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EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

510st plenary session of the EESC on 16 and 17 September 2015

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2016/C 013/30  Opinion of the European Economic and Social Committee on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed on their territory (rolling programme) (COM(2015) 177 final — 2015/0093 (COD)) .............................. 203
The EESC calls for immediate responsible and collective European action to address the massive arrival of refugees.

The current unacceptable situation of asylum seekers calls for a robust strategy at EU level in cooperation with Member States, social partners and other stakeholders to immediately address the multiple issues refugees are facing.

The ongoing humanitarian crisis endured by so many refugees is of great concern to our Committee as every day men, women and children are risking their lives to reach Europe. The scale of the current refugee crisis is unprecedented and a number of Member States are disproportionately affected by it. The challenging situation requires European Member States to show solidarity both towards people fleeing war, persecution, conflict and poverty and towards each other. Ensuring safe entry and welcoming them is the responsibility for all Member States and is part of our fundamental European values.

The EESC expresses its solidarity and profoundly regrets the loss of lives and the harsh conditions faced by the refugees on their way to safety. We call on civil society organisations, especially the ones represented in the EESC, to do whatever possible to help welcome and integrate refugees. The EESC praises the commitment of people working in local public administrations, non-governmental organisations and volunteers active in grassroots initiatives all around Europe providing assistance to people in need.

Today the European Union needs to act as a real Union and adopt a unified asylum law starting with a revision of the Dublin Regulation. It is time for governments and politicians to follow the lead of citizens, associations, as well as many municipalities that are mobilizing much more and faster than our governments and the EU Institutions. The EESC regrets that the Council was not yet able to take the necessary decision in this pressing humanitarian crisis. Therefore the EESC urges the European Council to hold an extraordinary summit before the end of the month in order to reach an agreement on concrete measures and actions, including a fair quota scheme.

The EESC is very concerned about the current undermining of the Schengen agreement and of free movement, as it is one of the fundamental achievements benefitting EU citizens.

It is crucial to develop immediate measures also to address the root causes of the current refugee flows. The EU needs to work with countries of origin and transit on these issues and the EESC welcomes the human right-based approach foreseen by the Commission for this cooperation. Lastly, the EESC underlines the necessity of including civil society in the dialogue with third countries.
Opinion of the European Economic and Social Committee on the SBA experiences in the USA and EU: ‘best practices’ for innovative SME actions

(own-initiative opinion)

(2016/C 013/02)

Rapporteur: M. Ullrich SCHRÖDER

On 10 July 2014, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on:

SBA experiences in the USA and EU: ‘best practices’ for innovative SME actions (own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 14 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion with 207 votes in favour and six abstentions.

1. Conclusions and recommendations

There are about 21 million SMEs in the EU, employing almost 90 million people and generating more than EUR 3 600 trillion in added value. Expressed another way, 99 % of all businesses are SMEs, employing two in every three people and generating 58 % of added value. Therefore, a powerful Small Business Act is needed.

The EESC wishes to make the following recommendations on some important headlines regarding the revision of the SBA (Small Business Act) in the EU, based on the experiences of the Small Business Administration in the USA (which has the same acronym, but a completely different approach).

1.1. The review of the SBA is necessary

The European Commission had indicated that it intended to publish a review in the first half of 2015, but has now postponed it. As there are important areas of possible improvement (see below), the SME community expects a review after the hearings; because of the vital importance of SMEs, the review should be published as soon as possible.

1.2. Legal position and enforcement

The SBA has to be upgraded to a more binding form, with a more ambitious approach. This was also requested by the EESC in 2008 and 2011, but was not implemented by the European Commission.

It should introduce more legal mechanisms if appropriate, for example concerning procurement, ‘Think Small First’, impact assessments and SME tests. This should be applied at both EU and Member State level, and will involve a more substantial role for the European and national parliaments. The ‘Think Small First’ and ‘Only Once’ principles need to be included in the EU institutions’ interinstitutional agreement on better regulation.
1.3. Political position

In the EU, the SBA has a lower political position than in the USA. With a view to strengthening the position in the EU, the EESC recommends that:

— a special annual Competitiveness Council for SMEs and the SBA be organised at EU level, as the EESC advised in its 2011 opinion (1);

— the Council’s High Level Group for Competitiveness and Growth should review progress on national actions for implementing SBA priorities and reflect on additional measures at EU level. Results should be forwarded to the annual Competitiveness Council for SMEs and the SBA;

— the European SME Envoy Network be upgraded by raising the level of participants to the directors-general of the Ministries of the Economy. This would ensure stronger and better coordination between the EU and the Member States.

1.4. Governance and efficiency

1.4.1. An EU’s yearly report on SBA implementation must be introduced and also include a data-based report on the Commission’s management of it and of the functioning of individual programmes.

1.4.2. The European Court of Auditors should be encouraged to publish regular reports on the functioning of relevant SME programmes and measures, as the external Governmental Accountability Office does in the USA concerning the US SBA. An independent office within the Commission should deal with internal governance, along the lines of the ‘Office of the Inspector General’ within the USA’s Small Business Administration.

1.4.3. The SBA will not succeed unless a multi-stakeholder governance partnership is established (with social partners and public and private stakeholders). Therefore, the SBA Advisory Group (see 4.3.4) planned to be set up in 2011, but never established, needs to be made operational and to be consulted in the pre-decision stage.

1.4.4. The system of national and local SBA implementation plans (see 4.3.3) has to be improved and complemented by systematic use of scoreboards.

Use of targets

It is advised that more use be made of indicative targets in order to increase SME involvement in public procurement, and of binding targets regarding R & D programmes (at both EU and national level). Using this target mechanism, the levels should be increased over the years.

Yearly Conference of Small Business Stakeholders

In the USA and the EU, there is considerable know-how and experience regarding SME policies and programmes, but no structural and regular discussions including stakeholders are organised. A yearly conference for this, alternating between the USA and the EU, based on best examples, would be useful. It should include relevant stakeholders on both sides of the Atlantic: politicians and administrations, the SME Envoy Network and small business organisations. Because of the limited budgets of small business organisations, their participation costs should be compensated. Every year, alongside the general discussions, a special topic could be discussed: finance, innovation, trade (including the TTIP), female entrepreneurship, etc.

2. Introduction and objectives of the opinion

2.1. Objective: to compare the broad approaches and actions for SMEs regarding the two SBAs: Small Business Administration in the USA and the EU’s Small Business Act.

The political and business environment in the USA and the EU are very different and in both regions there are many SME measures at national and local level in addition to the SBA measures (2).

2.2. The conclusions of this opinion (see chapter 1) therefore do not compare the specific programmes of the two SBAs but focus on possible improvements concerning the legal and political position, governance and use of targets of the EU's SBA.

3. Small Business Administration in the USA (SBA)

3.1. The Small Business Administration in the USA is an independent government agency that provides federal support to small businesses. It was created by President Eisenhower in 1953, after the adoption of the Small Business Act. Its mission is to counsel, assist and protect the interests of small business. Its budget in 2013 was around USD 1 billion (excluding budget for non-enterprise activities). Some measures are legally binding. The SBA has offices in every US state and 1,000 local centres. President Obama has elevated the Director-General of the SBA into his Cabinet.

3.2. The SBA has a complex definition of a small business as one that is basically independently owned, operated and organised for profit. Depending on the industry, product or service, the size standard is based on the number of employees or on sales volume. When considering the number of employees, the maximum number ranges from roughly 100 to 1,500.

3.3. Overview of US SBA activities and programmes (3)

3.3.1. Finance: loans and venture capital

3.3.1.1. The SBA provides guarantees for small businesses that cannot obtain credit elsewhere. In general these loans are made by SBA partners (banks and other financial institutions) and guaranteed by the SBA.

The Microloan Programme targets new and early-stage businesses in underserved markets. Express loans aim to respond within 36 hours. The Disaster Loan Programme provides loans to small enterprises affected by general disasters within 45 days.

3.3.1.2. The Small Business Investment Company (SBIC) enhances small business access to venture capital.

3.3.2. Small Business Contracting Programmes

3.3.2.1. Several contracting programmes allow small businesses (owned by disadvantaged people or in underutilised areas) to compete only with similar firms for important government contracts.

(2) A broader comparison of SME measures would be too complex for this opinion.

(3) This is a broad overview of interesting activities. For more details see www.sba.gov or US Congress’s 2013 report ‘Small Business Administration, A Primer on Programmes’ on www.crs.gov An overview of SBA programmes gives the Governmental Accountability Office in GAO-12-819 report ‘Entrepreneurial Assistance’ on www.gao.gov
Annual overall government participation goals are established for federal procurement contracts awarded to small businesses with differentiated subgoals for individual departments and agencies. The overall target is now at least 23\% of the total value of federal prime contracts. In the EU, it is higher at 29\%, but this also covers contracts by regional and local authorities. The USA goal may be raised in future.

3.3.3. R & D programmes: strategy to increase SME participation by raising targets

3.3.3.1. The Small Business Innovation Research (SBIR) programme increases the participation of small high-tech firms in federal R & D in federal departments with an R & D budget of at least USD 100 million. A percentage of its R & D budget must be used to involve small businesses: this started at 0,2\% in 1983 and was steadily raised to 2,7\% by 2013 (new target of 3,2\% in 2017).

3.3.3.2. The Small Business Technology Transfer (STTR) programme provides funding for federal research shared between a small firm and a non-profit research organisation: 0,35\% in 2013, rising to 0,45\% in 2016.

3.3.4. Entrepreneurial Development Programmes

These provide training to small businesses in 1 000 centres. SCORE unites 50 independent non-profit organisations with 13 000 volunteers.

3.3.5. Office of International Trade

This provides export assistance and its activities include express loans (within 36 hours) and grants for participation in trade fairs abroad, documentation and audiovisual materials.

3.3.6. Special Offices

The Office of the Inspector General: its mission is to improve the SBA’s management and effectiveness, to fight fraud in the programmes and to review existing or proposed legislation. It is an independent office within the SBA headed by the Inspector General.

The Office of Advocacy: it serves as an independent voice for small business within the federal government. Its mission is to encourage policies that support small businesses by intervening in federal agencies’ regulatory processes and researching the impact of federal regulations.

4. EU development — from Charter for Small Enterprises to Small Business Act (†)


This Charter was adopted by EU leaders in 2000. It was a self-commitment from the Member States to improve the business environment for small enterprises in the Member States and at EU level, with no legal force. The Charter was specifically intended for small enterprises with fewer than 50 employees.

4.2. EU ‘Small Business Act’ (SBA-EU) — 2008

4.2.1. The Commission studied the SBA approach in the USA, and published its Communication ‘Think Small First, a Small Business Act for Europe’ in 2008 (‡), with a broader target group (SMEs with fewer than 250 employees).

Only a limited number of new legislative proposals were proposed.

(†) An abstract is set out below concerning the developments in the SBA. For a more detailed overview, see the background document available on the EESC’s website.

The bulk of the SBA concerns a new policy framework, integrating existing enterprise policies and building on the Charter for Small Enterprises.

4.2.2. Ten principles for designing and implementing SME policies at EU and national level were introduced relating to: business environment, entrepreneurship, ‘Think Small First’, public procurement, shorter payment periods, a better Single Market, skills and innovation.

4.2.3. In 2008 the EESC (6) proposed a more ambitious SBA. It refers to the American SBA.

4.2.4. Key Committee recommendations included:
— a binding legal instrument governing ‘Think Small First’;
— establish an SBA Committee, involving Member States and European representative business associations;
— appoint a national SME envoy in each Member State.

Regrettably, the first two recommendations were not implemented by the European Commission.

4.3. Review of the EU Small Business Act (2011)

4.3.1. In 2011 the Commission published its communication ‘Review of the SBA for Europe’ (7). The Commission concludes that there is progress, but more needs to be done.

4.3.2. Regarding developments in the Member States, the Commission is less positive on:
— reducing the administrative burden and implementing national SME tests;
— promoting the European Code of Best Practices;
— simplifying bankruptcy procedures.

4.3.3. The SBA Review proposed actions responding to the economic crisis in the following areas: regulations, financing, market access, entrepreneurship, job creation and inclusive growth (including female entrepreneurship and a Social Business Initiative).

4.3.4. Strategic improvements involve strengthening governance:
— The Commission will continue to issue general annual reports on the individual Member States in line with the EU2020 strategy; SBA progress is included in this exercise.
— The SBA Advisory Group planned to be set up in 2011, but never established, needs to be made operational and to be consulted in the pre-decision stage.
— The SME Envoy Network was introduced, comprising the Commission’s and national SME envoys. This should establish a direct link between the Commission, national administrations and national business organisations.
— Setting up national SBA implementation plans, backed up by a strong monitoring mechanism and in coordination with Member States and business organisations. (However, the EESC regrets that this is not being implemented as efficiently as possible).

4.3.5. In 2011 the EESC (8) recognised that greater attention has been given to SMEs.

Key Committee conclusions included:
— The Committee believes that the SBA should take a more binding form.
— The SBA will not succeed unless a multi-stakeholder governance partnership is established (with social partners and public and private stakeholders).

(7) COM(2011) 78 final.
The essential role of intermediary organisations from the public and private sector by providing tailored services is neglected.

The EESC calls on the Council to establish a special annual Competitiveness Council for SMEs, microenterprises and the SBA.

The EESC regrets that these recommendations were not implemented by the European Commission.

4.4. Public consultation on the SBA — 2014

4.4.1. In September 2014 the Commission opened a consultation how the SBA should be revised, called ‘A strong policy to support SMEs and entrepreneurs 2015-2020’.

4.4.2. The Commission concludes that the SBA has not been fully implemented in many Member States.

The proposed priority areas are:

— reducing the administrative burden;
— access to finance and markets;
— entrepreneurial and innovation potential;
— reinforcing skills development (new).

