that involves international organisations (including the World Health Organization, with which collaboration and synergies should be stepped up), the Convention on the Rights of Persons with Disabilities (UNCRPD) and those health sector stakeholders most familiar with people’s situations, and by conducting regular assessment of the objectives.
1.11. The EESC stresses the value of healthcare personnel, who work in a particularly sensitive and difficult sector, and calls for constant monitoring to anticipate their needs in terms of training, organisation, protective equipment and economic and social well-being.

1.12. The EESC strongly supports European public/private partnerships in the field of health along the lines of the IMI 2 Joint Undertaking, and upholds the joint efforts to redevelop European technology and manufacturing by making greater use of European scientific and health bodies seeking to create a genuine European health space.

2. Learning lessons from the multidimensional crisis triggered by the coronavirus pandemic

2.1. The coronavirus pandemic has shone a spotlight on the fragility of the health systems of many countries around the world, including EU Member States whose systems have been affected by weak public investment and the direct application of European economic governance imperatives imposing budgetary restrictions. The amount of funding allocated to health systems thus differs greatly from one Member State to another, as does the amount of funding allocated by each Member State to combating the coronavirus pandemic.

2.2. Europe is confronting a triple threat — uncontrolled pandemics and an increase in social inequality with regard to health, inadequate economic policy toolboxes and geopolitical ‘black swans’ — which could jeopardise the health and well-being of its people and push the global economy into a lasting depression, triggering financial market crashes and capital flight.

2.3. The coronavirus crisis has once again flagged up the importance of restoring the balance between human activity and nature. The impact of the environment (together with climate change, air quality, biodiversity, food systems, etc.) on health has been made abundantly clear.

2.3.1. The Commission and the European Parliament, which have been working hard on sustainable development, environment and biodiversity issues, should do more to make their voices heard. Most importantly, at this difficult time and with the assistance of top-level European experts, they should give Europeans advice and possible solutions based on science on how to cope more safely with the difficult health situation which is causing confusion and suffering.

2.4. Non-communicable diseases (NCDs) are rising steadily in Europe and are the chief cause of disability and death in Europe: heart disease, diabetes, cancer and respiratory diseases make up 77 % of the burden of disease and 86 % of premature deaths. Many NCDs are linked to a combination of factors, including environmental ones.

2.5. The Green Deal presented by the European Commission lays the groundwork for a new sustainable and inclusive growth strategy seeking to improve people's health and quality of life, to preserve nature and to ensure that no one is left behind.

2.6. Border areas are particularly well-suited to European action in the field of health. These areas are usually geographical regions characterised by strong mobility. They have been the first to see the benefits of agreements or conventions between bordering countries aiming to boost access to healthcare.

2.7. However, the cross-border health cooperation begun more than 20 years ago by the INTERREG programmes and founded on negotiation, constructive action, organisation and sometimes complex solutions between stakeholders was swept away in just a few hours by the arrival of COVID-19 and unilateral decisions to close borders taken without any consideration for the situation in cross-border areas nor any desire to keep up this spirit of cooperation.

3. Reinforcing health systems and the capacity of the European Union (EU) to act

3.1. The COVID-19 pandemic has had and is still having a strong impact at global, European and cross-border level, particularly on individuals and society and on economic, social and health infrastructures. It has been made quite clear that both health and crisis management systems need to be bolstered.

3.2. The EU’s objectives with regard to health policy are promoting health, safeguarding against threats to health and coordinating strategies between the Member States. The COVID-19 pandemic has shown that cooperation and coordination between EU countries are vital for dealing with the crisis.

3.3. The EU's capacity to respond to emergencies must be reinforced in order to combat any further cross-border health threats effectively. Generally speaking, this should be combined with the roll-out of the European Pillar of Social Rights (and particularly principle 16 thereof) and with broader EU competences in the field of health, including by revising the European Treaties.
3.4. While the EU currently has only supporting competences in the field of public health, a factor which limits what it can do, it acts in this matter through its other policies, particularly the cycle of economic and internal market policy coordination.

3.5. A Europe of health must be a priority for the Future of Europe: EU4Health is the first step in this direction.

3.6. The EU has implemented several initiatives which need to be continued and consolidated, two of which deserve particular mention: European reference networks (ERNs) and European plans.

3.7. Since 2017, the ERNs have been intended to link up European experts on rare illnesses. These networks ensure that it is the information that moves around rather than the patients themselves, so that patients receive the best possible care without the inconvenience of being transferred from one treatment facility to another. They now cover more than 900 highly specialised healthcare facilities in more than 300 hospitals. This model could be applied to other health conditions.

3.8. In terms of governance and working methods, the EU has five agencies together with other bodies such as the European Medical Corps and the White Helmets enabling it to react more swiftly to emergencies.

3.9. National governments are supported by two agencies with regard to health issues. The European Centre for Disease Prevention and Control (ECDC) assesses and monitors emerging threats of disease in order to coordinate the response to them. At the same time, the European Medicines Agency (EMA) manages scientific assessment of the quality, safety and effectiveness of all medicines in the EU. Other agencies carry out key additional tasks.

3.10. The current COVID-19 crisis has shown that now more than ever before, greater priority must be given to allocating resources to health under the future Multiannual Financial Framework.

3.11. The experience gained from the crisis has shown us that further efforts are needed to ensure that health systems are ready to provide state of the art medicines and medical services, technologies and products and are prepared to cope with epidemics and other unpredictable crises and challenges.

3.12. We need a system that can meet future demands and is crisis-resistant in order to guarantee timely access to safe, good quality and effective medicines in all circumstances, tackle shortages of and dependence on imported medicines and active pharmaceutical substances due to their being manufactured outside the EU and, most importantly, we need to be able to boost cooperation and coordination between regulatory authorities in the event of emerging threats to health.

3.13. We need to invest on the ground, strengthening local assistance and home care in order to remain close to people through technologies for distance monitoring, telemedicine, apps or personalised medical devices stemming from the ‘4Ps’ approach to medicine (Predictive, Preventive, Personalised and Participatory). We also need to invest in boosting mandatory health insurance, initially at national level and subsequently to be coordinated more broadly at EU level (5).

4. Giving Europe resources on a par with its ambitions

4.1. Investments in health and the various financial programmes must be coordinated, with a cross-cutting approach. Treatment, prevention and promotion must all be taken into consideration.

4.2. Horizon Europe also now provides for a series of missions or research partnerships with ambitious objectives seeking to find answers to urgent problems which have an impact on people’s daily lives.

4.3. One issue which will assume considerable importance in European financing policies is the digitalisation of the health sector. In this respect, Horizon Europe has again, under the health cluster, earmarked EUR 1 bn solely for the development of information and communication technology (ICT) solutions in the field of prevention, diagnosis, treatment and care.

(*) https://www.ecdc.europa.eu/en
4.4. The Connecting Europe Facility (CEF) has allocated around EUR 80 m to the development and interoperability of e-health systems. The future Digital Europe also plans to support the creation and consolidation of a common European space for health data, to include the standardisation of types of shared data and an agreement on common indicators in which Eurostat will be actively involved.

4.5. The EU's Emergency Support Instrument has been triggered for the health sector. The RescEU reserve, part of the EU Civil Protection Mechanism (6), focuses on rapid, direct responses to the health crisis.

4.6. Health must be promoted as a priority in INTERREG cross-border cooperation programmes, which are managed on a delegated basis.

5. Deploying an ambitious joint European response as part of the recovery process

5.1. In its resolution adopted on 17 April 2020 (7), the European Parliament called for a specific budget to support national health systems during the crisis with greater investment in order to make the European health sector more resilient and help countries in difficulty. It also called for a new autonomous European health programme to be set up.

5.2. The Committee has on several occasions given its views on European health policy (8). On 17 March 2020, the EESC and its members called for stronger solidarity and joint action at European level in order to combat the consequences of the pandemic effectively.

5.3. Like recovery, the various measures adopted by the European institutions under EU4Health must be inclusive and involve all health stakeholders (health insurance organisations, mutual societies, etc.).

6. Rolling out an integrated, cross-sectoral health programme

6.1. The EESC welcomes the Commission’s initiative for a coordinated and integrated response with European-level management of health crises triggered by pandemics, giving a fully European dimension to health policy, prevention and early remote diagnosis networks, the reinforcement of innovation and health research and the development of digital health technologies.

6.2. The Committee also emphasises the need for better European coordination on targets relating to non-communicable diseases and chronic disabling conditions and draws attention to safeguarding vulnerable groups, to mental health issues and to combating loss of autonomy among older people.

6.3. The EESC stresses the importance of the One Health approach, adopted on the understanding that generally speaking a response cannot focus on a single sector and that improving treatment is not the only solution; it is clear that public health problems must instead be tackled by means of a comprehensive, integrated approach.

6.4. The Committee considers that coordination is fundamental and cannot be relegated to one of over 70 possible measures with the potential establishment and operation of a mechanism for cross-sectoral coordination following the One Health approach. The EESC believes that this aspect must be prioritised, given that managing a mechanism for cross-sectoral coordination is key to dealing with crises.

6.5. The Committee believes that the proposed approach will ensure that we do not overlook the balance between human and animal health (see the role of potential animal reservoirs in communicable diseases) and ecosystems (such as focusing on the impact of sensitive waste disposal during a crisis), and that we build crisis resilience strategies around safeguarding vulnerable groups.


6.6. The EESC is however concerned that this coordinated approach to safeguarding against and preventing serious cross-border health threats and pandemics might end up being coordinated by a range of agencies (9) with specific backgrounds, missions and remits, agencies which appear unable to coordinate automatically and efficiently in the event of mobilisation and the need for an urgent, integrated response.

6.7. The EESC emphasises that the agencies should work together using a cross-sectoral coordination mechanism, and pool their efforts to generate proposals for the EU.

6.8. With regard to the agencies' governance and role, steps must be taken to boost the operational capacity of the European Commission's Directorate-General for Health and Food Safety (DG SANTE), the way it coordinates its work with that of the Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) and their cross-cutting follow-up of the health and social aspects of all European policies.

6.9. The EESC firmly believes that due account must be taken of the fact that three successive coronavirus epidemics have proven both around the world, and most recently in Europe, that shortcomings in providing immediate, integrated responses, inadequate capacity to manage information, the inability to coordinate responses, and even a lack of interest in doing so, the lack of resources and even more seriously shortcomings in sourcing and strategically managing potentially available resources have enabled epidemics to spread when they could have had a milder impact.

6.10. The Committee emphasises that the most critical aspect of the response to COVID-19 in many countries around the globe, and at least partly in Europe as well, has been the lack of any capacity to sound the alarm and deliver an integrated response. Given the need to act swiftly, the situation has been exacerbated by the lack of legal capacity to implement transitional emergency rules without delay. We therefore need to explore the possibility of a European rapid alert mechanism.

6.11. The EESC insists that health must be exempted from all measures involving the closing of borders. Health cannot have borders, and this principle must be enshrined in the European Treaties. In this respect, the EESC calls for measures recognising the mobility of health workers and patients.

6.12. The Court of Auditors has on several occasions spoken out about the need to boost Europe's presence in and action on health systems to bring them closer to Europeans across borders and improve health services, particularly for the most vulnerable and economically disadvantaged people. The EESC likewise calls on the Commission to give greater visibility to the social values clearly enshrined in the Treaties, which must in actual practice become an integral part of culture and action for a European Union of health.

6.13. The EESC endorses the position taken by the Court of Auditors which has on several occasions pointed out that European Union action on health needs to be improved, that efforts must be made to ensure cross-border convergence of health systems for the benefit of European citizens, and that health services need to be made more accessible, again particularly for the most vulnerable and economically disadvantaged people.

7. Adapting operational, functional and strategic measures

7.1. Increasing the total amount of human and financial resources is certainly laudable, but with an integrated approach and stronger cooperation the resources available at the time would have provided sufficient supplies and skills to contain outbreaks.

7.2. Coordination and cooperation are therefore fundamental for coping with the demands of a health emergency and for supporting economic activity and laying the groundwork for recovery.

7.3. The EESC considers it vital to establish an analysis, prevention and response simulation body within the ECDC which is able to provide the data needed to plan strategies and source the best available resources extremely quickly.

7.4. Applying the ERN (10) approach to other sectors would have the advantage of establishing consortia able to recruit top-level talent in Europe on issues relevant to the crisis and to lay the groundwork for a synergy-based approach.

7.5. However, the EESC considers that this approach does not go far enough as the real problem is who to put in charge of coordinating and finalising the work performed by these networks (or of setting up and managing networks of networks).

(9) See point 2.6.

7.6. European campaigns and plans must be developed, with a stronger focus on the most vulnerable. Promoting healthy lifestyles, prevention and testing, setting up integrated care and well-being pathways and combating social inequality are just some of the issues which must be tackled.

8. Regular monitoring and an inclusive approach to establishing progress in achieving the objectives

8.1. The EESC stresses the need to focus on checking and quality control indicators for the programme’s objectives. General ‘macro’ programme indicators are crucial, but promoting and deploying European resources to deal with one or more crises requires a flexible system which, in order to meet contingencies and changing demands, must be able to continually produce ad hoc ‘micro’ indicators to respond to the constant contingencies planned.

8.2. The Committee considers that steps must be taken to establish a pool of Member State health operators and experts in various disciplines. At least some of them must be skilled in dealing with health crises and of these, some should have experience of integrated working methods as used in European research, civil protection and military health systems.

8.3. The EESC welcomes the Commission programme highlighting the need for a crisis oversight mechanism. In addition to the proposed measures geared towards producing supplies and technologies, the EESC flags up the need to establish a coordination, planning, monitoring and guidance system for rapid prevention and intervention.

8.4. Whereas the Union’s role in health matters is to support the Member States, in the case of training its role is a central one. The role of verifying individual bodies in the health training sector must be stepped up (the EU must play a key role with regard to teaching hospitals as they also train health workers).

8.5. The EESC endorses balanced participation and an equal gender balance in decision making; in addition to the appropriate regulatory frameworks, adopting an approach which integrates gender issues into social and family life will contribute to an equal gender balance in decision making and political, economic and social life.

8.6. The Committee considers that the EU should constantly monitor quality in these health sectors: this should also focus on ensuring that the Member States provide sufficient health facilities and bodies for training which meets European requirements.

8.7. The EESC reiterates that digital solutions can promote equal access to healthcare, if the following conditions are met:

— they provide uniform local and regional coverage;

— they reduce the digital divide;

— the entire digital architecture is interoperable; and

— they comply with the general regulation on the protection of health data (11).

9. Supporting health workers

9.1. The EESC firmly believes that direct EU involvement in training health workers should be increased, partly in view of the fact that further reinforcing civil protection systems creates the need for a new career profile: that of expert in crisis coordination and monitoring. A person matching this profile must be present in every regional and local branch of civil protection.