4.4.3. In April 2015 the Commission published a report on the results. A proposal for a revised SBA was originally planned for the first half of 2015, but has now been postponed until 2016. European business organisations have indicated their disappointment about this postponement and called for action to be taken in 2015.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Family businesses in Europe as a source of renewed growth and better jobs’

(own-initiative opinion)

(2016/C 013/03)

Rapporteur: Jan KLIMEK

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on:

Family businesses in Europe as a source of renewed growth and better jobs

(own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 14 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 110 votes with 3 abstentions.

1. Conclusions and recommendations

1.1. Family businesses form the backbone of many economies around the world and are growing at an impressive rate. They are a source of economic growth and jobs and pay considerable attention to regional and local factors. There are different reasons for setting up a family business, but common to all of them is a naturally occurring system of values, a willingness to demonstrate dedication and sacrifice and a sense of responsibility towards those who set up the business and those who take it over. Family businesses are better able to withstand difficult periods of recession and stagnation, and one of the main reasons for their longevity is the sense of personal responsibility for the image of the business.

1.2. Acknowledging the unique value of family businesses, and in line with the Small Business Act which stipulates that ‘the EU and Member States should create an environment within which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded’ (1), the European Economic and Social Committee (EESC) calls on the European Commission to implement an active strategy promoting best practices on family businesses among Member States.

1.3. A further step could be to undertake work on legal frameworks/regulations on family businesses. This kind of regulation should include a definition of family businesses and specify the areas in which the Commission will be involved, together with the legal, economic and political institutions responsible for these measures.

1.4. In terms of specific measures, the EESC calls for:

— a family business category to be included in European statistics (Eurostat) and for national statistics offices to gather data on family business in an effective way;

— better regulation on the transfer of family businesses from one generation to the next, particularly from a tax perspective, with a view to reducing the exposure of these businesses to liquidity problems;

— the family organisational climate to be promoted, the hallmark of which is long-term employment;

— innovation among family firms to be promoted, not least by means of innovative public procurement;

— education to be developed and research promoted in the area of family entrepreneurship;

family farms to be supported and cooperative-based entrepreneurship redeveloped, particularly the type which brings together family businesses;

— tax deductions to be introduced on reinvested profits, and opportunities for family businesses to increase their capital without granting voting rights;

— active cooperation at EU level with organisations representing family businesses, e.g. within the framework of a permanent expert group.

2. Introduction

2.1. Family businesses make up more than 60% of all European companies, both small and large enterprises, and employ between 40% and 50% of all employees (1). In the vast majority of economies, most businesses are micro, small and medium-sized enterprises, hence the majority of family businesses also belong to this sector.

2.2. The main assets of family businesses are their long-term horizon, the specific values that form their unique organisational culture and their involvement in local communities. Their unique culture is based on the values promoted by family stakeholders, such as a high level of trust in the business and the high quality of services or products offered.

2.3. The long-term perspective of family businesses means that they create long-lasting ties with company stakeholders (employees, customers, suppliers and local communities).

2.4. Family businesses are characterised by the desire to pass them on to the next generation and by care and responsibility for employees. This aspect also promotes the accountability of family businesses, where relationships are built on trust.

2.5. In order to meet objectives, family businesses devote as much of their profits as possible to building a stable, independent and innovative company, using own capital, which primarily seeks to minimise risk so that the business can be passed on from generation to generation. Family businesses develop in a more balanced way in order to achieve their long-term (multi-generational) objectives.

3. The definition of a family business

3.1. It is generally accepted that family businesses can be characterised within three circles: families, businesses and ownership structure (2). The impact of the family on the other two circles determines the family nature of the company. This impact means that family businesses are more complex than their non-family counterparts and therefore require appropriate treatment.

3.2. Several Member States have adopted specific laws on family businesses:

— In Spain (Ministry of the Economy) and Finland (Ministry of Trade) family businesses are defined at ministerial level.

— There is also a definition of family businesses in Italy (Civil Code) and in Romania.

— Hungary has adopted a definition of agricultural family-owned businesses.

— Danish legislation makes reference to the hiring of young people in family businesses (Arbejdsmiljølovgivningens anvendelse for elever i erhvervspraktik, VEJ No 60106, 1.2.1998).

— In Austria, federal law stipulates that family members can adopt flexible shop opening hours (Ladenöffnungszeitenverordnung) and family businesses are defined by the regional law on agriculture.

— The Lithuanian Supreme Court has issued an opinion stipulating that a firm established in connection with a marriage shall be regarded as a family business.


In Bulgaria and Slovakia, family co-ownership is taken into account in the case of self-employment.

In Malta work is under way on the Family Business Act, the first law on family businesses in the world.

3.3. The Committee believes that it would be useful to carry out a legislative procedure aimed at introducing a family business category into economic activity registers in all the Member States.

3.4. The report of the Commission’s group of experts on family businesses recommends the adoption of the following definition of family businesses:

— The majority of decision-making rights is in the possession of the natural person(s) who established the firm, or who has/have acquired the share capital of the firm, or in the possession of their spouses, parents, child or children’s direct heirs.

— The majority of decision-making rights are indirect or direct.

— At least one representative of the family or kin is formally involved in the governance of the firm.

— Listed companies meet the definition of family enterprise if the person who established or acquired the firm (share capital) or their families or descendants possess 25 per cent of the decision-making rights mandated by their share capital.

3.5. However, the above definition is too broad. It should be narrowed in such a way as to emphasise the family nature of the business, especially the multi-generational purpose of its work.

3.6. The adoption of this definition among European countries would allow quantitative data to be collected, which would enable statistics to be compiled on these entities once it had been aggregated. This data in particular would help to analyse family businesses in the new Member States, where these businesses play a key role. This task could be undertaken by the European Union’s statistical office, Eurostat.

3.7. At national level, attempts are being made to quantify family businesses. This is the case in Ireland, for example, where the Central Statistics Office produced a publication entitled Family Business in Ireland — Services Sector 2005. The European Family Businesses federation, in cooperation with the consultancy firm KPMG, publishes the European Family Business Barometer. In Poland, a comprehensive qualitative and quantitative study was conducted in 2008 by the Polish Agency for Enterprise Development.

3.8. The participation of Eurostat would enable two important goals to be achieved: to standardise the definition of family businesses and, on basis of this, to collect statistical data about these entities.

4. Challenges facing family businesses

4.1. The challenges facing family businesses can be divided into two categories: those applicable to all firms and those specific to family businesses. The first category includes all factors affecting a country’s economy, such as domestic demand, demography and the socioeconomic situation. This opinion focusses on the second category, i.e. the specific challenges for family businesses which would enable them to develop and grow.

4.2. In a family business ownership does not consist of liquid assets but rather what the family builds and develops over generations, and which encompasses values, traditions and know-how (4). Therefore, transferring ownership of a business to the next generation is the most serious challenge that any such business can face.

4.2.1. One important step to be taken by family businesses would appear to be comprehensive succession planning, as the intention of owners of these companies is to pass the business on to the next generation in good condition.

4.2.2. Each year approximately 450 000 firms, employing about 2 million people, face this challenge. Some 150 000 businesses close each year because of an unsuccessful succession, leading to the loss of 600 000 jobs (5).

4.2.3. The main causes of failure in succession planning should be examined, and measures to facilitate business transfers should be supported, e.g. inheritance law or tax incentives which support transfers.

4.2.4. The scope and scale of the various approaches in Europe to inheritance and wealth taxes illustrate that there is still much to improve regarding regulation in this area (6).

4.2.5. One example of a potential solution in the field of business transfers is the Netherlands, where the Ministry of the Economy introduced the ‘succession package’ (Overdrachtpakket). Entrepreneurs reaching the age of 55 receive a succession package reminding them of the importance of planning the business transfer and providing a set of tools to assist in this process. The Belgian institute of family businesses (Instituut voor het Familiebedrijf) has introduced a succession charter available in three languages: Dutch (Scorecard Opvolging), French (Scorecard Transmission) and English (Succession Scorecard). Another example is Slovenia, whose Chamber of Crafts and Small Enterprises (Obrtno-podjetniška zbornica Slovenije) organises seminars and training covering all succession-related issues, and Finland has a succession programme (ViestinVaihto-ohjelma). In Austria, there is a law on the continuation of a business’ activities (Fortbetrieb) by a family member in the event of the death of the manager (Gesamtrechtsvorschrift für Gewerbeordnung, 1994). There is a similar arrangement in France (successions et des libérailités) and Luxembourg. The Polish Agency for Enterprise Development, in cooperation with the family business institute, has prepared a succession package for family businesses. As part of this package, family businesses receive a guide to succession, free tools to support this process and free implementation workshops.

4.3. Family businesses try to create long-term jobs, which contributes to the creation of a family-based organisational climate. For this reason, family businesses can provide desirable jobs for mothers bringing up children, for example. Support should be provided for the family-based organisational climate, which might give these businesses a competitive edge.

4.4. The spouses or partners of company owners often play an important role in family businesses, although, for different reasons, they do not have a formal status. This can lead to legal and financial difficulties, for example, in the event of a relationship breakdown. Giving these people a more formal status, as well as other family members informally involved in the activities of company, would help avoid difficulties in the event of family-related problems.

4.5. As regards innovation in family businesses, these companies should focus not only on traditional markets and products, but also on new innovative solutions.

4.5.1. Innovation in family businesses can be supported by means of an innovative public procurement system in which price should not be the sole criterion for selecting a bidder. Family businesses are characterised by the fact that they compete on the basis of high quality and customer service, guaranteed, inter alia, by the family brand (often the name of the owner or the owner-family). Therefore, family businesses generally do not bid for public contracts that have price as their sole criterion. It is suggested that the values of the most economically advantageous tender (MEAT) (7) be promoted as the assessment criterion, and this information disseminated among family businesses.

4.6. Globalisation is forcing companies to open up to new markets, technologies and skills. Family businesses should take these aspects into account in their development strategies. This could mean that they need to take on new employees, also in management positions.

4.7. At national level, the role played by family businesses in national economies should be acknowledged and then favourable conditions put in place for these businesses in the fields of taxation, legislation on economic activity (including a law on family businesses) and support for education for family businesses. This type of education should take into account the specific characteristics of family businesses such as succession, family supervision, etc.

4.8. Examples of education specifically for the representatives of family businesses include countries such as Cyprus (family business school run by the Cyprus International Institute of Management), France (Master 2 professionnel: Gouvernance des entreprises familiales et patrimoniales — M2 GEFP, organised by the University of Bordeaux) and Finland (Omittaus ja hallitustyöskentely — valmennusohjelma jatkajille — ownership structure and company management — training programme for successors) (8). Family business support organisations also hold courses for family entrepreneurs, such as the FBN Academy, run by the Swedish branch of FBN and training programmes run by the Spanish Instituto de la Empresa Familiar, for example.

4.9. Recognising the role played by family businesses in the economies of the Member States and giving them support could contribute to restoring the family tradition of crafts. A significant proportion of small family businesses are concentrated in craft guilds, which seek to ensure the continuation of crafts; hence it is legitimate to support this type of entity.

4.10. Smaller family businesses are exposed to risks that may lead to their disappearance from the market. Appropriate legal and tax-related support should therefore be provided for these businesses with a view to supporting their further development. In turn, large international family businesses could benefit from institutional support and measures aimed at supporting local suppliers and economies.

4.11. One specific type of family business is the family farm. In addition to the typical challenges characteristic of family businesses, these businesses must also deal with problems specific to rural areas.

4.11.1. Of particular concern here is the problem of land grabbing, which leads to an irreversible disruption of the economic structure in rural areas and to the socially undesirable industrialisation of agriculture. In its January 2015 opinion (9), the Committee called for appropriate steps to be taken to preserve throughout the EU an agricultural model based on family farms.

4.11.2. Family farms often form cooperatives in order to achieve economies of scale and raise market competitiveness (10). Cooperative-based entrepreneurship exhibits similar characteristics to family-based entrepreneurship, i.e. it focuses on long-term activities rather than short-term profit. However, in recent times, cooperatives have lost momentum and some have even collapsed, hence the need to take steps to revive this form of activity.

4.12. The term ‘patient capital’ is used to refer to the long-term accumulation of capital to develop a family business (11). When carrying out a transfer, the family business hands over the capital together with its social and cultural dimension and the purchaser invests in or purchases the business together with its multi-generational knowledge, (family-related) culture and commitment to the (local) community.

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(8) Irene Mandl, Overview of Family Business Relevant Issues. KMU Forschung Austria, 2008.
(9) EESC opinion ‘Land grabbing — a warning for Europe and a threat to family farming’ (OJ C 242, 23.7.2015, p. 15).
(11) Patient capital is the own capital provided by family business owners who seek to strike a balance between, on the one hand, the current return on investments and, on the other, an appropriately defined long-term business strategy and ensuring the continuity of tradition and family heritage. Source: De Visscher F.M., Aronoff C.E., Ward J.L. (2011), Financing Transitions. Managing Capital and Liquidity in the Family Business, Palgrave Macmillan.
4.12.1. When defining the patient capital, it is worth considering the use of tax deductions on reinvested profits. Consideration should be given to deductions for family businesses (and not only such businesses) that reinvest profits and prefer to inject their own capital rather than using debt.

4.12.2. The ability to offset debt interest against taxable profits is an additional incentive for companies to use debt finance, as this effectively reduces the cost of debt, such deductions not applying to equity.

4.12.3. It goes without saying that taxation issues fall within the competence of the individual Member States, but the European Union should promote good practices for family businesses.

4.13. Setting up national public investment funds to inject capital into family businesses might be worth considering. The special feature of these funds would be that they would provide capital to family businesses without granting voting rights to the providers of the capital, along the lines of Aksjebolven in Norway or the Ley de Sociedades de Responsabilidad Limitada in Spain.

4.14. Family entrepreneurship activities may also be supported by national or local organisations acting on behalf of these entities (e.g. government bodies (ministries), employers’ organisations, chambers of crafts, etc.) and supranational organisations, the most important of which include European Family Businesses, FBN International and Les Hénokiens.

4.14.1. These organisations play an important organisational role in promoting the family business sector. They provide a platform for the exchange of knowledge and experience between family entrepreneurs, and publish reports on family businesses with a view to disseminating knowledge about them. In addition, organisations supporting family businesses may lobby for specific solutions.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Towards digital health — electronic information for safe use of medicinal products’

(own-initiative opinion)

(2016/C 013/04)

Rapporteur: Renate HEINISCH

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Towards digital health — electronic information for safe use of medicinal products

(own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 14 July 2015.

At its 510th plenary session, held on 16 and 17 September (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 212 votes with 6 abstentions:

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) endorses the European Commission’s efforts to make eHealth a high priority within the Digital Agenda.

1.2. The Committee notes that people seeking information, patients and healthcare professionals have repeatedly stressed the need for full, accurate and up-to-date information on medicinal products and for a single digital market.

1.3. This officially approved information must, in the EESC’s view, be available without discrimination or obstacle so as to afford access for the deaf and the visually or otherwise physically impaired. It must be capable of being tailored to the needs of individual citizens, patients and healthcare professionals so that it is pitched at the right level for the safest and most effective use of medicinal products.

1.4. The EESC believes electronic distribution of product information approved by drug licensing authorities will further improve access. An electronic database of patient information leaflets (PILs) and technical information approved by health authorities (Summary of Product Characteristics — SPCs) can ensure the availability of up-to-date and targeted information on medicinal products.

1.5. The EESC proposes that information for the visually impaired be made available in the way most appropriate, for example in larger print or as audio data. Videos, possibly with sign language, could be produced to demonstrate the proper use of medical appliances (such as asthma sprays) to the deaf. ‘Simplified language’ versions offer further possibilities to reduce barriers to communication. These allow people with learning disabilities to access information targeting them and compensate for educational shortcomings.

1.6. The EESC also points out that having all this on a single portal means there is a trustworthy and in many ways easily accessible source of officially authorised information that meets disability-access criteria. This means that patients and healthcare professionals can compare any information available elsewhere with the basic authorised information.
1.7. To ensure overall suitability for use, development should be supported by both users and web-designers with expertise in accessibility for the disabled. Open format solutions should be created so that users can access the information with any device (PC, tablet, smartphone, etc.) they want or have available to them.

1.8. The EESC thinks that the website/portal for officially approved information should be developed in close collaboration with all major stakeholders — the pharmaceutical industry, which should operate and finance it, as well as patient associations, organisations representing people with disabilities and healthcare professionals — in order to best meet requirements.

1.9. The EESC thinks it important to find user-centred solutions to make sure people with lower levels of education and infrequent internet users can also have access to information.

1.10. Even though electronic access to information is considered to be important, it should be stressed that doctors (particularly GPs) and other healthcare professionals, such as pharmacists and nurses, are the first point of contact for patients, providing them with recommendations regarding their ailments and treatment options.

1.11. The EESC asks the European Commission to support the proposal for the IMI2 project on electronic product information. Member States are invited to join the effort to coordinate existing databases.

2. Introduction

2.1. In 2012, the European Commission published an action plan that set out the obstacles to the full use of digital solutions in Europe’s healthcare systems. This plan is now being implemented under the title ‘eHealth Action Plan 2012-2020 — Innovative healthcare for the 21st century’ (1).

2.2. The aim, the Commission states, is to improve health care for the benefit of patients, to give them more control over their treatment and to cut costs. While patients, the public and healthcare professionals are using telemedicine applications with great enthusiasm and millions of Europeans have downloaded smartphone apps to monitor their health and wellbeing, eHealth has yet to fulfil its great potential to improve healthcare systems and make savings through efficiency. In this connection, the EESC would point out the need to take account of data protection issues.

2.3. eHealth, which includes telemedicine and mHealth, is defined as follows by the WHO: eHealth is the transfer of health resources and health care by electronic means. It encompasses three main areas:

— The delivery of health information, for health professionals and health consumers, through the internet and telecommunications.

— Using the power of IT and ecommerce to improve public health services, e.g. through the education and training of health workers.

— The use of ecommerce and ebusiness practices in health systems management.

2.4. The European Commission has produced a Green Paper on mobile Health (mHealth) (2). mHealth is a sub-segment of eHealth and covers medical and public health practice supported by mobile devices. In particular, it includes the use of mobile communication devices for health and well-being services and information purposes, as well as mobile health applications.

2.5. An increasing number of people of all ages use the steadily growing amount of electronic health information and applications.

2.6. However, the quality of these sources of information varies greatly and search engines usually do not distinguish between reliable, officially approved sources and less reliable ones.

2.7. There is a range of certified information systems for healthcare professionals. These professionals, particularly GPs and pharmacists, play a key role in healthcare systems and high-quality information is essential if we want to have well-informed medical professionals who can meet the healthcare needs of the EU population.

2.8. The EESC believes that all patients need equally easy access to reliable information so they can better manage and participate in their own health care — something that is also mirrored in greater patient adherence. The details on training needs and inclusion of all groups (including the elderly and people with disabilities) have been set out in previous opinions (1).

2.9. The increased workload of healthcare personnel and the various opportunities for people to get involved as patients or members of the public in healthcare organisations — such as national licensing authorities and committees of the European Medicines Agency (EMA) — and ethics committees requires knowledge to be widely shared.

2.10. The European Patients’ Academy on Therapeutic Innovation (EUPATI) offers patients the opportunity to educate themselves on health issues. This consortium is financed by the Innovative Medicines Initiative, a public-private partnership between the European Commission and the European Federation of Pharmaceutical Industries and Associations (EFPIA).

2.11. EUPATI is a consortium of 29 organisations led by the European Patients’ Forum (EPF). It is a unique amalgam of pan-European patient associations and academic and voluntary organisations that lead the field as experts in patient-focused and social engagement, and EFPIA member companies. EUPATI informs patients, as laypeople in the healthcare system, and difficult-to-reach patient groups by fostering public awareness of the development of new therapies. With the help of EUPATI, training courses — or corresponding educational programmes — can also be organised for better understanding of information on medicinal products.

2.12. Some EU Member States already have information on medicinal products available electronically. The most highly developed database, FASS (2), is run by the Swedish Pharma Association LIF, but there are others in, for example, Germany, the UK, Finland and Denmark. These databases are either not normally accessible to the visually impaired or do not contain the full range of medicines.

2.13. Some, moreover, are not regularly updated.

2.14. In addition, drug licensing authorities have allowed the inclusion in package leaflets of codes (QR codes) that link to package leaflets on the company website. Here, again, there is often no access for the disabled.

2.15. These initiatives show that a harmonised approach is still needed to provide access for all social groups to information through these new technologies.

3. General comments

3.1. Infrastructure

3.1.1. The EESC holds the pharmaceutical industry responsible for accurate and up-to-date information on its products. Any technological solution should come about in close collaboration with the industry in order to make use of existing technical solutions and ensure supervision by drug licensing authorities.

(2) http://www.fass.se/LIF/startpage?userTyp e=2
3.1.2. The EESC stresses that how officially approved information is presented and can be accessed must be agreed with the relevant stakeholders (licensing authorities, patient associations, health professionals).

3.1.3. A consortium responsible for coordinating development of the database/portal could be established and financed under the IMI initiative.

3.1.4. The creation of the proposed portal will take account of existing databases (such as the EMA).

3.2. Need for further research

3.2.1. Technical research and technical development

— The designs of national databases are available. An additional prototype has also been developed to demonstrate a user-friendly and widely accessible database that also includes options for audio and video data. A technical solution that is freely available should be developed that makes the most effective use of existing sources.

— This solution should also take into account the fact that citizens/patients do not want to use too many scanning applications on their smartphones. The database/portal should therefore be accessible using conventional scanner technologies, for example.

— Open format solutions should be sought to increase take-up. It must be possible to request and view information using any kind of device (PC, tablet, smartphone, etc.).

— Comparisons of technical solutions should be made and include matters related to parts of the healthcare system (such as Member State initiatives to reach people via television connections or ATMs and initiatives proposed by the European Commission (5)).

— In Italy, pharmacies are required by law to print out updated package leaflets that the pharmaceutical industry has put on a database. Such printing — either by the pharmacist or by patients (using ATM-like terminals) — is a further complementary option and could cater for those who do not use the internet.

3.2.2. Testing and presentation of content

Public receptiveness to the various options must be analysed and technical solutions tested by users to check that they work.

— Research must include structural questions about the testing of technical solutions in order to increase acceptance.

— How do licensing authorities check content?

— Content must be presented in a way that enables adaptation to the individual needs of patients/citizens and must comprise all the information required by the relevant licensing documents or by law.

— To enable rapid feedback for all those involved, a possibility for users to evaluate the information (above all in terms of understandability) could be incorporated. Social media elements for presentation, dissemination and exchange could be used for this.

3.2.3. **Education and training**

Internet usage varies greatly between different social groups. Many use social networks but do not make use of the information available. A small group (an estimated 10% according to Germany’s Federal Statistical Office) never use the internet at all. Research should be launched to answer the following questions:

— How can active learning be encouraged so that existing sources of information can be used to disseminate information (including that in digital form) on health?

— Learning to learn (life-long learning) is one of the eight key competences listed in the Recommendation of the European Parliament and of the Council of 18 December 2006 (**6**), which calls on the Member States to implement national measures. The ‘European agenda for adult learning’ proposes measures Member States can take to encourage active adult learning. ‘Digital health literacy’ could become a criterion to assess adult learning under the PIAAC.

— What role can the various educational institutions (universities, adult education centres, etc.) and health care facilities play in strengthening the many skills involved — e.g., working with new technologies, getting involved and managing one’s health in a socially beneficial way, and imparting social and technical expertise?

— Health professionals should receive the relevant training as part of their academic studies. Adult education centres could offer attractive courses tailored to the users of the system. In order to reach the target group, adult education centres could cooperate with professionals (especially doctors), local pharmacies and local health and social welfare facilities. This is especially important in rural areas, where people are more isolated. Inter-generational learning, in particular, could help to share knowledge on content and technical skills.

Brussels, 16 September 2015.

*The President of the European Economic and Social Committee*

Henri MALOSSE

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Opinion of the European Economic and Social Committee on ‘State aid to firms: is it effective and efficient?’

(own-initiative opinion)
(2016/C 013/05)

Rapporteur: Mr Edgardo Maria IOZIA

On 19 February 2015 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

State aid to firms: is it effective and efficient?

(own-initiative opinion)

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 14 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 198 votes to 3 with 9 abstentions.

1. Conclusions and Recommendations

1.1. The European Economic and Social Committee (EESC) considers State aid impact evaluations to be key tools for checking the consistency between results and proposed targets, thus enabling resources to be allocated more effectively and efficiently, improving the transparency and the endorsement of management processes.

1.2. Many Member States have already developed complex, structured evaluation systems. These systems develop in parallel with growing interest from the academic world, which has enabled improvements to be made to evaluation techniques and to the accuracy of measuring instruments available to granting authorities.

1.3. The European Commission, along with the Member States, has set up a high level forum for State aid which also deals with evaluation.

1.4. Last December, in her speech at the high-level Forum, the European Commissioner for Competition Margrethe Vestager stated that: ‘There are two key elements in the State Aid Modernisation programme (SAM) which are of particular importance: transparency, which lets citizens know where their money has gone, and evaluation, which tells them whether it has been well spent.’ The EESC strongly agrees with this message.

1.5. The EESC welcomes the debate on impact evaluation in relation to business aid policy and urges the Commission to press ahead with the approach that it has been taking for some years now.

1.6. It should be noted however that many aid schemes today are not subject to an impact evaluation, with the exception of evaluations laid down by European Regulations. In many cases, regulations merely require confirmation that individual operations formally adhere to legal requirements — they do not therefore enable a comprehensive, long-term evaluation of the effectiveness and efficiency of all investments made in support of firms. The EESC would like to see a generalisation of impact evaluations and possibly a lowering of the EUR 150 million average annual budget threshold currently set by the General Block Exemption Regulation as a limit, in excess of which aid schemes are required to submit an ex-ante evaluation plan — as otherwise this requirement would not apply to many Member States, particularly when the aid in question is considerable in relation to the size of the state.
1.7. The EESC highlights how the overall legislative framework on State aid is gradually transforming the Commission’s role, moving it away from a predominantly administrative culture which once dominated, towards a new form of cooperation with Member States which seeks to optimise the results achieved by State aid, by focusing on its effectiveness and efficiency. The adoption of ‘modernisation’ was an important step forward.

1.8. Member States must establish appropriate mechanisms for evaluation, carried out by independent bodies. The EESC considers it necessary for the social partners to take part in the process of defining the evaluation model without sacrificing the considerable expertise acquired by public authority staff. Such staff should have a role in developing evaluation processes and participate in the drafting of the final report, thus spreading a culture of evaluation within their own organisations and gradually improving the investigative process. The European Commission must contribute towards harmonising evaluation criteria in the Member States. Establishing comparable evaluation criteria will enable an overall assessment of the effectiveness and efficiency of State aid to be carried out.

1.9. Particular attention should be paid to specific circumstances in the regions involved in the State aid system. The Commission’s commendable decision to exempt over 80% of total State aid from prior notification (1) allows funding to be granted immediately but also significantly increases responsibilities and costs for local authorities, thus increasing public spending. Member States will therefore be required to concentrate on providing the necessary resources to launch targeted training courses and to initiate the sharing of best practices between local authorities. A culture of ‘partnerships’ must be developed at all levels.

1.10. The EESC believes that the new system which grants Member States responsibility for ex-ante evaluation will increase overall costs to public administrations and to firms. Careful planning is therefore required to eliminate unnecessary burdens and simplify procedures. It also notes that the six month duration of the authorisation procedures for evaluation plans of very complex schemes could be too tight and that establishing a counterfactual model could present major difficulties for small states.