9.2. A pilot project could be envisaged to set up a European school of university-level training, organised together with European universities.

9.3. In addition to training, the EESC recognises that the EU needs to push to establish decent working conditions for health workers, the real heroes of the crisis.

11. See footnote 5.
10. Making the EU a pioneer in the field of research

10.1. As regards the policy supporting research into medicines which might be useful during crises, it must be pointed out that part of this (particularly research into medicines already used in similar conditions) concerns medicines which are of little interest to the market as they are off patent. Independent research would therefore have to be encouraged, including on critical issues such as vaccines, partly to secure European sovereignty with regard to technology and manufacture.

10.2. A very recent study showed that the main universities are no longer ranked as high in terms of scientific production (2015-2019), a trend that is much more marked in Europe (only one European university is ranked in the top 30), whilst businesses specialising in internet services, technology and data analysis are becoming increasingly significant in the field of research.

10.3. The EESC considers that mechanisms are needed to identify synergies between EU4Health 2021-2027 and all other programmes and funds geared towards research and technological innovation in the field of health. These mechanisms would be able to boost innovation and the number of patents and to work alongside and foster high-level biomedical manufacturing.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – EU Biodiversity Strategy for 2030 – Bringing nature back into our lives’

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Rapporteur: Antonello PEZZINI (IT-I)  
Co-rapporteur: Lutz RIBBE (DE-III)

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1. Conclusions and recommendations

1.1. The EESC welcomes the Commission’s efforts to develop a Biodiversity Strategy for 2030 as one of the paths towards the European Green Deal and the global biodiversity framework proposed by the Convention on Biological Diversity (CBD).

1.1.1. At the same time, it regrets that the continued recommendations of the European Court of Auditors for a more timely application of biodiversity policy have not been taken into account.

1.2. In the EESC’s view, the biodiversity strategy is the way forward in putting Europe’s biodiversity at the heart of the post-COVID-19 recovery for the benefit of people, the climate and the planet.

1.3. Efforts to protect remaining natural resources need to be significantly increased in the EU, through sustained awareness-raising and communication campaigns targeting society and in particular young people, highlighting the benefits of protection measures.

1.4. To this end, the EESC considers it necessary, in agreement with the Commission, to increase the size of protected areas, in particular strictly protected areas, limiting the impact on agriculture and forestry as far as possible, although this will in no way be sufficient to halt the decline in biodiversity.

1.5. This is why the EESC believes that there needs to be a significant increase in efforts to restore habitats and combat species decline caused mainly by poor implementation of the legal framework and insufficient funding for the necessary measures.

1.6. The EESC believes that it is vital to highlight the importance of ecological connectivity and that, in this regard, a trans-European nature protection network needs to be set up to remedy the lack of methodology in the Habitats Directive.

1.7. The EESC recognises that, to achieve the recovery objectives, new, legally binding targets and sufficient independent funding are required. However, the measures taken voluntarily must also be encouraged.
1.8. The EESC regrets that the new financial plan 2021-2027 contains no sign of full, effective, consistent integration of biodiversity, and considers this to be a worrying indication that there are — yet again — significant discrepancies between words and actions. This is also clear from the various reports of the Court of Auditors published during the last two years on the incompatibility of agriculture, climate and biodiversity policies.

1.9. The EESC stresses that farmers and forest owners cannot be expected to bear the cost of protecting biodiversity. Rather, providing this ‘public good and value’ should become a useful source of income for them. It considers that the new economic recovery plan could include specific focus on this issue with investment in staff and resources to protect the content of the strategy.

1.10. The EESC considers it essential that some parts of the protected areas should be subject to strict protection (with non-intervention management). Only then can pure (and not ‘managed’) natural processes take place.

1.11. The EESC notes that the target of making 10% of land priority areas in the agricultural sector is not reflected in the CAP reform proposal currently under discussion, which only mentions a ‘minimum percentage’ without specifying a figure. The Committee recommends that any objective decided on should be realistic and shared.

1.12. The EESC is very pleased to see green infrastructure being strengthened, and calls on the Commission and the Member States to develop and implement a coherent green infrastructure strategy.

1.13. The EU should make trans-European networks for green infrastructure (TEN-G) an investment priority and provide them with adequate, targeted funding.

1.14. The EESC calls on the Commission to draw up a strong and comprehensive strategy for forests and the forest sector.

2. Background

2.1. The biodiversity strategy, understood as the variety of life on Earth — including ecosystems, communities, species and genetic resources — is a prerequisite for sustainable wellbeing and human wellbeing. It is a resource in itself and provides society with a wide range of essential ecosystem services, from supply of food and fresh water to pollination and protection from flooding. In addition to purely physical considerations, there are also ethical and moral reasons for protecting biodiversity.

2.2. EU action in the field of biodiversity is based on a number of articles of the TFEU:

— Article 4(2)(e), which gives the EU shared competence in the field of the environment;

— Article 11, which includes environmental protection requirements;

— Article 191, which governs EU policy on the environment.

In addition, the EU is a party to the United Nations Convention on Biological Diversity, signed in Rio de Janeiro in 1992 (1).

2.3. In secondary law, the EU has several legal acts for protecting and sustainably managing natural habitats and endangered species and for helping to incorporate biodiversity into EU policy and action.

2.4. Of particular importance is the Natura 2000 network, an EU-wide network of protection areas established by the Habitats Directive (2), which also includes the Special Protection Areas (SPAs) established under the Birds Directive (3); the Marine Strategy Framework Directive (4) and the Regulation on invasive alien species (5).

(1) The Convention on Biological Diversity.
2.5. However, despite the existing legal instruments and the many political pledges to halt the loss of biodiversity, it is under serious threat:

— as early as 1998 an EU biodiversity strategy was presented, and in 2001 EU heads of state and government committed themselves under the Gothenburg strategy to halting biodiversity loss — which had already accelerated alarmingly in Europe — by 2010 and to restoring habitats and natural systems within the same timeframe;

— in 2006, the Commission presented a biodiversity action plan (6), comprising 160 measures, for reaching the target set for 2010. However, that target has not been met owing to persisting clear gaps between aims and reality — something the EESC has repeatedly criticised in many opinions;

— in May 2011, following the Convention on Biological Diversity, which stressed the need to increasingly raise public awareness of the benefits of conserving biodiversity (Article 13), the EU presented another biodiversity strategy containing measures that were very similar to the previous strategies and the various EU environmental action programmes that had been adopted in the meantime. This strategy should have put an end to biodiversity loss and ecosystem service degradation in the European Union by the new deadline of 2020;

— in 2017, the Commission adopted an Action Plan to help Member States preserve species and habitats: 15 actions to be carried out by 2019 to implement the Nature Directives.

2.6. All the EU biodiversity programmes have set very ambitious targets, which the EESC has always supported. However, the results have been too limited. As a consequence, almost a quarter of wild animal and plant species in Europe are currently at risk of extinction, insects and pollinators are in rapid decline and ecosystem conditions have mostly deteriorated to such an extent that they are no longer able to fully provide their precious services. These situations of degradation are leading to huge economic and social losses for the EU countries.

2.7. The five main causes of biodiversity loss — changes in land and sea use, overexploitation of natural resources, pollution, climate change and the introduction and spread of invasive alien species — have further increased, largely obliterating the partial beneficial effects of the measures undertaken to contain the problem.

2.8. The EU has a great responsibility to discharge, particularly through its agricultural and fisheries policies, in which it defines the policy framework and provides billions of euro. Although it has been consistently recognised for more than 20 years that these sectors have to be reformed, hardly anything has been done to date. In this regard, the EESC draws attention to the various reports of the European Court of Auditors (7), some of which are very recent, and regrets to note that they are almost completely ignored in the relevant Commission, Council and Parliament documents.

2.9. A report published in 2019 by the Intergovernmental Science-Policy Platform on Biological Diversity and Ecosystem Services warned of an increase in the rate of species extinction and a decline in global ecosystem health. The report also makes clear that biodiversity loss can be neither reduced nor halted without fundamental structural changes in society. The authors of the report expect the changes needed to come up against considerable opposition from those who benefit from the status quo. However, it is possible and necessary in the public interest to find a way out of this situation (8). A Eurobarometer survey conducted in the EU Member States in December 2018 (over 27 000 respondents) revealed growing awareness of the significance and importance of biodiversity among EU citizens.

2.10. It would be appropriate to include a substantial reference to protecting biodiversity in the European Territorial Agenda, as mentioned in the German Presidency’s programme (9).

(7) See, for example, Opinion No 7/2018 concerning Commission proposals for regulations relating to the common agricultural policy for the post-2020 period (OJ C 41, 1.2.2019, p. 1) and Special Report 13/2020: Biodiversity on farmland: CAP contribution has not halted the decline
(8) IPBES, Summary for policymakers of the global assessment report on biodiversity and ecosystem services, 2018.
(9) Leipzig Charter and the Urban Agenda for the EU.
3. EU Biodiversity Strategy for 2030

3.1. The European Biodiversity Strategy for 2030 largely aims to achieve the targets set in the previous strategies.

3.2. This strategy is based on recommendations by the Council that the EU and its Member States must set an example and multiply their efforts to counter biodiversity loss and restore ecosystems. In December 2019, the Council provided strategic guidance for biodiversity covering the period up to 2030, in line with the Green Deal. The Council stressed the need for urgent global action at all levels to halt biodiversity loss and committed itself to:

— mainstreaming biodiversity into all relevant EU policies, first and foremost the new Common Agricultural Policy (CAP);
— eliminating subsidies that are harmful to biodiversity;
— more effective revision of implementation and reporting in the area of nature and biodiversity policies, measures and commitments;
— achieving full, effective, consistent integration of biodiversity into the planning and implementation of the EU's Multiannual Financial Framework 2021-2027;
— accelerating the transition towards a resource-efficient, safe, circular and climate-neutral economy that protects and restores biodiversity and ecosystem services;
— bringing national and international financial flows — particularly in the field of public procurement — into line with the global biodiversity framework.

3.3. The EESC has had the opportunity to express its views on biodiversity policy on a number of occasions (10), and notes once again here that what is lacking is political will and not the legal basis. Indeed, the Council's decision in December 2019, which is partly reflected in the strategy, contains nothing new, and is in danger once again of not being put into practice.

3.4. The EU's new biodiversity strategy not only aims to protect and restore nature in Europe, but addresses ecosystem service questions more decisively than previous strategies. It is also much clearer about the objectives of restoring lost habitats and sets out a path for the EU's biodiversity targets for COP 15, the key Conference of the Parties on Biodiversity, scheduled to take place in 2021.

3.5. The 2030 Biodiversity Strategy sets out three objectives for a coherent network of protected areas:

— legally protect a minimum of 30 % of the EU's land area and 30 % of the EU's sea area and integrate ecological corridors, as part of a true trans-European nature network;
— make a third of these areas strictly protected, i.e. 10 % of the EU's land area and 10 % of its sea area;
— effectively manage all protected areas, defining clear conservation objectives and measures, and monitoring them appropriately.

3.6. In order to restore degraded and fragile ecosystems (for which an effective legal framework is not yet in force) and to reduce the pressure on biodiversity, numerous measures are envisaged, inter alia, to:

— draw up a proposal for a new legal framework for nature restoration;
— by 2030, restore significant areas of degraded and carbon-rich ecosystems, prevent deterioration in conservation trends and status of habitats and species, and ensure that at least 30 % reach favourable conservation status or at least show a positive trend;
— halt and reverse the decline in farmland birds and insects, in particular pollinators;
— reduce the use and risk of chemical pesticides by 50 % and likewise reduce the use of more hazardous pesticides by the same amount;

— ensure that at least 10% of agricultural land qualifies as ‘areas of ecological focus’, including high-diversity landscape features;

— ensure that at least 25% of agricultural land is under organic farming management, and that the uptake of agro-ecological practices is significantly increased;

— plant at least three billion trees, with full respect for ecological principles, and protect remaining primary and old-growth forests;

— make significant progress in the remediation of contaminated soil sites;

— restore 25 000 km of the EU’s rivers to a free-flowing state;

— reduce the number of Red List species threatened by invasive alien species by 50%; reduce losses of nutrients caused by fertilisers by at least 50% and the use of fertilisers by at least 20%;

— ensure that cities with at least 20 000 inhabitants have an ambitious Urban Greening Plan;

— ensure that no chemical pesticides are used in sensitive areas such as EU urban green areas;

— substantially reduce the negative impacts on sensitive species and habitats, including on the seabed through fishing and extraction activities, to achieve good environmental status;

— eliminate by-catch of species or reduce it to a level that allows full species recovery and does not threaten their conservation status.

3.7. These objectives will be achieved, inter alia, by implementing the following measures:

— creating the conditions to enable transformative change to occur by putting in place a new process for improving biodiversity governance and ensuring that Member States incorporate the commitments outlined in the Strategy into their national policies;

— stepping up efforts to implement and enforce EU environment legislation;

— unlocking EUR 20 billion a year for biodiversity through various sources, including EU funds and national and private funding, including natural capital and biodiversity considerations in business practices;

— making the EU a world leader in addressing the global biodiversity crisis, bringing to bear all external action tools and international partnerships to achieve a new, ambitious UN global biodiversity framework;

— strengthening civil protection by establishing an EU policy in order to reinforce the scope for immediate reaction all over Europe in the event of forest fires;

— establishing regional fire brigade teams in the individual Member States so as to increase flexibility of action in case of forest fires;

— facilitating training for civil society in all Member States, using regional bases and setting up of small teams to make for rapid reactions.

3.8. To bring about this necessary, transformative change, the Commission plans to put in place a new European biodiversity governance framework. This will include a monitoring and review mechanism based on a clear set of agreed indicators. The need for a legally binding approach to governance will be assessed in 2023.

3.9. The Commission puts implementation and enforcement of EU environmental legislation at the heart of its strategy. The plan is both to improve cooperation with Member States and European networks, inspectors, police and prosecutors and to strengthen the role of civil society.

3.10. The strategy presented is for the EU, but the Commission stresses that there will be more focus on biodiversity protection at bilateral and multilateral level too, adding that the EU is ready to take on a leading role in a high-ambition coalition on biodiversity at the CBD COP 15.
3.11. The new 2030 strategy action plan sets out around 40 measures to be taken over the next four years, as shown in the indicative timetable attached to the proposal.

4. General comments

4.1. The EESC welcomes the Commission’s efforts to develop a Biodiversity Strategy for 2030 as one of the paths towards the European Green Deal and the global biodiversity framework proposed by the CBD.