1.11. The EESC recommends the rapid adoption of the communication on the concept of State aid, particularly in order to help local authorities. The mass exemption from prior notification has transferred a double burden of defining State aid and implementing it in a manner that is compatible with the market onto these authorities. For instance, in the case of public funding for culture and heritage conservation, the continuing legal uncertainty as to which of these constitutes State aid causes authorities to consider all interventions as subject to regulation on State aid and therefore to all the administrative and procedural burdens that this entails. This same uncertainty also characterises public financing for all infrastructure, in particular since the court ruling on the Leipzig airport case. A clear and concise distinction must be made between public support to firms which does not constitute State aid and support that can be considered as State aid pursuant to the definition set out under Article 107(1) of the Treaty of the Functioning on the European Union (TFEU).

1.12. While welcoming the efforts made, the EESC considers it essential that this evaluation culture is extended to all levels of government, both regional and national. It must not therefore be limited to the cases mentioned above. To this end, the Committee calls for a renewed commitment from the Commission and Member States.

1.13. The analysis carried out indicates that public authorities lack data on management costs incurred through overseeing State aid to firms. It is not possible to carry out a thorough evaluation of the efficiency of these funds without considering how much is spent by public authorities, in addition to measuring the aid itself, in relation to the results obtained. The transparency of this system relies on the publication of these data. From the data available, overall administrative costs would amount to around 5%. Compliance costs — estimated at another 5% — should be added to this figure, plus further evaluation costs, that the Commission estimates suggest would be just under 1%. Objectively, this amount of resources — which is probably an underestimate — seems excessive.

(1) Speech by Margrethe Vestager, Commissioner for Competition, at the High-Level Forum of Member States, 18 December 2014.
1.14. The EESC calls on the Commission not to create additional and unexpected burdens for firms and to guarantee that whole evaluation system is rendered more efficient and effective.

1.15. It is very important that assessments consider the efficiency of administrative costs and costs arising from evaluation models.

1.16. Comparability of different models and flexibility in relation to size, type and indicators should be ensured by simplifying ex-ante evaluation and harmonising ex-post criteria.

1.17. The EESC calls for an integrated view of Commission activity in different areas of economic policy — structural funds, State aid, trade partnership agreements — in order to ensure a unified European economic policy that is based on growth and development.

1.18. The EESC recommends using criteria similar to those set out in Commission Delegated Regulation (EU) No 240/2014 (2) of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds — which establish an obligation to consult all potential stakeholders — in order to formulate a regulation on evaluating the effectiveness and efficiency of State aid.

1.19. Transparency of the evaluation carried out should be guaranteed and given as much publicity as possible — this is already the case in some Member States with regard to firms and the amount of aid granted.

1.20. The EESC recommends that evaluation plans include:

— the achievement of the policy objective;

— the impact on competition and trade;

— the effectiveness/efficiency of the instrument;

— ex-ante verification of the prerequisites for continuing the scheme or similar schemes at micro-level (aid specifications);

— the incentive effect.

1.21. The EESC asks to be involved in the processes of evaluating the overall effectiveness and efficiency of the State aid system at the end of the period 2014-2020.

2. Introduction

2.1. Aid to firms may distort competition and fragment the internal market, contradicting the nature and spirit of the treaties, if it is not set within a clear regulatory framework, directed towards productive activities and firms which invest in particular in innovation research and development (and produce economic and social benefits), and if it is not limited and monitored.

2.2. On the other hand, the negative economic predicament which has persisted for several years — entailing serious national crises which inevitably affect businesses, workers and citizens — requires a relatively flexible approach, as implemented by the EU’s major competitors on the international markets (which are not subject to a single set of rules on State aid). The competitiveness of European firms should be an important benchmark. Unemployment in Europe is a real emergency. Investments have fallen by 15 % since their peak in 2007 and 25 million Europeans are still unemployed. 5 million of these are young people. The majority are women (3).

(3) http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=teilm020&language=en
2.3. An interesting study by the European Parliament (4) highlighted considerable differences between current schemes in place in the EU and the USA. ‘EU competition policy has strict rules on State aid, whereas US legislation has no provisions in this area.’ An EU proposal for rules on State aid has been included — at the request of the then Commissioner Joaquin Almunia — in the current negotiations between the EU and the USA on the Transatlantic Trade and Investment Partnership (TTIP) (5).

2.4. The proposal seems weak and essentially inconsequential (6). Europe will continue to have the most restrictive legislation in the world. While on one hand this helps to complete the single market, it also penalises our firms. A European firm which manufactures in the USA is eligible to receive State aid that is inadmissible in the EU. This will be made easier by the adoption of the agreement. The EESC issues a serious warning to the Commission not to give preference to US firms in the free trade agreement.

2.5. Experience to date has shown that there is a need for a thorough review of the European State aid programme.

2.6. The economic and financial crisis of recent years has forced a radical review of the spending criteria used to determine public investment policy and business support policy at all levels of government. Specifically, the need to find a better way of rationalising support (granting aid only when there is sufficient added value), which would improve the quality of aid and — simultaneously — enable proper monitoring of the effectiveness and efficiency of this aid, has become a priority, in light of the scarcity and limited resources available.

2.7. In the EESC's view, it seems appropriate to find out what effect the business aid policies adopted have had, whether instruments for support identified are suitable and whether administrative and management costs are proportionate to the results obtained. We must be mindful throughout that what cannot be measured cannot be identified or improved. The measures adopted so far have set this approach in motion.

2.8. ‘Evaluation may seem a technical topic of interest to only a small academic research community, while exercised by a larger, practitioners’ community of consultancies specialising in financial auditing or in project and program evaluations. However, as evaluation has risen centre-stage on the European Commission's Smart Regulation agenda, it has become a key topic of regulatory policy, raising important governance and institutional questions beyond the field of expenditure programs’ (7).

2.9. Since 2008 the Directorate-General (DG) for Regional and Urban Policy has developed counterfactual evaluation programmes to support existing evaluations (ex-ante and ex-post) which are conducted during the programming of the structural funds.

2.10. In May 2012, as part of its State Aid Modernisation (SAM) reform programme, DG Competition introduced the use of an impact evaluation which employs counterfactual analysis techniques for some aid schemes (8). In particular, the new General Block Exemption Regulation makes the evaluation of large aid schemes (with an annual budget of over EUR 150 million) mandatory in specific sectors such as: regional development policy, aid to small and medium-sized enterprises (SMEs), research, development and innovation support, environmental and energy aid and support for broadband infrastructure. Some national plans have already been submitted (four), and others in the field of research, development and innovation and broadband are under consideration (around ten).

(4) http://www.europarl.europa.eu/RegData/bibliothque/briefing/2014/140779/LDM_BRI%282014%29140779_REV1_EN.pdf
(7) http://www.lexxion.de/pdf/ejrr/ejrr_2015_01-005.pdf
2.11. The European Court of Auditors recently intervened in the case of the results evaluation systems used by EuropeAid, judging them to be inadequate (9). The evaluation systems used in all of the Commission’s activities are currently under review.

2.12. Greater coherence between the evaluation methodologies used to evaluate State aid and the results of using structural funds is essential, as is a thorough review of all the Union’s expenditure policies.

2.13. The purpose of a counterfactual approach to evaluating the effects of public policies is to verify the policy’s ability to effect a desired change in the behaviour or the conditions of a given target population or beneficiary. It essentially defines the extent to which the support — rather than other factors — has contributed towards the achievement of a certain result. This is sometimes referred to as the incentive effect.

2.14. The aim of the evaluation process is to identify the causal impact of the policy adopted, including only the direct effect of that policy. In other words it eliminates any possible distortions due to general macroeconomic conditions or the diverse nature of firms.

2.15. The causal impact is the difference between the observable outcome variables after policy implementation (the factual situation) and what would have happened if this particular policy had not been adopted (counterfactual situation).

2.16. This type of analysis comes in response to requests seeking to establish evidence of the net effect of support, and the extent of this effect. For example it addresses whether aid produces positive or negative effects and to what extent, whether the changes observed are genuinely attributable to the policy implemented, whether results vary between different beneficiaries (large or small firms), between regions or over time, and whether management and administrative costs are proportional and sustainable.

2.17. Although this subject has been addressed extensively in economic literature, particularly in recent decades, there are only a few cases of public authorities in European Member States continuing and generalising the use of impact evaluations to monitor and improve their business aid policies.

2.18. The most interesting cases to note include efforts made by the United Kingdom, which since 2001 has regularly assessed regional aid programmes using quasi-experimental evaluation techniques, and the Netherlands, which in 2012 established an Impact Evaluation Expert Working Group. Similarly, Finland set up the Finnish Innovation Agency (TEKES) and Slovenia approved the Monitoring of State Aid Act in 2001.

2.19. With this opinion, the EESC wishes to contribute to discussions conducted by the European Commission and Member States on the effectiveness and efficiency of aid measures for firms and on the need to extend the use of impact evaluations.

3. Why evaluate? Lessons from the literature

3.1. On the basis of empirical evidence from counterfactual analyses, this opinion aims to demonstrate the importance of evaluation. Evaluation should no longer be considered as an academic exercise, but as an essential, institutionalised practice included within the policy cycle: implement, monitor, evaluate, reshape.

3.2. For this reason it will examine a number of studies carried out in different European Member States and highlight the fundamental lessons learned, namely the policy implications in terms of the impact on investment growth, productivity, employment, innovation and the cost of the scheme. These indicators provide an understanding of the effects on growth and they emphasise the need for targeted, high-quality aid.

3.3. Although the literature tends to emphasise the existence of a positive correlation between public support for firms and the growth of output (investment, employment, new products), it must be noted that the incentivising effect of aid cannot be taken for granted. There are several other factors which influence the success of a policy, such as the general economic trend, the functioning of the market and the overall taxation system.

3.4. In a study analyzing the impact of Law 488 in Italy, Martini and Bondonio (2012) show that on average firms that received direct aid reduced private investments. In this case direct state support to firms seems to have resulted in a decrease in private investment expenditure, thus reducing the need for private resources. State aid must be additional to and not a replacement for investment.

3.5. The literature also highlights some important concerns in relation to the impact of aid on productivity. In an evaluation study on British firms which received support as part of the Regional Selective Assistance Programme (RSA), Criscuolo (2012) explains how growth in productivity was not statistically significant (10).

3.6. These findings seem to be in line with other empirical evidence which shows how direct aid often has a positive effect on production volumes, without however having any effect on productivity. In other words, the firms which receive aid grow without becoming any more efficient. This would increase the risk of keeping non-competitive companies on the market.

3.7. Statistical-econometric models which identify the impact of support using a counterfactual approach also make it possible to show the net effects of specific aid measures on employment. This allows the cost per labour unit ‘created’ to be measured.

3.8. Often, there is a discrepancy between the number of new labour units that are attributable directly to the aid and the statistics recorded in ex-post monitoring. In a study focusing on measures to assist SMEs in Poland, Trzcinski (2011) shows that out of the 25,000 new jobs ‘created’ by the support, only 10,550 are those that are actually attributable to the policy implemented (11). Bondonio and Martini (2012) reached the same conclusion. Out of 89,000 new jobs recorded in the ex-post monitoring of Law 488, only 12,500 were effectively created, at a cost of EUR 232,000 per labour unit (12). The impact that State aid has in terms of existing jobs, and therefore safeguarding the local, regional or national economy, should be taken into consideration.

3.9. Aid to firms produces different effects depending on the amount of support granted, the size of the firm, the geographical area where it is located and the type of aid pledged. Empirical evidence from such analyses should be at the disposal of public decision makers, to guide their choices and to help them understand what type of support is most appropriate and in what context. As has been clearly demonstrated thus far, it is necessary to formulate targeted aid measures, in order to increase the efficiency and effectiveness of policies.

4. Comments

4.1. The European Commission should continue its work on raising awareness of the most common principles and methods employed in the area of impact evaluation. In particular, the EESC believes that workshops on evaluation techniques and available methodologies should be held in various Member States, in collaboration with universities, the social partners, research institutes and other stakeholders. This experience will help the Commission to gain a reader understanding of the obstacles encountered when applying regulation, and allow it to intervene promptly in this regard.

4.2. Although the Commission’s efforts must be applauded, it is important that more aid schemes be subject to evaluation, particularly when large amounts of aid are involved. It is also essential to promote a debate on methodology which aims to complement counterfactual evaluation techniques with new evaluation instruments that can also cover the effects of other forms of support to firms (financial support, indirect aid, industrial policy considered per se).

4.3. The EESC insists on the need to develop an appropriate pluralist methodology as regards evaluation criteria and indicators. The Commission asserts (13) that ‘this shall ensure that public support stimulates innovation, green technologies, human capital development, avoids environmental harm and ultimately promotes growth, employment and EU competitiveness.’ Each of these elements contributes to the evaluation of the impact of State aid, over and above a mere evaluation of cost. The European Parliament is calling to be involved in defining evaluation methodologies, as well as European law on State aid, as this has a strong influence on the economic policy decisions of Member States. The EESC also emphasises that it would be beneficial for research purposes to have free access to evaluation data, in order to improve the methodology used.

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4.4. It would be beneficial for the Commission, along with national and European statistical organisations, to discuss the possibility of creating a reliable database on State aid to firms as part of a single methodological framework. This would guarantee the transparency of decision-making processes, and would also encourage research and evaluation activities both by public authorities and researchers involved.

4.5. Universities and research centres could play a decisive role in shifting awareness towards a culture of evaluation and in circulating new and more advanced instruments for evaluating public policies. Moreover the European Commission could use independent research institutes to conduct case studies with the aim of evaluating the effectiveness of aid in certain sectors such as research, development and innovation aid, support for SMEs, aid to the energy sector and infrastructure aid.

4.6. Given that the evaluations required under the new Community regulations do not give due consideration to the effects that business aid policy has on the European economy as a whole, it is advisable that the Commission launch a pilot study on this topic at the end of the current programming period (2014-2020). The study should investigate the main factors which determine how aid is spent, define the relationship between aid to firms and the granting authority's economic potential and seek to understand the existing link between cohesion policy and competition policy.

4.7. This opinion is the first step in the EESC’s work on measuring the impact of state to firms. It also responds to and supports the Commission’s activity in this area. However the EESC considers it essential to enhance and extend debate. It will continue to follow the Commission’s work in this area closely and to promote a culture of effective and efficient evaluation wherever possible.

Brussels, 16 September 2015.

The President of the European Economic and Social Committee
Henri MALOSSE
Opinion of the Economic and Social Committee on ‘The Economy for the Common Good: a sustainable economic model geared towards social cohesion’

(own-initiative opinion)

(2016/C 013/06)

Rapporteur: Carlos TRIAS PINTÓ

Co-rapporteur: Stefano PALMIERI

On 19 February 2015, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on:

The Economy for the Common Good: a sustainable economic model geared towards social cohesion

(own-initiative opinion).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 10 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 144 votes to 13 with 11 abstentions.

1. Conclusions and recommendations

1.1. The EESC considers that the Economy for the Common Good (ECG) (\(^\text{1}\)) model is conceived to be included both in the European and the domestic legal framework in order to advance towards the Single European Market through a more ethical economy based on European values and achievements of social responsibility policies, moreover establishing synergies that reinforce them.

1.2. The Economy for the Common Good is an holistic approach whose concepts are close to the fundamental values of the Social Economy, Circular Economy, Sharing Economy, Functionality Economy, Resourced-Based Economy and Blue Economy.

1.3. The Economy for the Common Good is supported by civil society organisations, businesses and universities and it is considered to be a feasible model which strengthens European values, social cohesion and promotes a responsible economic system. In fact, the ECG has been supported by more than 100 local groups, close to 2,000 companies (\(^\text{2}\)) and social organisations.

1.4. Aligned with the Europe 2020 framework, it proposes the transition towards a ‘European Ethical Market’ which will foster social innovation, will boost the employment rate and will benefit the environment. The ‘European Ethical Market’ can be built through the implementation of several strategies:

1.4.1. Measuring indicators of wellbeing and social development beyond GDP (\(^\text{3}\)) such as the Common Good Product and the Common Good Balance Sheet.

1.4.2. Policymaking aimed at recognising companies with higher contributions to the common good, such as ethical public procurement and the promotion of ethical internal trade.

1.4.3. Promoting ethical external trade as the ‘Brand Europe’. In this way, Europe will pave the way to be recognised as an ethical market and European companies will lead the global ethical market and will contribute to the enhancement of human rights, labour standards and the protection of the environment throughout the world.

\(^{\text{(1)}}\) See the Economy for the Common Good website.

\(^{\text{(2)}}\) Some of them present in very competitive markets.

\(^{\text{(3)}}\) To take into account GDP and other complementary indicators.
1.4.4. Encouraging all kind of entrepreneurs who start up organisations aimed at contributing to the common good.

1.4.5. Fostering ethical consumption and awareness among European consumers.

1.4.6. Increasing the diversity of the financial ecosystem by promoting networks of ethical banks and stock markets throughout the EU.

1.5. The EESC demands that the European Commission, as part of the renewed CSR strategy, make a qualitative step in order to reward (in terms of public procurement, access to external markets, tax advantages, etc.) those enterprises that can demonstrate higher ethical performance.

2. Introduction

2.1. The economy and, consequently, economic policy play a crucial role in today’s society, on which hinges the success or failure of other basic policies for the well-being of citizens — education, health, social services, culture, the environment, technology and innovation. These all largely depend on the economic situation affecting the different local and regional levels.

2.2. The crisis, which continues have a negative impact on Member States’ economies and the quality of life of the European people, has revealed the poor resilience of the EU’s social and economic system.

2.3. On the other hand, according to the International Trade Union Confederation (ITUC) Global Poll 2014 (4), there is not a single country in which most people believe that the economic system is fair. Four out of five people (78 %) believe the economic system favours the wealthy. Similarly, 88 % of Germans and 90 % of Austrians want a ‘new economic order’ (Bertelsmann Foundation survey (5)) and the same undoubtedly applies to the countries that have suffered most from the economic crisis such as Greece, Portugal, Ireland, Spain and Italy.

2.4. Taking into account the progress made by the commission concerning social innovation and EESC opinion SC/39 on Taking stock of the Europe 2020 Strategy, the report on The Mid-term Review of the Europe 2020 Strategy, and the Europe 2020 Steering Committee initiative ‘Let’s talk happiness — beyond GDP’, it is evident that if we want to effectively support economic competitiveness and social cohesion, this requires a paradigm shift to make the economic, environmental and social targets truly interdependent and achieve greater equilibrium between qualitative and quantitative aspects of development thanks to a holistic approach.

2.5. The ECG model offers a proper complement that is supported by European society. Its aims and values go beyond what conventional corporate responsibility has to offer, and its holistic vision gives it the capacity to bring together the most diverse actors of society.

2.6. In just 4 years, the ECG has turned into a social movement supported by more than 100 local groups, close to 2 000 companies and social organisations and an increasing number of universities in countries including Austria, Germany, Switzerland, Italy and Spain. In addition, the South Tyrol region in Italy and several local governments across several European countries have adopted the ECG model for their own territories.

3. The Economy for the Common Good: objective, values, strategy and indicators

3.1. The objective of a society must be the well-being of each and every one of its members, in keeping with constitutional provisions.
3.2. In line with those guidelines set out in Article 3(1) (2) and (3) of the Treaty on European Union (6) the main proposal of the ECG model is that the economy must serve people; in other words, the common good. The starting point for achieving this goal must be that money and capital are important instruments — of exchange and investment — but never ends in themselves.

3.3. The economic model of seeking the common good would be based on values that all recognise as universal: human dignity, solidarity, ecological sustainability, social justice, transparency and democratic participation.

3.4. Recognition of the common good as the central objective of the economy demands a specific method for measuring economic success in accordance with the end and not only the means: the Common Good Product with the Common Good Balance Sheet and the Common Good Creditworthiness Assessment that, respectively, complement GDP, the balance sheet and the financial CA.

3.5. The ECG is a holistic model that seeks to integrate the economy into the social, cultural and ecological setting of European society. As can be seen in the attached table, the ECG model reflects the fundamental values of various economic proposals:

<table>
<thead>
<tr>
<th>ECG VALUES/MODELS</th>
<th>Human dignity</th>
<th>Solidarity/Cooperation</th>
<th>Ecological sustainability</th>
<th>Social justice</th>
<th>Democracy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Economy</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Circular economy</td>
<td></td>
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<td></td>
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<tr>
<td>Collaborative economy</td>
<td></td>
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<td></td>
<td>X</td>
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<tr>
<td>Functionality Economy</td>
<td></td>
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<td>X</td>
<td></td>
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<tr>
<td>Resource-Based Economy</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
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<tr>
<td>Blue economy</td>
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</tbody>
</table>

Source: I original.

3.6. The ECG is an economic model that can successfully contribute to the Europe 2020 strategy, in particular by:

— boosting the employment rate and enhancing the quality of existing jobs (‘human dignity’ and ‘social justice’ values),
— fostering social innovation in civil society and the business and political spheres (‘participation and democracy’ values),
— cutting CO₂ emissions, promoting renewable energies, improving energy efficiency and reducing energy consumption (‘ecological sustainability’ value),
— reducing the population at risk of poverty or suffering social exclusion (‘solidarity’ and ‘social justice’ values).

(6) OJ C 83, 30.3.2010.
3.6.1. ECG is a process of 'social innovation' and positive entrepreneurship useful to promote and support new ideas that simultaneously solve social needs, create new social relationships and strengthen economic value creation. In this context, 'Innovation' refers to the ability to create and implement ideas that demonstrate the ability to produce value; 'Social' refers to issues such as quality of life, solidarity, happiness and well-being.

3.7. The ECG is a tool to build a resilient social and economic system that can give European civil society 'protection and development', that contributes to finding solutions and, where possible, preventing crises and that in addition contributes to economic and social change. The ECG is the way to place resilience at the centre of the processes for supporting the transition from crisis to recovery and development.

3.7.1. Resilience is a factor that affects civil society's ability to react to major upheavals and address unexpected tensions and crises. Means of preparing civil society to avert and cope with crises do exist, but they require more effective management and closer cooperation at all levels representing institutional, economic and social interests.

3.8. Increasing the economic and social partners' ability to absorb, manage and prevent the effects of crises and structural changes is a key element for civil society when it comes to supporting the achievement of standards of living that are appropriate to peoples' needs. This also supports the EU's economic competitiveness with a view to social cohesion and sustainability, with the aim of not limiting opportunities for future generations.

3.9. To put these ideas into practice, the ECG model is based on the direct participation of people in both the business and political spheres. Tools such as the common good report/balance sheet and, in particular, the Municipal Common Good Index, are based on the active participation of all stakeholder groups.

4. Transition to the construction of a European Ethical Market

4.1. As a result of the harmful effects felt during the recent economic and financial crisis, people in Europe are less tolerant of issues such as loss of income, cuts in social provision and services, environmental damage, economic and employment uncertainty and the diminishing importance of their social rights together with their rights as consumers and users.

4.2. At the same time, voluntary and insufficient corporate social responsibility policies, that are not presenting enough relevant information, need fresh impetus as pay gaps are widening in many big companies, women are in the minority in decision-making processes and the commitment to the career development of young workers is weakening.

4.3. Entrepreneurs and SMEs are, for their part, threatened by unfair competition and unethical practices, putting the survival of many such enterprises at risk. People in general are calling for an economy based on the values which are, in theory, enshrined in national constitutions.

4.4. The climate of social disengagement is reflected in a loss of public confidence in institutions and those who represent them. If it is to win back this necessary confidence and strengthen social and territorial cohesion, the European Union will have to redesign its policies and draw up a new strategy in keeping with people's demands and values.

4.5. In this sense, the EESC opinion on the Annual Growth Survey 2014 calls for the scoreboard of social indicators to be proactively included in the European Semester on an equal footing with macroeconomic and budgetary indicators. Furthermore, the European Semester's objectives, methods and instruments should continue to include the greening of existing industrial processes in each sector and of the economy as a whole, in order to ensure economic recovery based on a more sustainable model of development.
4.6. This is why the ECG model proposes a shift to a ‘European Ethical Market’ in which economic and trade policies are aligned with the culture and values that people identify as universal. By means of this strategy, the European economy and companies would restore their international ‘brand image’ as exemplary organisations in terms of protection and promotion of human rights, the quality and meaning of work, and environmental protection.

4.7. Recognition would therefore be given to organisations that market products and services in accordance with ethical criteria and which contribute to the common good. More specifically, products and services that do not guarantee an ethical minimum through the value chain would be removed from the profitability zone.

4.8. To summarise, the ECG model matches the proposals of conventional corporate social responsibility (CSR) with regard to values, but goes further in terms of objectives and methods. CSR in Europe mainly has been based on the principle of ‘giving back to society part of the profit obtained from it’ before focusing on the aim of ‘maximising the creation of shared value for their owners/shareholders and for their other stakeholders and society at large’. This is why, unfortunately, a significant number of companies have reduced CSR to no more than philanthropic actions or public relations gestures.

5. Future strategies for building a European Ethical Market

5.1. Several strategies are proposed for building a European Ethical Market. The roadmap will start with the measurement of companies’ contributions to the common good and the convergence towards a European non-financial reporting. Next, European civil society will be informed of companies’ performance through the development of ethical labelling. Policymaking will recognise those companies with a higher contribution to the common good through ethical public procurement and policies aimed at building an ethical internal and international market. Finally, entrepreneurship, consumption and banking policies will also be aligned with the common good principles. All this will take place by avoiding excessive administrative burdens and using market mechanisms.

5.2. Measurement of companies’ contribution to the common good by completion of a Common Good Balance Sheet. The Common Good Balance Sheet measures the non-financial part of a company’s success: its ethical success and contribution to the common good. The current version of the CGBS measures the most important constitutional values: dignity, solidarity, sustainability, justice and democratic participation: ‘ethical performance’ vis-à-vis all the contact groups.

5.3. To move beyond conventional CSR, the ECG movement proposes that the balance sheet should meet eight ‘metacriteria’: it should be 1. universal, 2. measurable in neutral points, 3. comparable between companies, 4. comprehensible for stakeholders, 5. public, 6. externally audited, 7. mandatory, 8. legally binding: the better the result, the lower taxes, customs tariffs, interests etc. would be in keeping with the slogan ‘with ethics to success’.

5.4. As part of the ECG movement, more than 200 SMEs have carried out a CGBS through to the final stage: peer evaluation or external audit. The transition to a mandatory balance sheet could be gradual. The EU has recently taken the first step with its directive on non-financial reporting. The second step could be for the directive only to include standards that comply with all the above-mentioned metacriteria and entail legal advantages according to result. The remaining standards could subsequently be combined into one, which would be the non-financial part of the mandatory company balance sheet. The ‘universal’ (financial and non-financial) balance sheet would become a passport to entry into the future Common Ethical Market.

5.5. Ethical labelling. The ECG argues that information on ethical behaviour should be provided on all products sold on the European common market by means of a common ethical labelling setting out the company’s contribution to the common good. The labelling could visually rank the result of the Common Good Balance Sheet, for example, in five different colours. Via the QR code, consumers could see the balance sheet in detail.

5.6. **Ethical public procurement.** Priority in public procurement could be given to organisations that can demonstrate the greatest contribution to the common good in their Common Good Balance Sheet. Public procurement in Europe can serve as a driver for implementing the 'European Ethical Market' by adopting criteria linked to the contribution to the common good and the quality of the social and ecological footprint set out in Directive 2014/24/EU of the European Parliament and of the Council (8) and the implementation of the corresponding social clause.

5.7. **Ethical Internal Trade.** Free internal trade would be encouraged in those organisations that can demonstrate the greatest contribution to the common good in their Common Good Balance Sheet. Firstly, the free marketing and movement of products and services for European companies would be facilitated for those that can demonstrate compliance with minimum ethical standards under the 'European Ethical Market'. Secondly, the import of products, investment and provision of services from companies in non-EU countries that can also show they comply with minimum ethical standards under the 'European Ethical Market' would be facilitated. In this way, import tariff and tax policies relating to internal trade and imports would be framed in accordance with the ethical behaviour shown by companies.