4.2. The unprecedented biodiversity loss and spread of devastating pandemics are sending out a clear message: it is time to rethink our relationship with nature. In the EESC’s view, the biodiversity strategy is the way forward in putting Europe’s biodiversity at the heart of the post-COVID-19 recovery for the benefit of people, the climate and the planet. Biodiversity loss and the climate crisis are interdependent and influence each other. Consistently protecting and restoring forests, soils and wetlands and creating green spaces in cities are important in order to achieve climate mitigation by 2030.

4.3. The biodiversity strategy recognises the following link: efforts to protect natural resources which still exist need to be significantly stepped up in the EU, meaning that a) protected areas need to be expanded, in particular strictly protected areas. However, this will in no way be sufficient to halt the decline in biodiversity (not just in terms of the number of species, but above all in terms of the size of populations where there have been major declines, as evidenced by large-scale insect deaths). That is why b) significant efforts are also needed to restore habitats. Both objectives are explicitly supported by the EESC.

4.4. The EESC agrees with the Commission that the decline in protected species and habitats is mainly due to poor implementation of the legal framework and insufficient funding. The existing legal framework (essentially the Birds and Habitats Directives) focuses on endangered species and habitats, but biodiversity protection goes far beyond that — these directives do not cover insects or pollinators, and nor do they cover ecosystem services or green infrastructure.

4.5. The EESC therefore supports the Commission’s proposals to consider the introduction of additional legal instruments should the Member States fail to rapidly implement the new objectives in the coming years. The EESC also emphasises that the quality of protection and good practice at Member State level, such as voluntary protection measures, should be recognised and encouraged.

4.6. Besides the factors mentioned already, the EESC notes that there are additional factors causing the decline, among others human behaviour.

4.7. The EESC agrees with the Commission’s analysis that the ongoing dramatic decline in biodiversity requires the network of protected areas to be significantly expanded. In particular, there has not, thus far, been enough focus on protecting natural processes. The new target of making 10% of areas strictly protected will change this. These measures would have a positive impact in terms of the climate, protecting pollinators and insects and improving groundwater retention in local areas. In requiring a trans-European nature protection network to be set up, the Commission is seeking to remedy the lack of methodology in the Habitats Directive and rightly underlines the importance of ecological connectivity. In so doing, it also returns to the issue of green infrastructure, which, regrettably, after Commission Communication COM (2013) 249 final, was not developed with the necessary drive.

4.8. The EESC recognises that, to achieve the recovery objectives, new, legally binding targets are required. The 2020 biodiversity strategy sets a target of restoring 15% of degraded ecosystems. Achievement of this target has been totally inadequate, in particular because it was not legally binding.

4.9. The EESC welcomes the fact that the strategy is addressing the issue of financial needs more clearly. It has been recognised for some time that there is insufficient funding; until now only 20% of the needs of natural protection areas, including those in the Natura 2000 network \(^{(1)}\), have been covered, and the EESC’s financial estimates have always been much higher than those of Commission.

4.10. The Committee has also expressed clear support for a separate funding line which is independent of the agricultural budget, as has the European Court of Auditors.

4.11. In its opinion, the Court of Auditors observed that it is not clear what proportion of CAP expenditure is dedicated to biodiversity. According to the Commission, around 8% of the EU budget has been spent on protecting biodiversity (EUR 86 billion in the period 2014-2020). The Court of Auditors criticises the fact that, despite this, no positive effects have been recorded.

4.12. This is also due to the fact that the second pillar programmes, which are particularly effective in terms of biodiversity, are not only underfunded but are also mostly organised in a way that is unappealing to farmers in many Member States.

For many years, the EESC has also supported ways of, for example, making it easier for farmers to take measures to promote biodiversity, including, inter alia, a sufficient incentive component. The EESC stresses that while farmers and forest owners must also be required to protect biodiversity, they cannot be expected to bear the cost of this. Rather, providing this ‘public good’ should become a useful source of income for them.

4.13. The Commission states that there is a need for EUR 20 billion per year. One of the shortcomings of the biodiversity strategy is that it states a need for EUR 20 billion per year of financing without specifying either a) how this amount is calculated or b) how it should be covered.

4.14. The new Multiannual Financial Framework does not provide for this amount. This is surprising since, in December 2019, the Council called for ‘the full, effective and coherent integration of biodiversity […] into the design and implementation of the new Multiannual Financial Framework (MFF) 2021-2027’ (see point 3.2). In any case, the EESC can see no sign of this, and considers this to be a worrying indication that there are — yet again — significant discrepancies between words and actions.

4.15. The EESC criticises the fact that, in this biodiversity strategy, the Commission fails yet again to implement the Council recommendations of December 2019 on financial support for biodiversity protection measures and does not propose effective measures to end all subsidies that are harmful to biodiversity. In addition, in relation to the Council’s request for more effective revision of implementation and reporting in the area of nature protection and preserving biodiversity, the Commission has yet to propose adequate instruments.

4.16. The EESC agrees with the Commission that, for most protected areas, sustainable management practices are a good way to preserve or boost high biodiversity values. However, the EESC considers it essential that part of the protected areas be subject to strict protection, which means non-intervention management. Only then can natural processes be effectively protected.

4.17. The EESC therefore welcomes the intention of increasing the proportion of areas under strict protection, and highlights the fact that the protection of natural processes is of the utmost importance for biodiversity protection, particularly in times of dramatic climate change. It is very much welcomed that a very high priority has been given to strict protection (with non-intervention management) of primary and old-growth forests. However, the EESC points out that, in particular, privately-owned primary and old-growth forests cannot really be effectively protected without substantial compensation payments. In this connection, the EESC points to and applauds the action taken by environment NGOs, which are acting as environment watchdogs, and the constant interventions by firemen engaged in protecting areas which are often rich in biodiversity. For state-owned primary and old-growth forest land, the EESC would have liked to see a Commission recommendation on suspending felling activities. Current forest protection disputes in several EU Member States show that there is significant economic pressure on state-owned areas as well.

4.18. The EESC stresses that the Common Agricultural Policy needs to be brought into line with the biodiversity strategic objectives (12), European climate law, the Farm to Fork Strategy and the goals of the European Green Deal.

4.19. The EESC deplores the fact that neither the most recently proposed Multiannual Financial Framework nor the European Recovery Plan include any additional expenditure to protect biodiversity.

(11) In November 2018, the European Court of Auditors strongly criticised the Hogan proposals for post-2020 agricultural reform and determined that they did not meet the environmental objectives.
4.20. The EESC considers it important to have a strong and comprehensive strategy for forests and the forest sector. This is particularly necessary because the EU does not have a common forest policy based on legislation.

4.21. The EESC notes that the target of making 10% of land priority areas in the agricultural sector is not reflected in the CAP second pillar reform proposal currently under discussion, which only mentions a ‘minimum percentage’ without specifying a figure. The fact that this requirement is recognised by the Commission and yet is not taken into account in the parallel reform process sends out an extremely negative signal.

4.22. The EESC is very pleased to see green infrastructure being strengthened, and calls on the Commission and the Member States to develop and implement a coherent green infrastructure strategy. The EU should make trans-European networks for green infrastructure (TEN-G) an investment priority and provide them with adequate, targeted funding.

4.23. As well as legally binding restoration targets, a new legislative initiative is announced to expand protected areas if the Member States do not follow the Commission’s guidelines and recommendations. The EESC deems these legislative measures to be essential if the Member States do not radically overhaul their protection of biodiversity. The legislative initiative announced for 2024 should therefore lead to the development of a comprehensive biodiversity directive that also addresses the other shortcomings discussed in this opinion and which should be accompanied by an impact assessment providing a better assessment of trade aspects.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
The following amendment, which received at least a quarter of the votes cast, was rejected during the discussions:

**Point 4.18**

Amend as follows:

*The EESC stresses that the Common Agricultural Policy needs to be brought into line with the biodiversity strategic objectives, European climate law, the Farm to Fork Strategy and the goals of the European Green Deal. It is important that implementation of biodiversity strategy will not threaten food security or the livelihood of rural areas in the EU.*

**Result of the vote:**

For: 59  
Against: 106  
Abstentions: 8
Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A From Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system’

(COM(2020) 381)
(2020/C 429/34)

Rapporteur: Peter SCHMIDT (DE-II)
Co-rapporteur: Jarmla DUBRAVSKÁ (SK-I)

Referral
Commission, 17.6.2020

Legal basis
Article 304 of the Treaty on the Functioning of the European Union

Section responsible
Section for Agriculture, Rural Development and the Environment

Adopted in section
8.7.2020

Adopted at plenary
16.9.2020

Plenary session No
554

Outcome of vote
208/4/7

1. Conclusions and recommendations

1.1. The Communication on ‘A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system’ aims to enhance the economic, environmental and social sustainability of food systems. The COVID-19 crisis has successfully tested the strength and resilience of the European agri-food system, and hence proven the security of food supply in the EU, but also shown that getting food ‘from farm to fork’ cannot be taken for granted. It must be seized as an opportunity to reshape supply chain dynamics and deliver lasting improvements for producers, processors and retailers.

1.2. A comprehensive EU food policy should, according to the EESC, deliver: (i) economic, environmental and socio-cultural sustainability; (ii) integration across sectors, policy areas and levels of governance; (iii) inclusive decision-making processes; and (iv) a combination of compulsory measures (regulations and taxes) and incentives (price premiums, access to credit, resources and insurance) to accelerate the transition towards sustainable food systems. The proposed strategy doesn’t reflect those objectives sufficiently.

1.3. The budget for the CAP must not be decreased or kept at the current level, but should be increased in line with those objectives. Cuts to rural development funding could be detrimental, given that it contains some of the most relevant tools for supporting the transition. While the additional EUR 15 billion proposed under the COVID-19 recovery package are welcome and necessary, they are no replacement for long-term commitments.

1.4. Approval of CAP Strategic Plans should be conditional on Member States adopting comprehensive plans to reshape the food environment that link incentives for healthy and sustainable food production with the creation of new markets for those products.

1.5. Fair food prices (reflecting the true cost of production for the environment and society) are the only way to achieve sustainable food systems in the long term. The EU and Member States should take action to ensure that farmgate prices stay above the costs of production and that healthy diets become more readily accessible. In order to do so, it will be necessary to deploy the full range of public governance tools, from hard fiscal measures to information-based approaches to make the true costs visible.
1.6. Cheap imports often imply high social and environmental costs in third countries. Without changes in EU trade policies, the objectives of the strategy will not be met. The Committee urges the EU to ensure true reciprocity of standards in preferential trade agreements.

1.7. The strategy fails to address sustainable land management and access to land. This is a major omission given that it represents one of the main obstacles to renewal of the farming population, without which the EU’s basis for sustainable and productive farming will be lost.

1.8. An impact assessment should be undertaken for the different ways to achieve every target set in the strategy, taking into account the state of play in each Member State.

1.9. The option of a European Food Policy Council, as put forward in previous EESC opinions, should be explored (including its financial viability). Food policy councils already exist at local level, bringing together diverse food system actors across a specific area to resolve challenges, reconnecting cities to food production in the surrounding regions and ensuring effective governance of local and regional food policies.

2. Introduction

2.1. The European Commission’s Communication on ‘A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system’ is a key component of the European Green Deal. It aims at contributing to Europe’s climate change agenda, protecting the environment and preserving biodiversity, ensuring farmers’ and fishers’ position in the value chain, encouraging sustainable food consumption and promoting affordable and healthy food for all without compromising on the safety, quality and affordability of food. It is the first EU strategy claiming to encompass the entirety of the food chain.

2.2. The COVID-19 crisis has made it more urgent than ever to increase the resilience of EU and global food systems, which will be further tested by future shocks, from climate change to new disease outbreaks and labour shortages (1). The crisis has underlined the fact that getting food ‘from farm to fork’ cannot be taken for granted and has demonstrated the interconnectedness of actors and activities in agriculture and throughout the food system. It requires crisis support measures as well as steps to ensure recovery and rebuilding in the longer term. The Farm to Fork Communication and the EU Biodiversity Strategy rightly recognise the need to build post-COVID resilience by enhancing the economic, environmental and social sustainability of food systems. Turning these strategies into meaningful and timely actions is now crucial.

2.3. Farmers across the EU have already taken steps to increase sustainability and further improve standards. Farmers and food system workers (in agriculture, processing and distribution) have been on the frontlines of the COVID-19 crisis and assured an uninterrupted supply of food for all European citizens; they systematically shoulder risks while retaining a low share of the value added in the food system. In any case, farmers will necessarily be expected, also in the future, to go much further in building sustainability and resilience than has been the case to date. Given the difficult economic situation in which the great majority of farmers now find themselves, such necessary fundamental shifts can only come about if the right political and economic incentives are put in place; the EESC does not see the CAP reform proposals as taking effective steps in this direction. It is therefore imperative to ensure that the considerably better conditions are in place for food produced locally and sustainably in the EU (2) to be competitive with regard to imports, and not only for the costs and benefits of transition to be shared equitably (between different social groups, sectors and regions, as well as between current and future generations) but also for funds to target support for sustainable farming. The Farm to Fork Strategy must be seized as an opportunity to fundamentally reshape supply chain dynamics and deliver durable improvements in farmers’ incomes and livelihoods. The Committee reiterates that the European Green Deal must be a Green and Social Deal in all its components.

(2) In order for a comprehensive European food policy to be truly relevant for European consumers, it is essential that the food produced sustainably in the EU is competitive. This means that the European agri-food sector is able to deliver food for the consumers at prices that include extra costs for criteria such as sustainability, animal welfare, food safety and nutrition but also a fair return to the farmers, and at the same time maintains its position as the preferred choice for the vast majority of consumers. Opinion Civil society’s contribution to the development of a comprehensive food policy in the EU, paragraph 5.8 (OJ C 129, 11.4.2018, p. 18).
2.4. As far as imports of raw agricultural products and foodstuffs are concerned, the EESC would have expected the F2F strategy to have made as clear a statement as the one the Commission made when announcing a carbon border adjustment for industrial products, since our farmers (and consumers) must be protected from imports that do not meet European sustainability criteria — all the more so since it is clear that our current standards need to be raised. However, the F2F completely fails to do this.

2.5. The EESC welcomes the release of the Farm to Fork Strategy, which represents a crucial opportunity to achieve the objectives described above. In this opinion, the Committee identifies some gaps in the Farm to Fork Communication and Action Plan (vis-à-vis the ambitions of the European Green Deal and the Committee’s own proposals for a comprehensive food policy (3)) and provides guidance on how the Farm to Fork Strategy can be taken forward and translated into an effective roadmap for transition.