5.8. **Ethical International Trade.** Ethical behaviour and contribution to the common good must be the European economy's calling card — in other words, 'Brand Europe'. European companies, as ambassadors for European society, culture and values, must make sure they behave ethically and prove it by means of the balance sheet. The European Union's policies to promote external trade (aid programmes for external trade, ethical standards for trade rules, etc.) should therefore in the first place support those companies that demonstrate the greatest contribution to the common good.

5.9. **Entrepreneurs for the common good.** Fostering entrepreneurship is key to ensuring the European Union's economic sustainability. By the same token, social innovation must by definition be geared to supplying products and services that contribute to the common good of society. For this reason, policies to promote entrepreneurship in the 'European Ethical Market' would foster business start-ups and training for entrepreneurs on the basis of the values of human dignity, solidarity, ecological sustainability, social justice and democratic participation. Common good hubs could be set up in all (Common Good) cities, creating businesses that either practice the balance sheet from the outset or are initially set up as 'common good enterprises'.

5.10. **Consumers and fostering ethical consumption.** The success of the 'European Ethical Market' will depend on the demand on the part of European consumers for products and services that contribute to the common good. Strategies and programmes to boost ethical consumption will need to be devised and promoted. These programmes would provide information on the nature of the 'European Ethical Market' by means of education, awareness-raising and publicity campaigns. The 'double act' of the common good balance sheet and labelling would provide ideal tools for achieving this objective.

5.11. **Ethical Banks and extension of the Basel Accords, including ethical quality criteria in banking regulation.** Since the 2008 financial crisis and the adverse banking and financial events, the European public has progressively lost trust not only in its banking system, but also in national and European regulators. This state of affairs poses a major risk to the economic stability of the euro area.

5.11.1. It is consequently necessary to improve the ethical standards in the financial industry and, at the same time, to increase the diversity of the financial ecosystem, reinforcing the networks of ethical banks throughout the EU (cooperatives, savings banks, new ethical banks) that contribute to the common good. This may help the promotion of banking in Europe that: (a) only carries out basic services (savings, payments, loans), (b) does not pay dividends or they are limited, (c) carries out a common good audit for each loan request. An ethical creditworthiness assessment of this kind would represent an extension of the Basel Accords to ethical criteria. It would measure the ethical added value that an investment would bring.

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5.11.2. An initial prototype of such a common good check is currently being developed by the ‘common good bank’ project in Austria. Loan conditions could be geared to the result of the assessment. In this way, the financial market would become a tool for sustainable social and ecological development.

5.12. ‘(Regional) Common Good Stock Market’. All the ethical banks working for the common good could jointly create a regional common good stock market, which would receive loan applications that pass the ethical test but not a financial solvency one. These stock markets, unlike their conventional counterparts, would not be a forum for negotiating company shares or obtaining financial returns — this would not represent the reason for investing in a company. The benefit for financial investors would lie elsewhere, for instance in meaning, utility and ethics (the ‘triple skyline’). In this way, European people and companies would have an opportunity to make ethical investments reflecting the values of the Member States’ constitutions and the EU’s own Treaties.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘The Community Method for a Democratic and Social EMU’

(own-initiative opinion)

(2016/C 013/07)

Rapporteur: Ms Gabriele BISCHOFF

On 19 February 2015, the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

The Community Method for a Democratic and Social EMU.

(own-initiative opinion)

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 10 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 161 votes to 6, with 10 abstentions.

‘The EU must be a community of citizens, not banks. Its foundation is democracy, its future social justice (1).’

1. Conclusions and recommendations

1.1. A genuine stabilisation of the economic and monetary union (EMU) can only succeed if faults in the EMU’s construction are rectified and major reforms are undertaken to accomplish this. This requires a change to the treaties as part of a convention. Since this is unrealistic before 2018, in the meantime other measures must be taken to enhance the democratic and social dimension of the EMU within the framework of the existing treaties and to ensure that the self-imposed rules are followed.

1.2. The longer the current savings-oriented policy — primarily focused on making spending cuts — continues without an effective investment plan to generate revenue through growth, social cohesion and solidarity, it will become increasingly clear that Europe’s economic integration and prosperity is at risk from growing social inequalities.

1.3. Continuing on the current course is therefore not an option. Instead, social, political and economic cohesion must be strengthened to avert a break-up of the euro area. The EESC agrees that divergences in the EMU economies must be given greater consideration and that balanced structural reforms in these countries must be introduced to reflect the requirements of a monetary union and in accordance with national requirements, in order to ensure the necessary convergence. In addition, the EESC believes that short-term demand management is essential.

1.4. The EESC calls for greater ‘parliamentarisation’ of the euro area, with a grand EP committee comprising all members of parliament from the euro area and from those countries wishing to join (26 Member States), combined with stronger coordination of members of parliament from the euro area on EMU issues (COSAC +). This could get under way in a relatively short time.

1.5. The EESC points out that some of the economic policy goals of economic governance of recent years must be brought more into line with the EU’s social policy objectives under Article 4(2) TFEU and possible conflicts between economic and social objectives should be resolved. All measures under the European Semester — in accordance with the horizontal social clause — must be subject to a social impact assessment. These results should be made public and discussed at national and European level. The EESC can support this within the framework of its competences.

(1) Heribert Prantl Europa — Traum oder Alptraum (Europe — dream or nightmare), presentation in Ludwigsburg on 14 July 2013.
1.6. The removal of divergences in the functioning of labour markets, wage-setting systems and welfare systems also plays an important role in a democratic and social EMU.

1.7. The EESC is convinced that macroeconomic dialogue in the euro area (MED-EURO) can make a key contribution to the democratic and social development of the EMU, the outcomes and conclusions of which should be taken into account both when drawing up the Annual Growth Survey and in the scoreboard and country-specific recommendations.

2. Challenges and criteria for a democratic and social EMU

2.1. The EESC has issued several opinions with specific suggestions on how the EMU could be better designed. Whereas some of these opinions set out future scenarios, this opinion provides proposals for how the democratic and social design of the EMU can be developed as quickly as possible within the framework of the Community method in such a way that it bolsters democratic resilience and meets the social obligations arising from the treaties. Serious moves towards more comprehensive treaty change are unlikely before 2018. At the same time, there is still concern that the intergovernmental instruments, in particular the Fiscal Compact, are undermining the Community method and provoking division in Europe (2). The longer the savings-oriented policy — primarily focused on making spending cuts — continues without the addition of at least an investment plan and measures to generate growth and social cohesion and solidarity, it will become increasingly clear that Europe’s economic integration and prosperity is at risk from growing social inequalities.

2.2. The crisis in the euro area has laid bare the design errors of monetary union. As there was a failure to coordinate the various national economic policies from the outset, in many respects members of the monetary union grew apart (3).

2.3. In the context of the crisis the intergovernmental method appeared to be the only way to adopt important EMU instruments — like the Fiscal Compact — quickly, as individual Member States would not have agreed to a Treaty change. On the one hand, some instruments have been improved during the crisis. At the same time, there is consensus that parliamentary design and monitoring of the EMU has hitherto been insufficient. This must now be rectified as part of a more consistent integration policy. The group of foreign ministers (4) therefore recommended as early as 2012 that ‘full democratic legitimacy and accountability’ be guaranteed in all measures, calling for stronger cooperation between the EP and national parliaments (5). The European Commission’s Blueprint for a deep EMU suggested building on the institutional and legal framework of the treaties. The Eurogroup could then lead the way with specific measures, provided such measures were open to all Member States.

2.4. Within the framework of European policy, more and more intergovernmental solutions, such as the Fiscal Compact, are being implemented, heightening the risk that a parallel system governed by international law is being created. Published in December 2012, the Van Rompuy report pointed out that a common understanding was important in order to carry out more far-reaching reforms. Moreover, a high degree of social cohesion was needed, as were a strong role for the EP and national parliaments and renewed dialogue with social partners. The accountability (ownership) of the Member States also had to be improved. In so doing, the then president of the European Council (6) brought the social dimension and the specific role of the social partners into the debate, which previously had been geared primarily to economic and budgetary policy issues and the lack of democratic legitimacy.

(2) The EP, the fiscal compact and the EU-institutions: a ‘critical engagement’: Elmar Brok (EPP, DE), Roberto Gualtieri (S&D, IT) and Guy Verhofstadt (ALDE, BE).
(4) Final report of the Future of Europe Group of 17 September 2012 by the foreign ministers of Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, the Netherlands, Poland, Portugal and Spain.
(5) Ibid., p. 2 (f).
(6) In close cooperation with Mr Barroso, Mr Juncker and Mr Draghi.
2.5. Following the 2014 EP elections, and with the position of Commission president thus enhanced by democratic elections, there have been new discussion proposals:

a) the analytical note *Preparing for Next Steps on Better Economic Governance in the Euro Area* (\(^7\)), published by the four presidents on 12 February 2015;

b) the five presidents’ report *Completing Europe’s Economic and Monetary Union*, 22 June 2015 (\(^8\)).

2.6. The EESC takes note of these proposals and will assess them in terms of how much the ideas for the further development of ‘economic governance’ contribute to a social, democratic, solidarity-based and political union which guarantees appropriate participation of EU citizens and the social partners.

2.7. The EESC takes the view that the EMU requires a genuine strengthening of intra-Community cooperation, as hinted at in the Commission’s ‘blueprint’. By extending demand instead of stifling it, this would ensure that the economic capacities of the various countries are more closely aligned within the framework of a growing and prosperous economy. This includes an upwards harmonisation of social standards and labour rights.

2.8. The co-existence of the Community method, intergovernmental initiatives (such as the Fiscal Compact) and other new ‘intermediate forms’ linked to the Commission’s and the European Court of Justice’s supervisory function in the application of international agreements have given rise to renewed confusion regarding operators and their legitimacy and accountability. Transparency and thorough democratic scrutiny cannot be guaranteed given this state of affairs and this has aroused a lot of criticism. In the midst of the crisis, quick solutions had to be favoured, albeit with the declared intention that individual international-law agreements should later be transferred to the Community method. The five presidents intend this state of affairs to continue until 2018. Their timetable would further postpone the full democratisation of the EMU, and their report does not pay the question of political union enough attention. In the meantime, the European Semester dialogue between the EP, Council and Eurogroup, as well as between national parliaments and the Commission and between national parliamentarians and MEPs (COSAC), is intended to enhance trust and spur joint action. In this regard, the EESC points out that increased dialogue cannot replace integration policy. The Community method must now be strengthened once again and form the basis of a functioning EMU, instead of different, parallel systems based on international law.

3. Better EMU governance through more participation, transparency and accountability

3.1. Better involvement of the social partners can contribute to improved EMU governance, and structured dialogue with civil society helps to improve democratic resilience. The EESC is willing to play a special role here and to make its experience and resources available, as is already the case with the 2020 strategy, for example (\(^9\)).

3.2. The question of ‘ownership’ especially by the social partners, as introduced by Council president Herman Van Rompuy, promises to be much more difficult, especially as the social partners — unlike governments — have so far been involved in a very limited way in designing the objectives/instruments of economic governance. How can we then encourage them to get involved in a policy, the details of which they have little influence over? As social partners and economic operators, they have a substantial influence on pricing levels and stability, for which the EMU provides the overarching framework for their respective systems for setting wages and organising labour market and social policy.

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(\(^8\)) Five Presidents’ Report, *Completing Europe’s Economic and Monetary Union*,

3.3. In 2013, the Commission published its communication on the social dimension of the EMU (\(^{10}\)) responding to the discontent of civil society stakeholders. ‘Problematic’ economic developments should be identified and dealt with at an early stage since persistent social inequalities could jeopardise the financial and economic stability of the EMU. In the discussions that followed, it became clear that there were two schools of thought. The first one is based on the assumption that the social dimension of the EMU is an additional, optional and voluntary pillar, in contrast to the mandatory budgetary and economic policy procedures. Others, like the EESC, would point out that some of the economic policy goals are at odds with the EU’s social policy objectives under Article 4(2) TFEU and call for these conflicting aims to be made public and resolved.

3.4. The Commission wants to involve the social partners more closely and to engage in a discussion on wage development and collective bargaining. It has already taken several steps in this regard. On the other hand, it would like to discuss the European Semester with the social partners and calls for them to be involved more effectively in the Member States. The EESC itself has put forward very concrete proposals to ensure that the social partners play a more effective role in economic governance (SOC/507) (\(^{11}\)). At least the new allocation of Commission portfolios, especially the broadened remit of vice-president Dombrovskis, can be seen as a sign that greater attention will be devoted to the participation of the social partners.

4. Proposals and evaluation

4.1. The presidents’ report

4.1.1. The EESC expects the report on Completing Europe’s Economic and Monetary Union (\(^{12}\)), presented by the five presidents (\(^{13}\)) on 22 June 2015, to serve as a guide for future development of structures for economic policy governance in Europe. The EESC is of the opinion that ongoing imbalances as well as the creation of trust require more effective and democratic economic governance, notably in the euro area (\(^{14}\)). On the other hand, the analysis is based on some false premises, which leads — despite some good points — to problematic conclusions: without a change of course, the savings-oriented policy would continue, leading to more wage and welfare cuts. While it is recognised that the minimum conditions for the long-term viability of the EMU have not yet been achieved, the recommended stepping up and long-term institutionalisation of the current anti-crisis policy is nonetheless to continue. The EESC sees a contradiction here.

4.1.2. The current (not least in comparison with the USA and Japan) disastrous economic situation in the euro area is not attributed to the ongoing anti-crisis policy, but to the uncompetitiveness of some Member States because of divergent wage trends and government deficits. The EESC finds it regrettable that the short-term challenges for macroeconomic policy, such as inflation and deflation, and the failure (from 2010 onwards) of counter-cyclical policies, as well as excessively weak demand, are being overlooked and a largely asymmetric adjustment policy is to continue. Regrettably, the five presidents completely disregard the fundamental problem, which has become evident during the crisis: unlike the US, Japan and the UK, the euro area as a whole lacks a ‘lender of last resort’.