3. The foundations of an effective Farm to Fork Strategy: governance, accountability, objectives and resources

3.1. Since 2016, the EESC has been calling for the development of a comprehensive food policy in the EU, with the aim of providing healthy diets from sustainable food systems, linking agriculture to nutrition and ecosystem services and ensuring supply chains that protect public health for the whole of European society (4). A broad civil society coalition has also come together to co-develop a detailed blueprint of a ‘Common Food Policy’ for the EU, in a three-year process led by IPES-Food (5).

3.2. In line with the recommendations in the above-mentioned texts, a comprehensive EU food policy should deliver: (i) economic, environmental, and socio-cultural sustainability; (ii) integration across sectors, policy areas and levels of governance; (iii) inclusive decision-making processes; and (iv) a combination of compulsory measures (regulations and taxes) and incentives (price premiums, access to credit, resources and insurance) to accelerate the transition towards sustainable food systems. It should accelerate the development of a circular economy and reduce the environmental impact of the food processing and retail sectors by taking action on transport, storage, packaging and food waste. It should also be equipped to address the new situation post COVID-19, in particular the need to improve crisis management and reinforce safe and fair working conditions across the chain.

3.3. While the Farm to Fork Communication and Action Plan identifies many relevant tools, it lacks effective governance mechanisms. Firstly, actions must be grouped under a set of overarching, goal-oriented objectives that describe the food systems the EU hopes to put in place in the medium- and long-term (6). Rather than addressing specific parts of the chain, these objectives must be cross-cutting (7). This is essential in order to: (i) highlight the need for whole-of-chain approaches and fair cost-sharing to address the challenges in agriculture; (ii) allow for different solutions to be prioritised and avoid an ‘à la carte’ approach where incompatible solutions are included; (iii) ensure that alternative measures (with equivalent effects) are introduced in the event of initially-planned actions being delayed or derailed; (iv) ensure that quantitative and qualitative targets are accompanied by the full suite of measures required to meet them (and that they are thus feasible), and add further targets if required to meet the stated objective; and (v) provide a robust basis for ensuring alignment of different sectoral policies (e.g. CAP, trade, environment, health development and food safety) with the Farm to Fork Strategy.

3.4. To be effective, the Farm to Fork Strategy needs to be accompanied by a clear framework with targets, indicators and a robust monitoring mechanism, but without increasing bureaucracy. The EESC has already recommended the development of an EU sustainable food scoreboard, which would allow food system challenges to be addressed through a multi-year

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(4) See footnote 3.
(6) Specific objectives of relevance for a comprehensive strategy, and the types of action required to meet them, are detailed below, drawing on opinions developed by the EESC.
(7) One exception in the Farm to Fork strategy is the reference to achieving ‘healthy and sustainable diets’; while this objective is goal-oriented, it is positioned as a consumer imperative rather than emphasising the need to address it along the whole chain.
approach, thereby promoting policy alignment at different levels of governance. The scoreboard would provide indicators and would thus encourage and monitor progress towards meeting the targets that have been set(8).

3.5. An effective Farm to Fork Strategy should reduce costly externalities from agriculture and ensure that all farmers are fairly remunerated by markets; it will therefore be highly cost-effective in the longer term. However, the transition to sustainable and competitive food systems requires urgent investment. In particular, major efforts and capital investment are required to achieve the levels of climate and environmental action identified in the European Green Deal and to help farmers to implement sustainable approaches. These goals cannot be achieved if key funding flows are interrupted. Cuts to rural development funding could be detrimental, given that it contains some of the most relevant tools for supporting transition, as noted in the Farm to Fork Communication. The Committee also reiterates the importance of earmarking EUR 10 billion for research on agriculture, rural development and the bioeconomy, as provided for by the European Commission in its proposals for the 2021-2027 Multiannual Financial Framework (MFF). While the additional EUR 15 billion for rural development and agri-food research proposed under the COVID-19 recovery package are welcome and necessary, they are no replacement for long-term commitments.

3.6. A wide range of stakeholders across food systems have a role to play in overseeing the development and implementation of the Farm to Fork Strategy. While improved cooperation between existing bodies should be prioritised, a dedicated multi-stakeholder governance structure will be required. In exploring options, it should be ensured that the new governance structure: (i) adopts democratic and inclusive approaches in line with best practice in current bodies, notably the Multi-stakeholder Platform on the SDGs; (ii) has a clear mandate that includes consideration of how well sectoral policies like the CAP are aligned with the Farm to Fork Strategy; and (iii) includes strong and diverse representation of farming groups, civil society (including EU, national and grassroots organisations) and supply chain actors. The situation must be avoided whereby agricultural interests engage only on CAP, and civil society only on the Farm to Fork Strategy; tensions must be confronted and a pathway to transition agreed by all actors.

3.7. The option of a ‘European Food Policy Council’ (9), as put forward in previous EESC opinions, should be explored (including its financial viability). A European Food Policy Council should be consulted on the implementation of the Farm to Fork Strategy. It should be created as soon as possible. Food policy councils already exist at the local level, bringing together diverse food system actors across a territory to resolve challenges, reconnecting cities to food production in the surrounding regions and ensuring effective governance of local and regional food policies (10). As the COVID-19 crisis has shown, resilient supply chains depend on effective action at the local level, where civil society can work with state and commercial partners to plug the gaps in food provisioning (11). A European Food Policy Council would accelerate the alignment of policies at EU, national and local levels (i.e. multi-level governance). It would bring together representatives of local food policy councils and stakeholders from civil society and across the supply chain (including farmers, workers and consumers), providing a platform for stakeholders to learn from each other through the sharing of good practice; ensuring that all points of view from the various sectors are taken into account; and identifying obstacles to the promotion of sustainable food at local level.

4. Key areas where further action is required

4.1. Healthy and sustainable diets

4.1.1. Healthy and sustainable diets represent a key pillar of a comprehensive food policy, as we urgently need to reorient our diets in order to improve — the health of both ecosystems and the public, and the vitality of rural territories (12). The Farm to Fork Communication recognises the need to ensure that healthy and sustainable options are the
The Farm to Fork Strategy could offer a unique opportunity to reshape food environments, which requires a number of different policies to be aligned on the supply- and demand-side, and at EU, national and local levels, including steps to: (i) tackle unhealthy marketing and advertising through regulatory action; (ii) ensure easy-to-use, reliable and independent consumer nutrition information; (iii) introduce healthy pricing policies; (iv) support sustainable public food procurement; (v) drive product (re)formulation; (vi) create healthy retail, restaurant, urban and school environments; and (vii) invest in consumer education. These steps must be complemented by social policies to ensure that low income and disadvantaged groups have increased access to healthy and sustainable diets.

However, the Farm to Fork Communication and Action Plan fails to outline comprehensive action across these policy areas and relies on codes of conduct, pledges and other self-regulation tools (13) that have proven ineffective to date. The European Commission's plan to make recommendations to Member States (in the remit of CAP Strategic Plans) on how to meet the objectives of the CAP and Farm to Fork Strategy, including health objectives, is welcome. However, action on diets cannot be optional. Approval of CAP Strategic Plans should be conditional on Member States adopting comprehensive plans to reshape the food environment that link incentives for healthy and sustainable food production with the creation of new markets for those products. This would also be in line with the Commission's commitment to promote production and consumption of organic foods.

With regard to the provision of reliable nutrition information and guidance, the EESC has called for the development of new Sustainable Dietary Guidelines that take into account cultural and geographical differences between and within Member States. Sustainable Dietary Guidelines would help create a clearer direction for farms, processors, retailers and the catering industry, and the agri-food system would benefit from a new framework to produce, process, distribute and sell healthier and more sustainable food at a fairer price (14).

A fair food supply chain with fair prices

The EESC has already urged a ban on all Unfair Trading Practices (UTPs) (15). The food supply chain is particularly vulnerable to UTPs, due to strong imbalances between small and large operators and between producers with long-term engagements and more flexible traders. A regulatory approach and a legislative framework with effective and robust enforcement mechanisms is the way UTPs can be effectively addressed at EU level.

The Farm to Fork Communication rightly recognises the essential work done by farmers and workers along the food chain (including those working under precarious conditions), and the need to ensure their health and safety in line with commitments under the European Pillar of Social Rights. However, the Committee regrets that this is not accompanied by concrete steps in the Action Plan. Furthermore, the EESC regrets the failure to link fair conditions to fair food prices, and considers that fair food prices (reflecting the true cost of production for the environment and society) are the only way to achieve sustainable and equitable food systems in the long term. Currently, big retail and multinational processors are making the highest profits while farmgate prices are too low to guarantee farmers' livelihoods and decent working conditions, and often do not even cover production costs. The share of EU food chain value going to farmers dropped from 31 % in 1995 to 24 % in 2005 (16), and has more recently been estimated at around 21 % (17). The compression of farmgate prices has been allowed to occur, based on a narrow interpretation of EU competition law, whereby consumer welfare is equated with the lowest possible price. This must be changed, including in the EU Treaties.

(13) The Farm to Fork Communication states that the European Commission will 'seek commitments from food companies and organisations to take concrete actions on health and sustainability'.

(14) See footnote 12.


4.2.3. In the remit of the Farm to Fork Strategy, the EU and Member States should take comprehensive action to ensure that farmgate prices stay above the costs of production, and that healthy and sustainable diets become relatively more affordable and available. In order to do so, it will be necessary to deploy the full range of public governance tools, from hard fiscal measures to information-based approaches to make the true costs visible, drawing on the best emerging methodologies for true cost accounting (18). The EESC reiterates the importance of investing in education on sustainable diets from an early age, to help young people appreciate the value of food and fair prices. Special attention must be paid to vulnerable groups, especially elderly and low-income populations. New forms of labelling that show the share of value going to farmers should also be explored. All steps affecting prices should be carefully sequenced to avoid rapid shifts, and accompanied by the monitoring of impacts on low-income families (19) to ensure that their access to healthy diets increases, not decreases, as a result of policy interventions.

4.2.4. Farmers’ markets, Community Supported Agriculture (CSA), consumer cooperatives and other short supply chain initiatives provide a crucial avenue for farmers to increase added value and receive fair prices, particularly for those practising organic farming or applying other environment-friendly methods that are not covered by a label. Local and regional authorities are often involved, putting local food governance systems in place that bring together the various players concerned and, in particular, fostering the use of local produce in mass catering. The EESC deplores that its previous opinions have not been followed by the Commission in this regard.

4.2.5. This re-localisation fosters jobs and local dynamism. It also increases resilience, as shown by responses to COVID-19 at all levels of the supply chain (producers, processors and retailers). Rural areas are one example of a domain where consumer cooperatives are usually the last business operator standing. For consumers, short supply chains offer a source of fresh, high-quality produce that is enriched by its history and the human relations involved, and acts to stimulate interest and educate people about the value of food, as well as rebuilding trust in food systems (20). Solidarity-based, cooperative initiatives also play a key role in developing education materials for schools and vigorous awareness-raising to combat food waste and obesity, especially among children. While the benefits of short supply chains are recognised in the Farm to Fork Communication, concrete actions and allocations of funding (including in CAP strategic plans) are required to further develop these chains and remove all barriers to their flourishing across the EU.

4.3. Strengthening the external dimension of the Farm to Fork strategy

4.3.1. Without changes in EU trade policies, the objectives of the Farm to Fork Strategy will not be met. The Farm to Fork Communication and Action Plan includes important steps to strengthen the sustainability provisions of the EU’s bilateral Free Trade Agreements (FTAs) and the enforcement of those rules. However, as noted by the French and Dutch authorities (21), more can be done to ensure compliance with international agreements, and to streamline the procedures for notifying and acting on breaches of sustainability commitments. Furthermore, the Committee urges the EU to ensure true reciprocity of standards in preferential trade agreements, particularly regarding welfare, sustainability, and traceability from farm to fork, building on and mainstreaming what has been achieved in some recent bilateral provisions (22). A Carbon Border Tax, as mandated in the Mission Letter to the Executive Vice-President-designate for the European Green Deal (23), remains essential to prevent EU farmers and food companies being undercut by imports from countries that fail to take climate mitigation seriously. Silence on the Carbon Border Tax, carbon pricing and GHG monitoring of imports is therefore regrettable and severely undermines the ambitions of the Farm to Fork Strategy and the Green Deal.

19 See footnote 12.
21 Non-paper from the Netherlands and France authorities on trade, social economic effects and sustainable development.
22 For example, duty-free access to EU markets for eggs was made conditional on alignment with EU hen welfare standards for the first time in the EU-Mercosur FTA: https://www.theguardian.com/environment/2019/oct/02/eu-imposes-hen-welfare-standards-on-egg-imports-for-first-time
4.3.2. The Farm to Fork Communication fails to acknowledge the impact of EU exports on small-scale producers in developing countries, or the role of EU-based multinational companies in contributing to unsustainable practices around the world. New enforcement capabilities must be first and foremost directed at EU-based companies, who must be accountable for ensuring that their supply chains are free from deforestation, land-grabs and rights violations. The EESC therefore welcomes Justice Commissioner Reynders’ commitment to introduce binding Human Rights and Environmental Due Diligence requirements for EU companies, and calls for additional sector-specific measures to be considered in the remit of the Farm to Fork Strategy. As noted by the European Parliament [24], due diligence obligations are particularly urgent for operators in ‘forest-risk commodity’ supply chains (e.g. beef, soy, palm oil).

4.3.3. Most importantly, the Farm to Fork Strategy fails to acknowledge the circularity of global agricultural markets and the reciprocal influence traded volumes exert on both the importing and the exporting country. It represents a crucial opportunity to reset the EU’s external objectives, in line with the ambitions of the European Commission’s ‘Trade for All’ Communication [25]. This long-term reflection is missing from the Farm to Fork Communication. FTAs continue to drive unsustainable consumption growth, with a huge environmental impact in third countries — particularly deforestation [26]. It is necessary to challenge the continuing expansion of trade volumes as the ultimate goal of EU policy (particularly in high GHG-emitting sectors, and in the strategic sectors requiring a diversity of robust chains in the wake of COVID-19). It is also essential to find new ways of raising standards, promoting sustainable practices and ensuring that new opportunities for sustainable production can be harnessed by small-scale farmers in the EU and developing countries. These reflections should be pursued in multilateral fora such as the UN Committee on World Food Security (CFS) and Codex Alimentarius, rather than be limited to bilateral negotiations, where farmer and civil society participation is limited, power imbalances are significant, and trade liberalisation remains the ultimate goal. The planned legislative framework on sustainable food systems can provide a starting point. First and foremost, it must serve to establish a clear definition of sustainable food systems, in line with existing EU definitions of environmental sustainability [27].

4.4. Supporting farmers in making the transition to resilient, diverse, agroecological systems

4.4.1. The Farm to Fork Communication and Biodiversity Strategy include crucial steps to rebuild and protect soil and agro-ecosystems, notably targets for the agricultural area under high-diversity landscape features (10 %) and land under organic farming (25 %). However, the starting position of different Member States should be considered. The Farm to Fork Communication fails to address sustainable land management and access to land. This is a major omission given that it represents one of the main obstacles to renewal of the farming population, without which the EU’s basis for sustainable and productive farming will be lost. The EESC has proposed an EU framework aimed at protecting agricultural land in the Member States that is valuable for food production [28]. However, these commendable purposes would need an adequate financial support that is lacking in the current budget proposals. Likewise, the Communication does not give guidance on how the demand for organic products should be further increased. The target for landscape features will be very costly for some farmers to meet. The EESC calls for an impact assessment on the implementation of this goal.

4.4.2. The EESC considers that agroecology is the horizon towards which European agriculture should be working [29], requiring a paradigm shift that builds up diversity at all levels (species, farms, landscapes and livelihoods). As a science, a technique and a social movement, agroecology looks at the food system in its entirety and seeks to bring producers closer to their environment by safeguarding and even restoring the complexity and wealth of the agro-eco-social system. However,

[27] This definition can build on and align with the definition of environmental sustainability enshrined in the European Commission action plan on financing sustainable growth.
[28] Land use for sustainable food production and ecosystem services (OJ C 81, 2.3.2018, p. 72).
the Farm to Fork Communication still treats agroecology as a niche option, to be supported among other options through research policies and CAP eco-schemes. It therefore fails to identify the need to redesign and re-diversify agriculture across the EU, despite the need for such a shift to occur in order to achieve the stated targets and goals of the Farm to Fork Strategy and Biodiversity Strategy (including pesticide, fertiliser and antibiotic reduction targets).

4.4.3. The EESC also urges that more to be done to study and promote other farming methods that increase biodiversity and reduce input use, in addition to the development of organic farming described above. This may also include the promotion of precision farming, while bearing in mind the high investment costs; these alone will not be able to be covered by many small and medium-sized farms. The potential of resource-, soil- and environment-friendly farming methods can be realised through the integration of soil, fertiliser, pesticide and yield data, which requires better access to data contained in national databases, greater mobility and greater user-friendliness, etc. The use of information and communication technologies should be promoted.

4.4.4. In light of COVID-19, it is more urgent than ever to restructure the livestock sector in a way that reduces its vulnerabilities and its impact on workers, the environment and animal welfare. The Farm to Fork strategy will in no way be able to meet this challenge. It would have to devise and include steps to reduce the reliance on imported protein feed and to reintegrate livestock into mixed agroecological systems. For years, political circles in Europe have been philosophising about a 'European protein strategy', but nothing has actually happened. On this matter too, the F2F strategy says too little and any references it makes are not binding enough. It completely fails to reflect on what the oft-praised principle of the circular economy would mean for European agriculture. The EESC wonders, for example, how the huge quantities of feed imports from, for example, South America, which are also partly responsible for the dire deforestation of rainforests, are compatible with the circularity principle.

4.4.5. The Farm to Fork Communication does not provide enough detail on how farmers will be supported in adopting new practices. While transition-based payments under eco-schemes would require major funding to meet the new ambitions, the income support function of CAP payments is vital and will remain so for years to come, even as steps are taken to ensure that food prices reflect the true costs (see 4.2). Advisory services will need to be well resourced to accompany farmers in major production shifts. If the objectives of the European Green Deal and F2F are to be met, the budget for the CAP must not be decreased or kept at the current level, but should be increased in line with those objectives. Costs related to the objectives of the European Green Deal go far beyond the current programming period. It should be clarified what the financial demands on future national budgets will be in order to fulfil the actions of European Green Deal and meet the targets/indicators of the European Green Deal.

4.4.6. The Farm to Fork Communication rightly notes the need to account for Member States’ different starting points. Practices vary greatly in terms of farm intensity per hectare, stocking density per hectare, use of pesticides, fertilisers and antibiotics per hectare and per animal, and animal welfare. An impact assessment should be undertaken for every target set in the European Green Deal and F2F Strategy, taking into account the different state of play in Member States. However, the EESC also underlines the need for a level playing field between Member States and requests more clarity on how the risk of diverging standards will be addressed through implementation of the Farm to Fork Strategy and the CAP strategic plans, and in what timeframes. The Committee considers that tailored approaches should apply to the speed of transition but not the ultimate targets and goals to be reached.

Brussels, 16 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in Ukraine on cereal seed-producing crops and on the equivalence of cereal seed produced in Ukraine

(COM(2020) 137 final – 2020/0053 (COD))

(2020/C 429/35)

Rapporteur working alone: Arnold PUECH d’ALISSAC

Referral Council of the European Union, 17.4.2020
European Parliament, 16.4.2020

Legal basis Article 43(2) of the Treaty on the Functioning of the European Union

Section responsible Agriculture, Rural Development and the Environment

Adopted in section 29.6.2020

Adopted at plenary 18.9.2020

Plenary session No 554

Outcome of vote 213/1/4


1. Background and Commission proposal

1.1. Council Decision 2003/17/EC (1) grants equivalence to certain non-EU countries as regards field inspections and the production of seed of certain species (2).

1.2. These provisions governing seed harvested and controlled in those countries afford the same assurances as regards the seed’s characteristics and the arrangements for its examination, for ensuring seed identification, for marking and for control as the provisions applicable to seed harvested and controlled within the European Union.

1.3. Since Ukraine is not included in those non-EU countries listed in Decision 2003/17/EC, import into the European Union of cereal seeds harvested in that country is currently not possible. Ukraine has submitted a request to the Commission for its cereal seed to be covered by Council Decision 2003/17/EC as equivalent.

1.4. Following this request, the Commission has carried out an examination of the applicable Ukrainian legislation and conducted an audit of the field inspections and seed certification system for cereal seed in place in Ukraine. It was concluded that its requirements and system in place are equivalent to the ones of the Union and offer the same assurance as the Union’s system.

1.5. The Commission therefore proposes to recognise Ukrainian seed as equivalent to cereal seed harvested, produced and controlled in the European Union through a Decision to be adopted by the European Parliament and the Council.

2. Considerations and recommendations

2.1. The EESC notes the positive outcome of the audit carried out by the Commission in Ukraine in accordance with the requirements set out in Annex II to Decision 2003/17/EC, with a view to recognising the equivalence of the legal requirements and official controls for the certification of cereal seed. The EESC observes, however, that the audit report notes that certain standards are not fully aligned with EU requirements, particularly those relating to the isolation distance.
for certified seed for sorghum, which are lower, the varietal purity of parental lines used for the production of seeds for hybrids of maize, and the content of seeds of other species for certified seed for maize.

2.2. In line with its previous opinions (3), the EESC agrees with the legislative proposal under examination but proposes that it not be applied until the EU has, after ex-post controls, received guarantees showing that the limitations indicated in the audit report have been remedied, that production standards in Ukraine now comply strictly with European requirements, that an absence of unfair competition can be guaranteed and that any harmful effects on the environment have been excluded.

2.3. The Committee agrees that this recognition of equivalence may potentially benefit EU seed companies operating in Ukraine, potential EU importers of seed from this countries, and EU farmers, who will henceforth have access to a wider range of seed, but there must be a mirror system of controls for imports and the same consumer protection must be guaranteed.

Controls of competition must be applied in both directions to make sure that trading conditions are not distorted for European organisations operating in the EU.

2.4. The EESC must, however, underline certain technical aspects concerning seed production methods that differ between Ukraine and the European Union, in particular as regards access to plant protection products. Ukrainian producers in fact have access to a wider range of plant health products that EU producers, and have access to certain substances that are banned in the European Union. These divergences lead to a distortion of competition and would result in products which do not comply with EU health and environmental standards being able to enter the territory of the European Union. The most significant differences include access to active weed control substances such as atrazine (banned in the EU since 2003) or acetochlor (banned in the EU since 2012). In addition to the health impacts, access to these substances with a wide working spectrum, persistent character, high technical efficiency on weeds and low cost, gives Ukrainian producers a definite competitive advantage. With regard to pest protection, Ukrainian producers still have access to active substances in the neonicotinoid family, some of which are banned in the EU, such as clothianidin, thiamethoxam or very soon thiacloprid.

2.5. On the basis of the European Green Deal, it is necessary to protect, conserve and strengthen the EU's natural capital and protect people's health and wellbeing from environmental risks, and therefore it is essential that Ukraine stop using chemical products for seed production which the EU has banned from its territory. Ukraine must uphold the same level of requirements as the EU, commit to fully complying with all conditions of the Paris Agreement and allow the concluded agreements to be assessed annually. Differences cannot be allowed to persist or grow. Otherwise seeds cannot be allowed onto the EU market.

2.6. The EESC has taken note of the Commission's position that recognition of certification procedures for the products in question is a technical measure. However, in the light of the above points and the fact that opening the EU market to third-country products will have an economic and social impact, the Committee recommends that before taking any decisions, the Commission carry out an impact analysis to ensure that European producers (in the sense of growers and seed businesses), and small and medium-sized enterprises in particular, will not be affected by this measure.

2.7. On the basis of this analysis, and since the current free trade agreement with Ukraine does not guarantee fair trade with comparable tax, social and environmental standards, it is necessary to review firstly the FTA and, more broadly, European trade policy, in order to prevent unfair competition. This review is in fact envisaged by the European Commission in its announcement of 16 June, with an in-depth examination of EU trade policy and the opening of a public consultation.

2.8. This is particularly significant between Ukraine and the EU in the area of maize seeds, with a far lower ex-factory production cost in Ukraine (for example, the difference with French production costs was estimated to be 26 % in 2019). A combination of these decisions would jeopardise the European maize seed multiplication sectors.

2.9. As lessons are learned from the COVID-19 crisis, dependence on third countries in a sector of strategic importance for food sovereignty is unacceptable and must therefore be dealt with upstream.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHER

(COM(2020) 215 final – 2020/95(COD))

(2020/C 429/36)

Rapporteur: Gabriel SARRÓ IPARRAGUIRRE

1. Conclusions and recommendations

1.1 The EESC reiterates the views it set out on the proposal for a Regulation under consideration in Opinion 2018/05155 (1), the conclusions and recommendations of which were as follows.

1.2 The EESC believes that the conservation and enforcement measures adopted by the Northwest Atlantic Fisheries Organisation (NAFO) should be transposed into EU law, with a view to achieving their uniform and effective implementation within the EU.

1.3 However, the Committee is of the view that the proposal presented does not establish an efficient mechanism for transposing the measures adopted by NAFO and does not resolve the issue of having to update these measures each year.

1.4 The Committee is in favour of a more efficient, simpler mechanism and therefore proposes drafting a regulation that contains a single article stipulating that the European Union must without fail apply NAFO measures to its fleet.

1.5 The EESC stresses the risks involved in introducing a system of delegated acts, granting the Commission the power to legislate without following ordinary procedures.

2. Summary of the Commission proposal

2.1 The main aim of the proposal under consideration is to transpose into EU law the conservation and enforcement measures adopted at the 41st annual meeting of the Northwest Atlantic Fisheries Organisation (hereinafter referred to as NAFO), held in September 2019.

2.2 A number of technical amendments are thus proposed in relation to terminology concerning catch and effort limitations, closure of fisheries, catch retained on-board, mesh sizes and fishing and production logbooks, including additional inspection duties and simplifying the monthly catch reports.

2.3 Specific editorial changes are proposed for Greenland halibut, the production logbook and infringement procedures, making references to this organisation’s website on the control and surveillance of fishing vessels.

(1) EESC opinion on Conservation and control measures in the Northwest Atlantic Fisheries Organisation (OJ C 159, 10.5.2019, p. 60).
2.4 Other proposed measures concern clarifying the use of gauges and the conservation and management of sharks, proposing a ban on the targeted fishing of Greenland shark and a reduction in by-catches of this species. Provisions on chartering arrangements are also clarified.

2.5 The proposal also delegates to the Commission powers to amend the conservation and enforcement provisions on technical issues such as mesh sizes, sorting grids or grates and toggle chains in Northern prawn fishing, and area restrictions for bottom-fishing activities. The aim of all of this is to transpose into EU law, in an efficient and simple way, any possible future amendments to be adopted by NAFO which concern these conservation and enforcement measures.


3. **General comments**

3.1 The EESC believes that the conservation and enforcement measures adopted at the last annual meeting of NAFO should be transposed into EU law so as to ensure that they are applied uniformly throughout the EU.

3.2 The Committee believes, however, that the transposition procedure is still not based on an efficient mechanism, since these measures are amended every year and the EU’s bureaucratic procedures are very slow, leading to a continuous time-lag between the rules adopted by NAFO and EU legislation.

3.3 The EESC points out that we are examining this proposal for a regulation precisely because no other, more efficient procedure, such as the one proposed by this Committee in 2019 and supported by the Member States’ authorities and the sectors concerned, has yet been adopted. This would be a simple regulation containing a single article, which would include a commitment by the European Union to apply the rules approved by NAFO each year to its fleet without fail.

3.4 The Committee warns that the current procedure gives rise to a situation of legal uncertainty, not only for businesses but also for authorities themselves, due to the conflicting regulations; furthermore, it creates distortions in the implementation of measures with regard to non-EU fleets.

3.5 In the Committee’s view, the only aspect that will be facilitated by the introduction of a system of delegated acts is that the Commission will be able to establish rules without having to follow the ordinary procedures.

Brussels, 18 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER

1. Conclusions and recommendations

1.1. The EESC welcomes the initiative of the Member States and the European Commission to review Member States’ progress in implementing the set of key measures recommended in the conclusions of the EU toolbox of strategic and technical measures for the secure deployment of the 5G ecosystem.

1.2. The EESC considers that, in view of the increasing complexity and variety of 5G applications (the Commission has set the following connectivity targets for 2025: schools, universities, research centres, hospitals, main public service providers and digitally intensive enterprises should have access to data upload and download speeds of 1 Gbps; urban and rural households should have access to a download connectivity speed of at least 100 Mbps; urban areas, major roads and railways should have uninterrupted 5G coverage), this review of the 5G ecosystem and the Commission’s measures to safeguard the cybersecurity of 5G networks and a diverse 5G value chain, technical standardisation and certification, foreign direct investment, trade defence and competition, public service obligations, procurement and cyber diplomacy should cover geopolitical security, infrastructure and data security and health safety, including pursuant to Article 168(1) TFEU.