4.1.3. The report completely overlooks the approaches taken by other central banks, which enabled the USA and the United Kingdom to recover relatively quickly, while the situation in Europe only worsened. Instead of a counter-cyclical stabilisation policy, existing instruments of economic governance are to be strengthened, including by means of national competition councils that focus on reducing debt levels (‘deleveraging’) and on production-oriented wage development. The EESC regrets that the opportunity to assess the long-term sustainability of the foundations of the existing policy framework and to complement them with an enhanced pan-European perspective was not taken.

\(^{10}\) COM(2013) 690 final, Strengthening the Social Dimension of the Economic and Monetary Union.


\(^{12}\) See footnote 8. Only those elements of the report that are relevant to this opinion will be discussed.

\(^{13}\) The President of the European Commission, the President of the European Council, the President of the European Parliament, the President of the Eurogroup and the President of the European Central Bank.

\(^{14}\) EESC opinion: Completing EMU: The political pillar (OJ C 332, 8.10.2015, p. 8).
4.1.4. The EESC finds it regrettable that the presidents attribute the much worse than expected economic trend purely to the fact that the new mechanisms of economic governance, as well as the adjustment programmes of the countries in crisis, were not thoroughly applied and were inadequately organised. The over-emphasis on structural reforms and price competitiveness of the Member States to complete the economic union (Chapter 1) overlooks the fact that structural reforms and wage-setting are subject to constant negotiations and problem-solving at local level — processes that follow democratic principles. The five presidents, however, position themselves as external operators who wish to steer Member States closer to arbitrarily defined benchmarks, without enhancing their democratic legitimacy to do so or creating ownership.

4.1.5. The EESC is therefore concerned that the report’s lack of perspective of a fully-fledged fiscal union will further delegitimise the euro area in the Member States, particularly because their approach of ‘more of the same medicine’ will not improve the economic well-being of all their citizens and the national perspective will continue to dominate. The EESC considers the proposed measures for integrating labour markets and welfare systems to be completely inadequate, not least because — in contrast to the presidents’ rhetoric of wanting to achieve a ‘social AAA rating’ for the euro area — these measures have only secondary importance. The EESC considers the development of a social union to be an integral part of a democratic and social EMU, not an afterthought.

4.2. **Bruegel analysis and proposals** (15)

4.2.1. The European think tank Bruegel notes that from the outset the EMU was characterised by significant differences in economic, social and political conditions, which are responsible for the policy errors in Member States and inadequate European economic governance. It proposes a reform of economic governance in the fields of banking union and macro-prudential supervision of the financial sector, the prevention of strong divergences in unit labour costs and fiscal policy governance, which can ensure that the budgets of individual members are sustainable and that resources are available in the event of a banking and sovereign debt crisis. The EESC has very recently put forward very similar proposals in its opinions (16).

4.2.2. Capital flows from surplus countries have been partially responsible for overheating in deficit countries, with nominal wages increasing as a result. The financial imbalances have so far been given too little attention. This is at odds with the intention of having deeper financial market integration.

4.2.3. The pro-cyclical fiscal policy between 2011 and 2013 and the absence of a counter-cyclical fiscal policy in 2014 have further exacerbated social hardships unnecessarily (17). In addition to the necessary structural reforms, policies should therefore offer people opportunities, for instance through favourable conditions for private investment in order to rebuild long-term employment. Moreover, policy should include measures to enhance competitiveness in order to generate income and prosperity to guarantee social stability to all. The EESC therefore strongly endorses the conclusion that, in the short term, aggregate demand and inflation must be increased as a matter of urgency. Furthermore, the ECB must be relieved of the tasks of fiscal policy and adjustment of unit labour costs, which fall outside its mandate but which it carries out for all intents and purposes owing to the political inaction of the other institutions.

4.2.4. In the EESC’s view, further action is required in order to address the basic issues of democratic legitimacy. The EESC strongly supports the full ‘parliamentarisation’ of the euro area (grand EP committee including all members of parliament from the EMU and those wishing to join the euro area). Even coordination among members of parliament from the euro area on EMU issues should be improved within the framework of COSAC (18).

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(17) Zsolt Darvas and Olga Tschekassin, Poor and under pressure: the social impact of Europe’s fiscal consolidation, Bruegel Policy Contribution 2015/04, March 2015.

(18) See footnote 14.
4.2.5. In 2014 COSAC itself pointed out that many parliaments are not yet sufficiently involved, and expressed concern that the link between the public and the EU has therefore been disrupted. They call on the Commission and the Council to work together with members of parliament to address the situation with practical proposals (19). Although the forms of participation provided for in Article 13 of the Fiscal Compact are a step in the right direction, they fall short of genuine ‘parliamentarisation’.

4.3. **The overarching responsibility of all economic operators**

4.3.1. Removing the divergences in the functioning of labour markets, wage-setting systems and welfare systems also plays an important role in a democratic and social EMU. A federal system with a single European labour market together with uniform institutions and welfare systems, as in the USA, does not seem feasible in the short term. In addition, the Macroeconomic Imbalances Procedure (MIP) should be strengthened in a symmetrical way with the social partners becoming involved.

4.3.2. The EESC points out that some of the economic policy goals of economic governance of recent years must be brought more into line with the EU’s social policy objectives under Article 4(2) TFEU and possible conflicts between economic and social objectives should be resolved. All measures under the European Semester — in accordance with the horizontal social clause — must be subject to a social impact assessment. These results should be made public and discussed at national and European level. The EESC can support this within the framework of its competences.

4.3.3. The five presidents’ report speaks of a financial, fiscal and political union, while there is no mention of the social union. It urges strengthening the unique European model, while no longer saying anything about the unique European social model. It is true that the image of the ‘social triple A’ is raised, which is intended to be achieved as part of a deepened EMU, but it remains extremely vague. Social issues are dealt with at best as supplementary matters, or in the context of increased mobility of the labour markets in the Member States. Key elements — mentioned without further explanation — are a minimum level of social protection, effective welfare systems in the Member States as well as new employment ‘flexicurity’ initiatives.

4.3.4. The governments of the Member States have an important responsibility for the further development of a democratic and social EMU. The same applies to the social partners, both nationally and at European level, for whom the EMU provides the overarching framework for their respective systems for setting wages and organising labour market and social policy. As economic and social players, they play a key role as regards compliance with the EMU’s common stability target.

4.3.5. The EESC reiterates that a monetary union with different price and wage trends in the Member States inevitably gives rise to imbalances between the regions of the same currency area, whereby external shocks can develop into social and political crises and may further exacerbate divergences (20). Therefore the EESC believes that a serious debate on a well-founded architecture of the EMU, implying a consensus concerning economic and social objectives as well as agreed governance, is unavoidable (21). The EESC concludes therefore that EU macroeconomic dialogue (MED) needs to be strengthened and deepened within the euro area.

4.3.6. Macroeconomic dialogue was launched by the European Council in Cologne in June 1999 in order to achieve a long-term growth and stability-oriented macroeconomic policy mix, i.e. smooth interaction between wage development, monetary and fiscal policy. Its goals are now more pertinent than ever: more growth and jobs while preserving price stability, using up production capacity and increasing potential growth (22). The EESC finds it regrettable that this tool has been watered down over the years and, since the onset of the crisis, has not been used to democratise the instruments of economic governance and to enhance awareness of ownership in the EMU common currency area.

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(21) See footnote 14.
4.3.7. The EESC is convinced that MED in the euro area (MED-EUR O) can make a decisive contribution to the democratic and social development of the EMU provided that the group of participants in the dialogue meets its requirements. Maintaining the capacity for dialogue within the MED-EUR O requires a limit on the number of participants. In addition to the representatives of the social partners, the European Central Bank, the Eurogroup and the Commission (while fully preserving their autonomy and independence), the chair of the Committee on Economic and Monetary Affairs of the European Parliament should participate on an equal footing.

4.3.8. The EESC believes that MED-EUR O should meet at least twice a year and become an integral part of the economic governance of the EMU. Its findings and conclusions should therefore be taken into account both when drawing up the Annual Growth Survey and in the scoreboard and country-specific recommendations. Within the overall context of monetary, budgetary and wage policy in the EMU, trust can be fostered and closer convergence can be achieved without jeopardising free collective bargaining. This could — by analogy with the ‘Stability and Growth Pact’ — lead to a higher degree of transparent commitment by all economic operators and act as a ‘stability and jobs pact’. In this context, the EESC stresses the importance of smooth interaction between monetary and budgetary policy and wage development in order to ensure more growth and jobs, boosting confidence in monetary union.

4.3.9. This is a different approach from the five presidents’ suggestion — similar to the Bruegel proposal — to establish national competition institutions in order to accompany wage-setting processes at national level. According to the five presidents’ proposal, these national competition institutions should also be coordinated at European level. An early consultation of the social partners before putting together the report would have been wise, because the presidents’ proposal has little chance of success in its current form.

4.3.10. Outlook: without undertaking fundamental institutional and political reforms, the EMU will always remain fragile. The Committee is extremely concerned about the stability of the EU, since the necessary reforms — with or without treaty change — always occur only at the last minute and under intense pressure. What is needed is to strengthen social, political and economic cohesion in the EU once again and to continue a coherent economic and monetary integration as a basis for a properly functioning EMU. Without bold members of parliament, politicians and social partners, who lead the discussion with civil society both nationally and at European level and who fight for the best solutions, a well-functioning EMU cannot succeed.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on 'Principles for effective and reliable welfare provision systems'
(own-initiative opinion)
(2016/C 013/08)

Rapporteur: Mr Bernd SCHLÜTER

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Principles for effective and reliable welfare provision systems.

(own-initiative opinion)

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 1 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 130 votes to 46 with 10 abstentions.

1. Conclusions and recommendations

1.1. The EESC advocates clearer EU strategic priorities in social policy. This means learning from the crisis, the policies adopted to address it and the loss of trust among the general population.

1.2. The European Commission is urged to frame general social policy principles as part of a solid work programme. The EESC presents proposals for these principles in point 4 below. This effort could be based on a flagship initiative, governance rules or a White Paper. The starting point should be improved comparative data collection at EU level and in the Member States. Pure input indicators (how much money a given Member State spends on a given welfare service or benefit) are not sufficient to indicate the quality of a welfare provision system.

1.3. The responsibilities of the Member States and the political and cultural differences between welfare systems must be heeded and a consensus pursued between Member States as far as possible when framing social policy principles with the aim of bringing about upward convergence of welfare standards.

1.4. These social policy principles should form a substantive basis, for instance, for future recommendations to the Member States as part of a more effective European Semester (1). However, the principles should also be applied through the Structural Funds, the open method of coordination and the social impact assessment as set out in Article 9 TFEU. A binding social protection floor should be aspired to as part of these measures. The existing legal bases should be used to achieve this.

1.5. Social policy principles should form a basis for the action of the EU institutions, especially in economic governance, fiscal control and crisis management.

1.6. The social partners are key players in social insurance systems financed and managed jointly by employers and employees and other systems that have developed by negotiation between the social partners. They should be involved in the framing of social policy principles. Civil society actors and associations of welfare providers, social businesses, local authorities, welfare authorities, social insurance bodies, users and consumers should also be involved within their areas of responsibility.

(1) For example based on more consistent oversight and assessment of how recommendations are implemented and linking with the Structural Funds (OJ C 170, 5.6.2014, p. 23).
1.7. In this opinion the EESC will set out specific proposals for social policy principles in relation to welfare provision systems. The goal is to improve the effectiveness and reliability of the services and benefits of social protection systems, as well as social security and health systems, irrespective of the nature of the service provider and the type of service or benefit provided. The EESC is concerned above all with guaranteeing the provision of modern public interest-orientated social services in all EU countries from a legal and financial standpoint.

1.8. The EESC recognises the diversity of systems and considers among other things the goals, form and substance of welfare provision, the balance between solidarity and personal responsibility, legal guarantees, funding and quality. It also looks at the position of users and welfare providers. The Committee sees a need to safeguard basic welfare provision by having common rules at EU level.

2. Introduction: Background and current state of play

2.1. The foundation of European social policy includes human rights, the lessons of the two world wars (2), the principle — enshrined in the Treaties — of the social market economy, the goals of the Europe 2020 strategy, the needs of productive national economies, the duty to combat poverty, the social, employment and health policy chapters of the Treaties, the objective of social cohesion and the common competition rules in Article 3 TEU. Article 151 TFEU stipulates that the objective of social policy is to promote employment, improve living conditions, ensure proper social protection and combat exclusion. The European social model is the expression of a unique community of values and culture (3) that melds democracy and the rule of law with social responsibility and solidarity. The EESC would like to strengthen this model and ensure its future viability.

2.2. The EESC firmly believes that social policy should be a pillar of EU policy, both in its own right and as a means of promoting long-term growth and employment (4). The Committee commends the progress already made in employment policy, on many aspects of coordination and in industrial safety. It affirms the investment function (5) of effective welfare provision systems and points to the moral, social and material cost of neglecting social policy. The EESC believes that efficient, innovative national economies and reliable, efficient and effective welfare provision are interdependent. Modern welfare systems can make national economies more resilient in crises; they promote employment and indeed create high employment potential, including for disadvantaged regions (6). In today's technology-driven information society, and in the light of demographic trends (7) and migration, there is no long-term competitive edge to be gained by limiting spending in areas such as active inclusion, empowerment of job-seekers and opportunities for children and young people. Developing existing systems based on common principles could help to promote equal opportunities and fair competition within the EU.

2.3. One of the purposes of welfare and healthcare systems and equivalent systems is to achieve necessary social equity, combat poverty, and ensure subsistence support and social harmony. Almost every EU citizen is reliant on the support of welfare services at certain times of their life. Among other things, welfare systems ensure adequate pension provision and assistance from qualified professionals for people requiring care or support.

2.4. Employers and employees have an interest in, for example, a good work-life balance, health promotion and empowerment. Professional welfare provision helps people to communicate and cope with everyday life, furthers their skills, and supports them with problems such as addiction and crises and with care and education in the family.