1.3. The EESC believes that it is important for the European 5G ecosystem to ensure integrity, confidentiality, management and operational responsibilities, safety, fungibility of supply, interoperability of hardware and software components, common technical standards, continuity of service, flow reliability and data protection, coverage in all areas, including sparsely populated areas, clear communication targeting users as active digital market players, and proactive adherence to the ICNIRP guidelines seeking to protect the health of the population, while reducing radiation as much as possible. Accordingly, ICNIRP has updated the radio-frequency EMF part of the 1998 Guidelines. This document presents these revised guidelines, which provide protection for humans from exposure to EMFs from 100 kHz to 300 GHz. Health Phys. 118(5):483–524; 2020- MARCH 2020. ICNIRP (2020) has made a number of changes to ensure that new technologies such as 5G will not be able to cause harm, regardless of our current expectations.
1.4. The EESC asks the Commission to strictly monitor progress in the deployment and real use of 5G and calls on the Member States to further accelerate the process and ensure a responsible implementation, catering for all safety and security aspects, including those relating to the impact of 5G technology on public health and living ecosystems, the social and economic impact, the impact on competition, education and training, and securing respect for fundamental rights.

1.5. The EESC calls for the EU to be a global leader in the next generation of 5G mobile technology, equipped with secure digital infrastructure as a solid building block of a new, modern European industrial strategy through a radical shift in mobile connectivity and with huge dynamic potential to increase productivity and boost the economy and services for the people.

1.6. In particular, the EESC believes it is vital to assess the risk profile of suppliers and apply relevant restrictions for suppliers considered to be high risk — including necessary exclusions to effectively mitigate risks and define liabilities — for key assets defined as critical and sensitive in the EU coordinated risk assessment.

1.7. The EESC believes that it is indispensable for Europe to take a medium-term approach to autonomy and self-sufficiency in this field and advocates strongly for research and a range of European companies. The EESC considers it important to increase EU resources for digital R&I and support operator and supplier investment in new technical security functionalities, which should be able to go hand in hand with the ability of the market to recognise and remunerate all initiatives aimed at increasing the security and resilience of systems.

1.8. It is important to ensure security for all Member States, including by maintaining research centres in a variety of areas of the EU: in addition, the EESC reiterates its suggestion of having at least two suppliers for each country, at least one of which is European, in order to ensure political security of data and respect for health requirements.

1.9. The EESC believes that more attention should be given to instruments for users, citizens and relevant civil society organisations, which are limited and inefficient, in addition to the focus rightly placed on the appropriate measures regarding the power of national regulators and the role of telecommunications operators, with the aim of promoting consumer empowerment, and building consumers' capacity in order to make them proactive market players.

1.10. The Commission, the EP, the Council and the governments and parliaments of the Member States should provide a democratic framework for consultation, where scientific or technological issues, legal guarantees and the responses of the relevant institutions to questions from civil society can be presented to the public.

1.11. The EESC recommends that European technological diplomacy be strengthened to enable the EU to ensure more balanced, reciprocal conditions for trade and investment, in particular as regards market access, subsidies, public procurement, technology transfers, industrial property and social and environmental standards.

2. Introduction

2.1. 5G network security is an issue of strategic importance for citizens and companies, the entire single market and the EU's technological sovereignty. As early as 2013, the Commission launched the EU flagship initiative setting up a 5G public-private partnership (5G PPP) to speed up research and innovation in 5G technology.

2.2. With worldwide revenues estimated to reach over EUR 100 billion in 2025, 5G is a key asset for Europe to compete in the global market and its cybersecurity is crucial for ensuring the strategic autonomy of the EU.

2.3. 5G networks are built on the current 4th generation (4G) of network technologies and on fibre optic infrastructure, providing new service capacities and becoming the central infrastructure and the enabling factor for a large part of the EU's economy, to form the backbone of a wide range of services essential for the operation of the internal market and for the maintenance and management of vital economic and societal functions, such as energy, transport, banking and health services, and the agricultural and industrial systems of production, distribution and consumption.

2.4. The central role of 5G networks in achieving the digital transformation of the EU economy and society, the interconnected and transnational nature of the infrastructures underpinning the digital ecosystem and the cross-border nature of the threats involved mean that any significant vulnerabilities and/or cybersecurity incidents concerning 5G networks happening in one Member State would affect the Union as a whole. This is why measures should be provided for to underpin a high common level of cybersecurity of 5G networks.
2.5. In 2016, the Commission — in the framework of a set of initiatives starting with the Communication on Connectivity for a Competitive Digital Single Market — Towards a European Gigabit society (1) (2) and including a reform of the regulatory framework for electronic communications (3) and the functions of the Body of European Regulators for Electronic Communications (BEREC) (4), the priorities for ICT standardisation for the digital single market (5) and promotion of internet connectivity in local communities (6) — adopted an EU Action Plan for 5G (7), on which the EESC issued a positive opinion (8), to strengthen the EU’s efforts to deploy 5G infrastructure and services in the digital single market with a roadmap for public and private investment in 5G infrastructure in the EU and a target for rolling out 5G commercial networks by 2020.

2.6. According to the definition provided in the Commission Recommendation (9), ‘5G networks’ means ‘a set of all relevant network infrastructure elements for mobile and wireless communications technology used for connectivity and value-added services with advanced performance characteristics such as very high data rates and capacity, low latency communications, ultra-high reliability, or supporting a high number of connected devices.’

2.7. The Recommendation specifies that the Commission will support the implementation of an EU approach on 5G cybersecurity and will act, as requested by Member States, using, where appropriate, all the tools at its disposal to ensure the security of the 5G infrastructure and supply chain:

— telecoms, multimedia and cybersecurity rules,

— coordination on standardisation as well as EU-wide certification,

— foreign direct investment screening framework to protect the European 5G supply chain,

— trade defence instruments,

— competition rules,

— public procurement, ensuring that due consideration is given to security aspects,

— EU funding programmes, ensuring that beneficiaries comply with relevant security requirements.

2.8. In July 2019, the Member States sent the results of their national risk assessments to the Cooperation Group established by the NIS Directive (10) (made up of representatives of each Member State), the Commission and ENISA, with information on the main activities, threats and vulnerabilities according to standard ISO/IEC 27005 in the area of 5G and the primary risk scenarios, describing the potential ways in which threat actors could exploit the vulnerabilities of an activity: these national assessments were used as the basis for a subsequent coordinated assessment and a joint toolbox of possible risk mitigation measures.

2.9. In October 2019, the NIS Cooperation Group, with the support of the Commission and ENISA, published a report on the EU Coordinated Risk Assessment on Cybersecurity in 5G Networks, which identified several significant security challenges related to key technological innovations in software, applications and services, and to the role of providers in the deployment and use of 5G networks and the degree of dependence on individual suppliers:

— greater exposure to attacks and an increase in the number of potential access points for the perpetrators of these attacks,

— greater sensitivity arising from the new architectural features and functionalities of 5G networks,

— risks related to the reliance of mobile network operators on suppliers, with an increase in the number of attack paths that could be exploited by threat actors,

(1) Article 168(1) TFEU: ‘Union action, which shall complement national policies …’.
(2) COM(2016) 587.
(3) COM(2016) 590.
(7) COM(2016) 588.
— importance of the risk profile of individual suppliers in terms of possible interference from outside the EU,

— greater risks arising from heavy reliance on suppliers in the event of any supply disruptions caused by trade or other tensions,

— threats to the availability and integrity of networks in relation to security, confidentiality and privacy.

2.10. These challenges create a new security paradigm, making it necessary to reassess the current policy and security framework applicable to the sector and its ecosystem, and making it essential for Member States to take the necessary mitigating measures.

2.11. On 21 November 2019, ENISA published a report entitled Threat landscape for 5G networks, which contains its assessments of the threats linked to fifth generation mobile telecommunications networks and complements the EU Member States’ report.

2.12. On 29 January 2020, the NIS Cooperation Group published the Cybersecurity of 5G networks — EU toolbox of risk mitigating measures \(^{(11)}\) with a possible common set of measures for mitigating the major cybersecurity risks of 5G networks and providing guidance for the selection of measures that should be prioritised in national and EU mitigation plans. On the same day, the Commission adopted a Communication supporting the toolbox \(^{(12)}\), which is the subject of this opinion.

2.13. The main 5G network infrastructure stakeholders are:

— citizens, consumers and end users of 5G,

— mobile network operators (MNOs): entities providing mobile network services to users, managing their network with the help of third parties,

— suppliers of mobile network operators: entities providing services or infrastructure to MNOs to build and/or operate their networks. This category comprises: telecommunications equipment manufacturers; other third party suppliers, such as cloud infrastructure providers, system integrators, security and maintenance contractors and transmission equipment manufacturers,

— manufacturers of connected devices and related service providers: entities that supply objects or services that will be connected to 5G networks (e.g. smartphones, connected vehicles, e-health) and associated service components accommodated by the 5G control plane as defined in the service-based or Mobile Edge Computing architecture,

— other stakeholders, including service and content providers.

All these stakeholders are important stakeholders for security, both in terms of contributing to the cybersecurity of 5G networks and as potential entry points or attack vectors. It is therefore important to assess the risks related to their position in the 5G ecosystem.

2.14. The main conventional kinds of threats are in the area of compromising confidentiality, integrity and availability. More specifically, it was found that a number of threat scenarios for 5G networks concern in particular:

— disruption of the local or global 5G network (availability),

— spying on data traffic in 5G network infrastructure (confidentiality),

— modification or re-routing of data traffic in 5G network infrastructure (integrity and/or confidentiality),

— destruction or alteration of other infrastructure or digital information systems through 5G networks (integrity and/or availability).

2.15. The threats posed by states or state-supported actors are perceived to be of the utmost significance as these are the most serious and most likely threat actors, as they can have the motivation, intent and, above all, the capability to conduct persistent, sophisticated attacks on the security of 5G networks.


While many of these vulnerabilities are not specific to 5G networks, their number and significance is likely to increase with 5G owing to the increased level of complexity of the technology and greater reliance by economies and societies on this infrastructure in the future.

2.16. In particular, as 5G networks will largely be based on software, the main security flaws, such as those resulting from equipment suppliers’ poor software development processes, could make it easier for actors to intentionally insert deliberate backdoors in products and make them also more difficult to detect. This may increase the potential for their use to have a particularly severe and widespread negative impact. While the cybersecurity issues of 4G have not yet been fully resolved, 5G problems might grow exponentially.

2.17. There are also vulnerabilities linked to the process or configuration to be considered:

— lack of specialised and trained staff to protect, monitor and maintain 5G networks,

— inadequate internal security controls, insufficient monitoring practices and safety management systems and weaknesses in risk management practices,

— inadequate security or operating maintenance procedures such as software upgrading/patch management in 5G networks,

— failure to comply with 3GPP standards or incorrect implementation of standards,

— network design or architectural deficiencies, including lack of effective emergency and continuity mechanisms and inadequate or incorrect configuration, for example in virtualisation or administration or access rights,

— inappropriate criteria for local and remote access to network components,

— insufficient security requirements in the supply process: this vulnerability can take the form of inadequate supplier selection strategies or a failure to prioritise security over other aspects.

2.18. Individual suppliers’ profiles must be assessed against a number of factors, in particular: the possibility that the supplier will be subject to interference from a non-EU country facilitated by close links between the supplier and the government of a given third country; third-country legislation, in particular where legislative or democratic checks and balances are not in place and where, as a result, the company’s subsidiaries operating in the EU might be deterred from following EU legislation, or where there are no security or data protection agreements between the EU and the country in question; the nature of the supplier’s corporate ownership structure; the third country’s capacity to exert any form of pressure, including with regard to the place where the equipment is manufactured; the general quality of the supplier’s cybersecurity practices and products, including the degree of control over its supply chain and whether security practices are prioritised properly.

2.19. Member States have agreed to ensure that measures are put in place to respond adequately and proportionately to the risks identified and possible future risks. In particular, they agreed to ensure that they would be able to restrict, prohibit and/or impose specific requirements and conditions on, under a risk-based approach, the supply, distribution and operation of 5G network equipment.

2.20. To this end, Member States should:

— strengthen security requirements for mobile network operators such as strict access controls, rules on secure operating and monitoring, and limitations on outsourcing of specific functions,

— assess the risk profile of suppliers on the basis of objective and clear criteria; as a consequence, apply relevant restrictions following the principles of proportionality and legal certainty for suppliers considered to be high risk — including necessary exclusions to effectively mitigate risks — for key assets defined as critical and sensitive in the EU coordinated risk assessment,

— enact globally recognised and implemented and consensus-based security standards and best practices,

— ensure that each operator has an appropriate multi-vendor strategy to avoid or limit any major dependency on a single supplier or suppliers with a similar risk profile,
— ensure strict access control and secure network management, operation and monitoring, and use certification for 5G network components and/or processes. This strategy needs to be based on a risk analysis conducted by Member States and operators, so that the choice of a multi-vendor strategy does not increase the risk level for the operator’s network,

— ensure an adequate balance of suppliers at national level and avoid dependency on suppliers considered to be high risk, including by promoting greater interoperability of equipment,

— maintain a diverse and sustainable 5G supply chain in order to avoid long-term dependency by making full use of EU foreign direct investment screening instruments, trade defence instruments, competition rules and EU procurement rules,

— strengthen EU internal capacities in 5G and post-5G technologies, by using relevant EU programmes and funding, and ensure coordination between Member States on standardisation through enhanced ‘testing’ and ‘auditing’ capabilities, to meet specific security objectives and develop relevant EU certification schemes under the Cybersecurity Act and promote interoperability.

2.21. As repeatedly pointed out by the Commission, the European internal market is and remains open to people wishing to come to Europe, as long as they all comply with clear, demanding rules based on objective criteria.

2.22. On 6 June 2020, the Council underlined the importance of strengthening digital sovereignty and cooperation in the EU and creating synergies through EU programmes such as the Connecting Europe Facility and the Digital Europe Programme, with the development of digital skills and the development of the data economy, and the importance of artificial intelligence and cybersecurity, with the digital sector having an active role to play in achieving the goals of the Green Deal.

3. The Commission Communication

3.1. In response to the NIS Cooperation Group’s 5G security toolbox, the Commission:

— is undertaking to act, as requested by Member States, using, where appropriate, all the tools at its disposal to ensure the security of the 5G infrastructure and supply chain,

— is calling on the Member States to ensure implementation of effective risk mitigating strategies, and to take further steps to ensure coordination at EU level for a concerted approach to the security of 5G networks,

— is asking the Member States to implement the set of measures recommended in the conclusions of the EU toolbox and to prepare a joint report on their implementation while the NIS Cooperation Group continues to work to support the implementation of the toolbox,

— has set out — in the sectors within its remit — measures safeguarding the cybersecurity of 5G networks and a diverse 5G value chain, technical standardisation and certification, foreign direct investment, trade defence and competition, procurement and cyber diplomacy, as well as its relevant programmes and funds dedicated to R&I, cohesion and development.

4. General comments

4.1. The EESC firmly believes that the new 5G technologies can change the way we interact with the world, offering opportunities for new applications, business models, new lifestyles, smart factories, greater productivity and new quality services for people, potentially opening doors to breakthrough technologies such as automated cars and advanced manufacturing and distribution systems, as well as making possible many thousands of interconnected devices set to enter our daily lives as part of the Internet of Things (IoT). However, the EESC would expect the EC to strengthen the impact and feasibility studies and the cost-benefit analysis of 5G compared to the use of 4G technology or fibre optic telecommunications. The EESC considers it essential that 5G is oriented to achieve a better circular use of resources and to reduce the large energy-related CO₂ footprint. The EESC highlights the importance of dealing with social structural changes by enhancing a fair and smooth transition and addressing the skills gap to get to better paid, flexible, highly skilled jobs.
4.2. This triple threat — uncontrolled pandemics, inadequate economic policy toolboxes and geopolitical ‘black swans’ — could push the global economy into a lasting depression and financial market crashes and capital flight, just when all sections of European society are becoming increasingly aware that sustainable economic development and the current digital revolution — of which 5G is a cornerstone — require ways of simultaneously combining technological sovereignty, productivity gains and a more efficient use of the available resources supported by a suitable legal and regulatory framework and economic and financial framework.

4.3. The EESC calls on the EU and the Member States to complete the digital single market, including by developing capacities to integrate 5G services and use them to defend and improve the competitiveness of European industries: it asks the Commission to strictly monitor progress in the deployment and real use of 5G and calls on the Member States to further accelerate the process, catering for all safety and security aspects, including those relating to the impact of 5G technology on public health and living ecosystems, the social and economic impact, the impact on competition, education and training, and securing respect for fundamental rights, such as the right to ownership or the right to privacy and personal data security.

4.4. The EESC calls for the EU to be a global leader in the next generation of 5G mobile technology, equipped with secure digital infrastructure as a solid building block of a new, modern European industrial strategy through a radical shift in mobile connectivity and with huge dynamic potential to increase productivity and boost the economy and services for the people, their well-being and climate and environmental protection by placing the EU at the forefront of the 5G revolution.

4.5. Given that cybersecurity and national security are inextricably linked, the EESC believes that any decision on the national security of an EU Member State must be taken in the EU context, and that non-technical evaluations should be implemented objectively on the basis of risk assessment criteria defined at European level necessary to provide a harmonised and predictable regulatory environment across Europe that ensures full interoperability.

4.6. The EESC believes that the quality of information and the ways in which it is conveyed — the so-called framing effect or salience — has a significant influence on the behaviour of the addressees. The objective of promoting consumer empowerment is therefore reflected in the identification of tools for educating consumers and building their capacity to make them active players on the digital market. The EESC recognises the need to provide people with up-to-date, accurate information on the benefits and risks of 5G based on the consensus of the vast majority of the scientific community, pointing out the aspects on which such consensus is uncertain.

4.7. The EESC firmly believes that access to the European digital market must continue to be open to any undertaking without discrimination, but within the European framework of rules, standards and firm, clear assessment and security criteria putting the recovery and revival of European technological sovereignty back at the heart of the European strategy.

4.8. Although the five major vendors of infrastructure include two European suppliers, two Chinese, and one Korean (\(^1\)), no major European company is among the first to produce 5G devices and chipsets; the EESC firmly believes that a range of different suppliers must be ensured, at least one of which is owned by a European parent company, along with a framework for interoperability and full interchangeability of hardware and software components, not least to ensure full European technological sovereignty in the context of strong international cooperation and full mutual openness, access and operability in the markets. Such diversification may be applied as long as interoperability of the services is possible and the cybersecurity risks are not increased as a result of the diversity.

4.9. The EESC believes that it is indispensable for Europe to take a medium-term approach to autonomy and self-sufficiency in this field and advocates strongly for research and a range of European companies. The EESC welcomes the package of measures agreed by the Member States to address security and safety risks related to the introduction of 5G technology which have already been identified by the European assessment. It considers, however, that the stringent, safe exposure limits for electromagnetic fields, as recommended at EU level and based on updated guidance from the International Commission on Non-Ionizing Radiation Protection (ICNIRP), recognised by the World Health Organization (WHO), should apply to all frequency bands designated for 5G (\(^2\)); the ICNIRP limits are based on the precautionary principle as they are 30 times lower than the public health impact levels established on the basis of the available scientific evidence.

\(^1\) The current five main global suppliers are: Ericsson, Nokia, Huawei, ZTE and Samsung.

4.10. However, the EESC notes that ICNIRP are not recognised by all the community, with some scientists promoting much stricter population exposure limits according to the ALARA principle. The solutions that might be proposed to complement the 5G communications infrastructure includes the use of fixed data connections by existing non-radio technologies (Ethernet cables, fibre optics, etc.), in situations where the use is fixed (e.g. ATMs, banking POS, industrial robots, remote controlled medical robots, etc.) and where large data transmission users operate (digital service providers, companies/ businesses, etc.): IoT Internet of Things present in fixed, non-mobile locations (Smart Home, Smart City, sensors on public utility equipment, etc.).

4.11. The Commission, the EP, the Council and the governments and parliaments of the Member States should provide a democratic framework for consultation, where scientific or technological issues, legal guarantees and the responses of the relevant institutions to questions from civil society can be presented to the public.

4.12. The EESC believes that more attention should be given to instruments for users, citizens and relevant civil society organisations, which are limited and inefficient, in addition to the focus rightly placed on the appropriate measures on the power of national regulators and the role of telecommunications operators.

4.13. The EESC has acknowledged (15) and is concerned about the problem of electromagnetic hypersensitivity (EHS) and highlighted its concerns; it is encouraged to note that further substantial research is ongoing to understand the problem and its causes, and urges the Commission to continue and update its work in this field.

4.14. The credibility of 5G telecommunications and application service providers is essential, in the EESC’s view, as online information management is the basis of data aggregation services for data collected and processed by users, through technological, legal and tax mechanisms, interlinking objects, machines and algorithms.

4.15. The EESC has suggested (16) moving from data ownership concepts to a definition of data rights for individuals and legal persons. Consumers should be in control of the data produced by connected devices in a way that ensures consumer privacy along with accessibility, interoperability and data transfer, while ensuring adequate data protection and confidentiality, fair competition and a wider choice for consumers.

4.16. The General Data Protection Regulation (GDPR) should be supplemented with clear implementation guidelines in order to achieve uniform implementation and a high level of data and consumer protection in view of the interconnectivity of machines and objects, and the rules on civil liability and product insurance should be revised to cater for a situation where decisions will increasingly be taken by software in a fully secure environment.

4.17. The EESC considers it essential that Member States follow the strategic and technical recommendations in the EU toolbox, avoiding the development of specific national approaches, such as additional testing and certification that would lead to market fragmentation, delays in the implementation of technologies and inconsistencies between markets, with the risk of undermining confidence in testing and certification systems.

4.18. The EESC considers it essential to make use of global standards, with greater European support, and of consensual, recognised best practices in order to achieve efficient management of threats, generate economies of scale, avoid fragmentation and guarantee the interoperability of European systems. The conversations on technical standards are a necessary clarification that will allow companies to compete once again and to carry out these key activities in order to implement advanced technologies such as 5G and artificial intelligence (AI) in all markets.

4.19. In particular, the EESC believes it is vital to assess the risk profile of suppliers and apply relevant restrictions for suppliers considered to be high risk — including necessary exclusions to effectively mitigate risks — for key assets defined as critical and sensitive in the EU coordinated risk assessment.

4.20. The EESC considers it important to increase operator and supplier investment in new technical security functionalities, which should be able to go hand in hand with the ability of the market to recognise and remunerate all initiatives aimed at increasing the security and resilience of systems. More focus on security investments could bring new market rewards.

(15) OJ C 242, 2.7.2015, p. 31.
4.21. The EESC is strongly in favour of joint measures to support industrial development and 5G deployment: evaluation of potential market gaps or failures along the 5G value chain, which would justify targeted interventions under the next long-term budget or a possible project of common European interest on 5G cybersecurity (security and safety).

4.22. The EESC stresses that, while digital infrastructure has proved to be resilient and robust during the COVID-19 crisis, further investment in 5G infrastructure is needed in order to overcome a persisting digital divide that can limit people's access to e-health, e-learning and remote working.

4.23. In terms of technological diplomacy, the EESC considers it essential that the EU ensure more balanced, reciprocal conditions for trade and investment, in particular as regards market access, subsidies, public procurement, technology transfers, industrial property and social and environmental standards, especially given the existence of 'systemic rivals promoting alternative models of governance', while encouraging full competition and technical innovation in the market.

4.24. The EESC firmly supports the need to maintain a diversified, sustainable 5G supply chain in order to avoid long-term dependence by requiring multiple suppliers to be used in a framework of interchangeability and interoperability, and to further strengthen the 2021-2027 financial framework for capacity-building programmes and initiatives and European 5G and post-5G technological sovereignty.

4.25. In the context of the recovery plan for Europe adopted on 27 May 2020, the 2020 Digital Economy and Society Index (DESI) will inform the country-specific analysis supporting the European Semester's digital recommendations. This will help Member States to target and prioritise their reform and investment needs, thereby facilitating access to the EUR 560 billion Recovery and Resilience Facility. The Facility will provide Member States with the funds to make their economies more resilient and ensure that investments and reforms support the green and digital transitions. As the pandemic had a significant impact on each of the five DESI dimensions, the 2020 conclusions on 5G should be viewed alongside the numerous measures adopted by the Commission and the Member States to manage the crisis and to support the recovery.

Brussels, 16 September 2020.

The President
of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A European strategy for data’

(COM(2020) 66 final)

(2020/C 429/38)

Rapporteur: Antonio GARCÍA DEL RIEGO

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Outcome of vote 216/0/2
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1. Conclusions and recommendations

1.1. The EESC welcomes the Commission’s proposal for a Data Strategy that sets cross-sectoral data sharing as a priority and to improve the use, sharing, access and governance of data with legislative, sector-specific action. An ambitious Data Strategy can address the critical need to enhance EU data capabilities.

1.2. The EESC endorses the Commission’s proposal for the overall design of EU data architecture to further enforce individuals’ rights regarding the use of their data, the protection of and their control over their data, as well as their awareness, and to empower them through ‘personal data spaces’, with clearer safeguards and the enhancement of the portability right for individuals under Article 20 of the GDPR (1).

1.3. The EESC calls on the Commission to deploy a clearer strategy to advance its data framework. It should be built to combine high standards of data protection, cross-sectoral and responsible data sharing, clear criteria for sector-specific governance and data quality, and greater control of data by individuals. The EESC also proposes further clarification of the Strategy’s funding approach and recommends ways to close the skills gap.

1.4. The EESC is of the view that the development of data-driven platforms in Europe should reflect European values, including by focusing on individuals. The EESC believes that the current consumer-centric approach should extend to a ‘human-in-command’ approach that integrates an ethical dimension with respect to the use of data.

1.5. The EESC regrets that two years after it came into force, the GDPR is not properly enforced and discrepancies remain. The Commission should solve these issues, including by incentivising Member States, to ensure all individuals across the EU can fully benefit from their rights.

1.6. The EESC is of the view that the completion of the single market is an essential priority for common data spaces to work.

1.7. Given the sensitivity of the data shared, the EESC insists on the need to guarantee safeguards to individuals’ data privacy through consent, control, sanction and oversight mechanisms, and to ensure that data will be anonymised (and cannot be de-anonymised).

1.8. The EESC recommends that the Commission define in the Strategy the option it recommends for the concept of data ownership. The ongoing legal debates currently create uncertainty for individuals to identify which demands they can raise.

1.9. The EESC advocates for stronger dialogue with civil society and recalls the need to provide SMEs with clearer guidance on data sharing mechanisms, as both aspects will be key to broad participation in data spaces.

1.10. The EESC reiterates that a single market for data should ensure personal data is not subject to the same rules governing goods and services, i.e. does not gradually come to be seen as non-personal data (\(^2\)).

1.11. The Commission should ensure that the legal framework enables equal access to data among all companies, large and small, and addresses the market power of dominant platforms. Overall, the Commission should come up with a much clearer and concrete proposal regarding the controls and governance of data spaces, including how stakeholders will share data.

1.12. The EESC underlines that it is essential to address the impact of personalised products on individuals (such as discrimination) and of data sharing on companies. The framework should uphold high security standards and intellectual property rights. Inferred data should be protected and not subject to mandatory access and transfer.

1.13. The EESC insists on the urgent need to improve digital skills and literacy through education and training, including by building on the Digital Competence Framework and encouraging Member States to improve lifelong education for the skills that will be most in demand, at all levels of education (\(^3\)). This is what will ensure that individuals become data-savvy actors, with greater awareness of and control over their data, big data applications and data governance, and understand their digital environment and its risks (e.g. personalisation) (\(^4\)).

1.14. The EESC invites the Commission to clarify and strengthen the role of competent authorities, consumer organisations and independent bodies, which is relevant in the governance of sectoral initiatives and to ensure business compliance and user guidance, advice and training.

2. General comments: The right strategy for data

2.1. The EESC concurs with the Commission’s emphasis on data, key to individuals’ lives and business activity. Digitalisation and technological improvements have increased the scope and frequency of data generated, and facilitated data storing, processing, analysis and transfer. Data-driven services enhance customer convenience and address their expectations, and improve existing industrial processes.

2.2. The EESC agrees that data-driven innovation is a critical driver of European economic growth and competitiveness, and that its role is constrained by the lack of availability of industrial and user-level data for the EU. The EESC agrees with the Commission’s proposal to address this and improve cross-sectoral data use, sharing and access through common data spaces in strict compliance with GDPR standards, with a shared set of technical and legal rules and standards and through complementary measures.

2.3. The EESC believes that the Data Strategy will be key to supporting the EU’s technological sovereignty to guarantee safe and secure data sharing and access, to strengthen Europeans’ control over their data, and unlock benefits for individuals and firms.

2.4. The EESC agrees that a sector-specific approach to data access is the most appropriate to target specific solutions that can tackle each sector’s specificities and market failures while ensuring the strongest safeguards for consumer protection (\(^5\)).

\(^2\) OJ C 14, 15.1.2020, p. 122
\(^3\) See footnote 2.
\(^4\) Although they are increasingly aware of their rights, it remains difficult for them to find out how their data is used and shared across organisations: 81% of Europeans feel they have no or partial control over it. See Eurobarometer (June 2019), https://ec.europa.eu/commission/2020/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveykey/2222.
2.5. The EESC shares the Commission’s concerns that the EU’s ability to leverage and share data is constrained by information systems’ significant interoperability issues. The COVID-19 crisis demonstrated the need for and usefulness of a complete data ecosystem, as data is not limited to the boundaries of specific sectors, including to develop solutions for individuals’ safety (e.g. geolocalisation and health data) and to avoid silos. In healthcare, researchers could use data of public health importance collected by various sectors to accelerate drug development and better understand diseases.

2.6. The EESC agrees that data-driven innovation is constrained by a skills gap, a lack of data-literate workers in the EU and low digital literacy. The EESC welcomes the Strategy’s aim to create ‘a common European skills data space’ and the forthcoming update of the Commission’s Digital Education Action Plan.

3. Advancing the EU data framework: General comments

Regarding the further development of the EU data framework, the EESC points out the essential issue of ethics. The study *Ethics of Big Data* (6), commissioned by the EESC in 2016, addresses this issue, taking into account an individual’s need for privacy and self-determination, from several angles: awareness, control, trust, ownership, surveillance and security, digital identity, tailored reality, de-anonymisation, digital divide and privacy. The EESC recommends considering these as guiding principles for any policies.

3.1. Data protection standards

3.1.1. The EESC calls on the Commission to stress that data should remain under individuals’ control, as data collection and sharing have implications for their privacy and equality. Cross-sectoral data use allows firms to feed and improve their existing processes, deliver insights more effectively, and provide consumers with new, personalised products and experiences. In particular, user-level data provides insights into intrinsic traits, needs and behaviours not captured by anonymised data and with positive spillover effects well beyond the sector in which the data was originally generated. In the financial sector for instance, cross-sector data sharing could improve risk analysis and cash flow prediction, address fraud detection, and enhance the ability of individuals to manage over-indebtedness, foster financial inclusion and financial education. However, personalisation can lead to risks for vulnerable consumers, such as discrimination, abuse and manipulation.

3.1.2. The Commission should address the insufficient and fragmented implementation of GDPR, diverging legal interpretation, and lack of resources of DPAs. The GDPR, drafted in 2012, voted on in 2016 and enacted in 2018, is not fit to address the proposed framework. The EESC recommends that the Commission update the GDPR appropriately and carry out impact assessments, as it needs to work hand in hand with the new approach of common data spaces. The EESC also calls on the Commission to tackle the limitations of data portability rights in the GDPR. These were developed when switching services would only happen once, while today data is being reused multiple times and is useful in real time.

3.1.3. Even though the EESC believes the tools proposed could help individuals decide ‘what is done with their data’ (7), in order to decrease legal uncertainty, the Commission should define in the Strategy the option it recommends for the concept of data ownership, to clarify in general who owns the data and, for example, what it is and what happens to this data in cases when it is generated by IoT home appliances.

3.1.3.1. There is a difference, and it should be made clear, between data rights for individuals and data ownership.

3.1.4. Given that providing data to receive free services amounts to a form of payment, the EESC calls on the Commission to state which text or criteria it is referring to when it invokes ‘public interest’, and to say what its purpose is in this area. The Committee also recommends that the Commission provide a definition of data donation without direct reward (or ‘data altruism’) and that it ensure appropriate measures to prevent data collectors from failing to uphold their obligations.

(*) See EESC Study *The ethics of Big Data: Balancing economic benefits and ethical questions of Big Data in the EU policy context* (2017).
3.2. Responsible framework of data sharing

3.2.1. The Commission should clarify how it intends to provide guidance to individuals, so they understand how ‘personal data spaces’ work. Without this awareness, the right of individuals to have access to these spaces will be meaningless, and enforcement of the proposal will lack efficiency and undermine the goals the Strategy means to further.

3.2.2. The EU recognised the need for a sharing right and established practical mechanisms in particular sectoral initiatives, such as for data processing service providers (FFDR (8)) and data held in payment accounts (PSD2 (9)). But, except for a few particular cases, individuals (data users, consumers, citizens) lack the skills, literacy and the tools to claim access to, or to easily and effectively share their personal and non-personal data.

3.2.3. To enhance portability with ‘stricter requirements on interfaces for real-time data access,’ guarantee personal data spaces, and ensure providers act as ‘neutral brokers’ (10) the EESC refers the Commission to the use of cases for secure sharing mechanisms such as personal digital identification schemes which could be adopted by private and public organisations and expanded for accelerated cross-sectoral data sharing. e-ID applications in the financial sector such as Itsme (mobile identity for digital transactions) provide cases of successful, mutually beneficial use, including between banks and mobile operators. They create significant value for firms (cost savings, increased sales, reduced fraud and identity theft), offer more choice, preserve user privacy, improve consumer trust, provide individuals with strong authentication measures and tools to manage their rights and exert control, and enable secure, convenient, time-efficient digital processes like onboarding.

3.2.4. The EESC refers the Commission to the experience of PSD2 (enabling third party providers to use banks’ consumer data, with their consumers’ consent, to innovate) and other use cases (such as using geolocalisation data and transaction data) which can serve as an inspiration for the broader data sharing framework. Those principles should be applied equally across sectors and in a similar timeframe to guarantee a level playing field among different market participants.

3.2.5. The EU should build on GDPR to enable cross-sector user data sharing, and replicate such existing initiatives in different sectors to facilitate secure data sharing, provide benefits to individuals and value to businesses. This should guarantee end-users the right to request that their provided (inputted, e.g. name, address) and observed personal data (e.g. geolocation) be transferred directly from one data holder to another, in a standardised way using real-time APIs (11). For example, a person could ask Spotify to provide Deezer with access to the playlists they have listened to. This would provide security to ensure GDPR privacy principles, allow users to maintain full control over the process and to leverage their data’s value, and make the right to portability of personal data truly effective, dynamic, timely and transparent, while extending the same principles to certain non-personal data.

3.2.6. Both companies and users should be able to securely share their own data independently of who has collected it, to choose and to manage who they share the data with and how the shared data is used.

3.2.7. The system and functioning of common data spaces should have the quality level of a public register; data providers should ensure the seamless quality of the data themselves and the continuity of this infrastructure. These ‘data stewards’ should not create bottleneck effects to data sharing, but enhance it. This is key to robust, seamless data management and the availability of high quality data. The EESC finds that in the Strategy, data quality lacks emphasis and merits clarification. In addition, the EESC recommends setting up a minimum threshold of obligations to ensure quality of data and individuals’ rights for all firms, regardless of their size. As data quality can be expensive and not all stakeholders can access the technologies required, these threshold criteria should be realistic for all enterprises, particularly SMEs: they may face difficulties in complying with these criteria due to limited resources and should be supported, so that no excessive costs are imposed on them (12).

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(12) See footnote 11.
3.2.8. Data-driven platforms are the most highly valued firms because of their strategic importance within digital markets and their oligopolistic control of specific datasets. But the limited availability of data to EU firms limits the extent to which they can leverage data to power innovation. The winner-takes-all focus which characterises digital markets means that a few large firms sit at the crossroads of online data flows which provide them with information unavailable to other providers. Even where data assets are more widely distributed, they are rarely available across industry boundaries, reducing innovation opportunities for cross-sectoral innovation by industry and other entities. As no platform is obliged to build a data pool, end-users are unable to combine and aggregate the data they generate across industries. The EESC urges the Commission to look at how to improve their control of data by business users and individuals tackling systemic platforms (Big Tech) as a priority. The EESC also suggests the creation of an EU-backed platform that centralises and aggregates all of EU public data available on the market of companies that request the service.

3.3. Governance of Data Spaces

3.3.1. The EESC proposes the following criteria to govern sectoral data spaces. First, intervention in the form of data access should aim to tackle market failures leading to higher consumer prices, less consumer choice and less innovation. Second, data access must foster the development of consumer-centric innovation. Third, operators handling personal data should be held to high data safety and security standards. Fourth, individuals should be offered technical solutions for control and management of personal information flows. Fifth, individuals should be allowed to object to the sharing of their personal data and have access to redress when principles are not respected (the EESC supports the principle of ‘human in command’).

3.3.2. Not all data should be open or made public. Different rules should apply to B2B, B2C, B2G or Me2B data. Inferred data should be protected and its access and transfer should not be mandated.

3.3.3. Data sharing across data spaces will involve mixed datasets (personal and non-personal data) e.g. in the healthcare and financial spaces. The collection and use of sensitive and personal data for surveillance or localisation purposes should require individual consent. Safeguards should ensure the combination of personal data points (e.g. financial and health information) does not lead to lock-in, abuse or discriminatory effects, for instance on individuals’ access to employment.

3.3.4. Stakeholders (companies and individuals) lack access to and knowledge of the identification, authentication and authorisation mechanisms that enable privacy-protective transfers of data, particularly in healthcare, which hinders data sharing. The EESC recommends the use and implementation of a common healthcare dataset similar to the European Single Electronic Format (ESEF).

3.3.5. There should be conditions for access to data for R&D by third parties. For instance, if healthcare researchers and municipality departments use free data, this should be governed by the GDPR.

3.3.6. The EESC underlines that as not all companies are digitalised (i.e., in traditional industries, and many of Europe’s SMEs), and not all companies get to reap the value of data, which means the level playing field is affected in the single market. Voluntary data sharing is a good, but insufficient tool to ensure equal access to data. The Commission should address this lack of balance between digitalised and non-digitalised companies, and between large and small companies. The EU’s SME Strategy and the Industrial Strategy are a good place to start.

3.3.7. The EESC underlines that despite the EU’s progress towards convergence, its single digital market is still far from homogeneous: its rules remain fragmented. This makes it difficult and ineffective for companies to scale and compete against their US and Chinese counterparts, who are governed by a truly single regulatory framework and buy out their EU rivals, as seen with Skype and Booking.com. EU startups’ founders eventually relocate to the US or more business-friendly markets to benefit from larger single markets and superior venture capital. To be efficient, a common infrastructure supporting data spaces should also reflect the multilingual characteristic of the single market (\(^{(13)}\)).

\(^{(13)}\) OJ C 75, 10.3.2017, p. 119.
3.4. Funding

3.4.1. The Strategy tables EUR 4-6 billion of funding, in which both EU Member States and industry are expected to co-invest. The Commission should clarify how it aims to mobilise funding, establish clear criteria to ensure and evaluate its fair allocation.

3.4.2. To secure sufficient private investment and the continuity of existing services provided to many EU businesses, the EESC considers it essential to preserve foreign providers’ participation in the project (in compliance with EU rules). Public funding such as through Horizon Europe and Digital Europe is also key. But the EU budget will be subject to budgetary priority in light of the recovery, and has been reduced compared to the Commission’s first proposal put forward in May. Notably, while the overall funding allocation to Europe’s key strategic digital capacities has increased compared to the previous multi-annual financial framework, the Digital Europe programme’s budget was reduced from EUR 8,2 billion to EUR 6,76 billion.

3.5. Closing the skills gap

3.5.1. The economic crisis may lead to modifications in the hierarchy of jobs deemed useful for the community, but will likely not reduce the need for technical skills. Automation can lead to job and task redefinitions (requiring more soft skills) and rather than mass unemployment, to mass redeployment of occupations (14).

3.5.2. For big data jobs, the following skills seem to be the most in demand (15): analytical skills, data visualisation, familiarity with business domain and big data tools, programming, problem-solving, Structured Query Language (SQL), data mining, familiarity with technologies, public cloud and hybrid clouds, and hands-on experience. Some of these can be taught in schools, some need to be acquired and developed throughout life, in a ‘life-long and life-wide’ approach, via continuous, non-formal and informal learning (16).

3.5.3. To seize this opportunity, as education remains a national competence, the EESC invites the Commission to encourage Member States to enact stronger policies enhancing digital literacy, addressing the data skills gap and its concentration to tackle inequalities across the EU, and reducing loss of knowhow.

3.5.4. The EU should rewire training and education programmes in depth. All too often, STEM (17) subjects are not sufficiently integrated in curriculums across education levels. This particularly impacts women, which the Commission fails to emphasise despite its President’s recommendations on gender equality (18). In this area, the EESC considers the Digital Competence Framework for citizens (19) a useful tool which should be more widely promoted and implemented. We invite the Commission to encourage Member States to proactively launch and accelerate initiatives within this framework.

3.5.5. The EESC suggests the Commission strengthen the role of consumer organisations, relevant for the provision of user training, education, and independent advice regarding the tools individuals can use (e.g. to get information about the use and sharing of data, who has their data, how to appeal and put forward a complaint). To enhance digital literacy, initiatives like Finland’s online course ‘Elements of AI’ (now accessible for all, for free, in every EU language) could be expanded to diverse educational modules.

Brussels, 18 September 2020.

The President
of European Economic and Social Committee
Luca JAHIER


(15) Utkarsh Singh, Top 10 In-Demand Big Data Skills To Land ‘Big’ Data Jobs in 2020 (upGrad blog, December 24, 2019), https://www.upgrad.com/blog/big-data-skills/

(16) See footnote 2.

(17) Science, technology, engineering, and mathematics.

(18) EESC Opinion TEN/705 (see page 77 of this Official Journal).

Opinion of the European Economic and Social Committee on ‘Proposal for a Decision of the European Parliament and of the Council empowering France to negotiate an agreement supplementing its existing bilateral Treaty with the United Kingdom concerning the construction and operation by private concessionaires of a Channel Fixed Link’

(COM(2020) 622 final – 2020/0160 (COD))

(2020/C 429/39)

Referral
European Parliament, 14.9.2020
Council, 27.7.2020

Legal basis
Articles 2(1) and 91(1) of the Treaty on the Functioning of the European Union

Section responsible
Transport, Energy, Infrastructure and the Information Society

Adopted at plenary
16.9.2020

Plenary session No
554

Outcome of vote
unanimous

(fore/against/abstentions)

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 554th plenary session of 16, 17 and 18 September 2020 (meeting of 16 September) to issue an opinion endorsing the proposed text.

Brussels, 16 September 2020.

The President of the European Economic and Social Committee
Luca JAHIER
Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council amending Directive (EU) 2016/798, as regards the application of railway safety and interoperability rules within the Channel Fixed Link’

(COM(2020) 623 final – 2020/0161 (COD))

(2020/C 429/40)

| Referral | European Parliament, 14.9.2020  
Council, 4.8.2020 |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Legal basis</td>
<td>Article 91(1) of the Treaty on the Functioning of the European Union</td>
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<tr>
<td>Section responsible</td>
<td>Transport, Energy, Infrastructure and the Information Society</td>
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<tr>
<td>Adopted at plenary</td>
<td>16.9.2020</td>
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<tr>
<td>Plenary session No</td>
<td>554</td>
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<tr>
<td>Outcome of vote</td>
<td>unanimous</td>
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<td>(for/against/abstentions)</td>
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