(2) Thus Winston Churchill in his 1946 speech in Zürich: ‘We must build a kind of United States of Europe’.
(3) EU Charter of Fundamental Rights; European Social Charter.
(4) OJ C 143, 22.5.2012, p. 102.
(7) OJ C 161, 6.6.2013, p. 27.
2.5. The EESC observes that substantial differences exist in the effectiveness, reliability and efficiency of welfare systems (1). Well-functioning systems exist in many Member States, but all countries would nevertheless benefit from a general debate about social policy. Minimum subsistence protection by means of welfare provision (minimum income), professional social services and effective integration into employment and society are not guaranteed everywhere. Healthcare in particular is often not universally accessible — for instance where someone is unable to afford official or unofficial extra charges. Professional services, including non-residential care, support for people with disabilities, and help with educational or developmental problems are not available in all regions and Member States. The EESC observes that collective financing and legal safeguards sometimes need improving.

2.6. A recent study from the Bertelsmann Foundation (2) demonstrated wide disparities in the efficiency of welfare systems and alarming trends in wealth and poverty in the EU and the Member States, and called for the EU to step up its social policy efforts. The study also showed that effective welfare systems are feasible, even where GDP is relatively low, and that inadequate welfare systems may still be seen where GDP is relatively high. Increasing poverty is a threat to social harmony and economic development (3). Social policy proposals should also be put forward to address both the growing divergence between the Member States and worrying political developments.

2.7. The substantive basis for recommendations to the Member States and for crisis policies should be improved. Instead of calls for humanitarian measures after the event, the EU should adhere to consistent social policy principles. The controversial use of taxpayers' money to bail out banks engaging in high-risk activities should be reasonably proportionate to investment in the proper functioning of welfare systems. The internal market rules, e.g. in relation to state aids and public procurement, are already having a substantial impact on welfare systems and services without having being obviously evaluated on social policy criteria.

2.8. Under the new Treaty objective of a social market economy (4), internal market policy should be complemented by social policy elements (5). The EESC echoes current calls (6) on the Commission and the European Council to flesh out social policy promises and implement measures (7).

2.9. A new phase of European social policy could build on the following earlier efforts: the Council's call for a guaranteed minimum income, dating back to 1992 (8); its adoption of the Social Agenda in 2000; the requirement under Article 12 of the European Social Charter that the parties maintain a system of social security; the objectives of social cohesion and protection of services of general interest contained in the EU Treaties (9); the minimum standards for welfare systems published by the ILO (10); the still valid EU White Paper on Social Policy published in 1994; the right to a decent existence laid down at EU level (11); key benchmarks contained in the UN Convention on the Rights of Persons with Disabilities.

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(2) Social Protection at the Top of the International Agenda, 2012; Social Protection Platform documents.
(3) OECD: In It Together, 2015. In most OECD countries the gap between richest and poorest is at a 30-year high, with the richest 10% of the population earning 9.6 times as much as the poorest 10% in the OECD as a whole. In the 1980s this ratio was 7.1.
(4) Article 3(3) TEU.
(9) For example: Articles 2 and 3(3) TEU; Articles 2(3), 14, 56, 107, 162 et seq., 168, 174 and 175(3) TFEU and Protocol No 26 of the Treaty on the Functioning of the EU (TFEU).
(11) EU Charter of Fundamental Rights, Article 1 in conjunction with Article 34(3).
2.10. **In its opinion** SOC/482, the EESC, like the European Parliament (19), the Committee of the Regions (20) and other relevant organisations, calls for an adequate minimum income (21). The Committee has actively promoted discussion about welfare provision, social businesses, social investment, employment, Article 9 TFEU, the youth initiative, economic governance and services of general interest. This opinion is directly related to numerous other EESC and EU documents which cannot be cited individually.

### 3. General comments: objectives and content of the opinion

3.1. This opinion focuses on one aspect of a necessary social policy agenda, namely improving the effectiveness and reliability of social protection, and of the social security and healthcare systems. It considers welfare provision that is wholly or partly financed through taxes or social insurance systems and that falls within the scope of public social policy under social legislation or joint (employer/employee) agreements in a way that can be monitored. The nature of the service provider is not the deciding factor here. ‘Welfare provision’ as discussed in this opinion may be delivered by central and local administrations, social insurance bodies, independent social businesses and charities or undertakings with various legal forms. All these are covered by the term ‘welfare providers’ if they deliver social services themselves. The concept ‘welfare provision’ embraces all types of service and benefit here, including services and cash payments in the social and healthcare sector. ‘Social insurance’ denotes joint (employer/employee), contribution-based and/or statutory social insurance arrangements and/or mutual insurance arrangements, which play a role in social security systems regulated by social law or joint (employer/employee) agreements.

3.2. Care needs to be taken in discussions and translations when it comes to social policy, owing to the multiplicity of welfare systems, services and benefits, terms and definitions. The systems of the Member States reflect their national social policies, culture and history. These should be further developed on the basis of the European social model. A reasonable balance must be achieved between the diversity of systems and the need for common principles (22).

3.3. The EU should create a common forum for discussion about social policy, draw up modern standards and take initiatives itself. It should promote convergence between welfare systems as they continue to evolve. Social policy principles could provide a substantive basis for the Commission’s recommendations, especially in the context of the European Semester, the Europe 2020 strategy, the open method of coordination and application of the social impact assessment under Article 9 TFEU (23). Such principles should also provide the substantive basis for a binding social protection floor and for the action and governance (24) of the EU institutions themselves, especially in relation to crisis management, fiscal control and economic governance.

3.4. The future sustainability of welfare provision systems needs to be assessed. Welfare providers should be bound by democratically legitimised social welfare goals while preserving their conceptual autonomy.

3.5. Decisions about welfare provision are generally taken by welfare authorities, social insurance bodies or third party service providers such as doctors prescribing a specific treatment. It is important to separate the issue of delivering and financing welfare from decisions about entitlement to welfare: for instance, purely cash benefits may be paid to a person with or without the obligation to use certain professional services. Social services may be delivered directly by local authorities, other welfare authorities or social insurance bodies. However, if such services are delivered by independent welfare providers, the legal relationship and funding may be subject to very different rules. For instance, there are procurement systems, service level agreements between welfare providers and funding bodies, reimbursement arrangements, voucher systems and non-case-specific direct support from welfare providers, especially in the sphere of advice and prevention. With contract and voucher systems, the public funding body pays the welfare provider directly based on case numbers. All systems need to be examined to establish whether adequate legal protection and sufficient user choice and participation options exist.

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22 Bearing in mind the right of Member States to define the fundamental principles of their welfare systems, as set out in Article 153 (4) TFEU.
23 See Conference of the European Trade Union Institute held on 3 February 2015: The sovereign debt crisis, the EU and welfare state reform.
24 The Council presidency submitted proposals on the social dimension of the governance framework to the social affairs ministers in July 2015.
3.6. The social partners play a key role in social insurance systems in particular. They should therefore be key contributors in the framing of social policy principles. National and local welfare authorities, social insurance bodies and independent welfare providers are pivotal players in welfare provision, which means that their representatives must also be consistently involved in their areas of responsibility.

3.7. Bearing in mind that a reasonable balance must be achieved between the competences of Member States, shared European values and fair competition within the EU, the following principles are intended to provide a factual basis to stimulate further EU action on social policy.

4. Principles of welfare provision systems

4.1. **Social protection floor**: guarantee of basic welfare provision, including subsidiary subsistence protection/minimum income for people without an adequate income, e.g. from work, pension or other welfare provision. This includes developing common indicators for basic welfare provision (25). This financial subsistence protection should be at least sufficient to cover the real costs of food, accommodation, clothing, water, energy and basic healthcare.

4.2. **Need**: development and provision of modern, professional social and healthcare services for different problem situations, including for families, people with disabilities, the sick, the unemployed, lone parents, children, family caregivers, refugees, young people with developmental problems (26), parents with parenting issues, care in the home and other services in private homes (27), and help with overindebtedness (28), addictive behaviour, homelessness and psychosocial problems. Effective social services include advice, supervision, guidance, support, care, empowerment and education, treatment and therapy (29). Because there are many reasons for unemployment and because it is important to prevent the downward spiral into poverty, it makes sense to deploy active labour market measures that are legally guaranteed to support prompt reintegration into the labour market, and until that reintegration is achieved to secure decent benefits for all jobseekers, particularly young workers seeking their first job and women wishing to return to work after a long career break.

4.3. **Precise definition of aims**: development of clear social policy goals for welfare provision, e.g. equal opportunities and intergenerational equity, active inclusion, compensating for disadvantage, work-life balance, protection against life's risks, prevention, crisis measures, participation in the labour market and in society, material provision for old age, empowerment, etc. This goes together with a clear definition in social law of the categories of services and benefits: monetary and/or service-based, non-residential, residential, etc. A balance should be achieved between users' right to decide for themselves and the objective of ensuring the effectiveness of welfare provision.

4.4. **Accessibility**: ensuring that welfare provision, and above all social services, is affordable and accessible on a non-discriminatory basis wherever and whenever they are needed. Accessibility is facilitated by collective and sustainable funding, transparency as regards the services and benefits available and a specific legal guarantee with appeal and complaints procedures. Where they exist, cash contribution requirements should be balanced and should not constitute a bar to access. Bureaucratic procedures to verify actual needs can be counterproductive in the case of certain services such as drug dependency programmes or help with psychosocial problems. In particular, counselling and prevention services should be actively offered to users.

4.5. **Proportionality**: services and benefits should be necessary and appropriate in their form and extent. Discretionary decisions and social legislation should take this into account. The cost should be in reasonable proportion to the expected outcome of the welfare service or benefit provided. The proportionality principle should also be applied to a person's legal obligation to use a service or adopt any other course of action, and to the relationship between rights and obligations.

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(29) See Dahme/Wohlfahrt, 2015.
4.6. **Solidarity:** funding of welfare provision should essentially be supported by solidarity-based social insurance systems and fair, solidarity-based tax systems. Collective financing should as far as possible include all social groups and strata. This would enhance the reliability, acceptance and sustainability of financing. Undeclared work (30) and tax avoidance are harmful to welfare systems. Demographic and economic trends may make it appropriate to include all types of income, e.g. also income from capital. Better coordination between taxation and funding systems in the EU could provide a stronger financial basis. Private investment, donations, civic and religious action and grants from foundations are welcome supplements to conventional funding, but cannot constitute legal entitlements or be used to support infrastructure.

4.7. **Personal responsibility:** job-seekers and those finding it difficult to enter the labour market etc. should be supported through social services and incentive systems with the aim of enabling them to subsist, fully or partially, through their own efforts. People should have access to supplementary cover managed on a not-for-profit basis under negotiated joint agreements that complement public systems. Professional support with developing vocational qualifications and personal skills — such as communication, social and general coping skills — is often required so that people are sufficiently capable of assuming responsibility for themselves and being good citizens. As regards individuals staying healthy, a healthy lifestyle could be promoted by social security systems through preventative measures, incentives and better consumer protection.

4.8. **Participation:** all services and benefits — alone or in combination — should help people to play their part in society. Social participation embraces occupational, cultural and political participation, as well as sharing in social prosperity.

4.9. **Structure:** rational configuration of the legal and financial relationship between users, welfare providers (public or independent, depending on the system), welfare authorities and social insurance bodies. Where independent welfare providers are involved in public welfare provision systems, e.g. under social legislation and through funding, the services and benefits they provide, in particular with regard to funding and accessibility, should be based on the principles outlined here. Such welfare providers should be collectively funded and their activities regulated under social legislation so that they are able to make high-quality services and benefits available to the whole population.

4.10. **User’s right to decide:** users are not passive recipients, but partners in assistance and citizens with entitlements. Within an appropriate budget, they should be able to choose between different types of service or benefit, e.g. residential and non-residential services and other types of service such as sheltered housing. The right type of assistance depends on individual circumstances, on the specific need for professional help as determined by trained experts, on the wishes of the individual and on the local situation. Where independent welfare providers are involved in public welfare provision systems, e.g. under social legislation and through financing, users should be able to choose from a range of providers.

4.11. **Legal certainty:** services and benefits should be legally guaranteed, for instance under social legislation or similar democratic legal instruments of the Member States. Social security law should cover: legal entitlements; decision-making rules; cooperation requirements for users; and a description of conditions for provision of services/benefits, complaints and appeals options, public oversight of private providers of public services, if applicable, quality rules and access guarantees, infrastructure requirement, type of funding, etc. Legal rights and entitlements of users should at least be guaranteed for basic welfare and healthcare services. Discretionary decisions may take more account of circumstances in some spheres of welfare provision. The well-being of vulnerable people should be subject to special legal protection (31). Independent welfare providers must enjoy a protected legal status and non-discriminatory access to service provision, assuming that systems are not based on a monopoly. In many Member States the position of social policy is underpinned by a constitutional welfare state principle guaranteeing basic welfare provision, including in times of crisis.

(31) For example, children and young people, pregnant women and people without legal capacity.
4.12. **Public interest focus**: in particular, third-sector and participatory forms of undertaking and organisation (32), such as non-profit organisations, social businesses, public services, associations, certain types of foundation and cooperative, user associations and other civil society players, should enjoy appropriate financial and legal conditions. There should be a thorough debate in the context of social policy about financing for-profit companies operating in this area through taxes or social security contributions, and there should be adequate oversight and at least a framework for profit distribution.

4.13. **Transparency**: the use of public funds by welfare providers and public administrations should be transparent. The general public should be able to find out about the reasons for service and procurement decisions, legal bases, etc.

4.14. **Joined-up approach**: People’s everyday situations, changing life paths, new family constellations, ageing and immigration call for integrated and joined-up services (33). Segregation, exclusion and discrimination should be avoided.

4.15. **Level playing-field**: users, welfare authorities and welfare providers should have legally enshrined and enforceable rights and duties. If penalties or compensation arrangements exist for breaches of rules, then they should apply to violations not only by users but also by welfare authorities.

4.16. **Quality**: social services should be backed up by quality assurance measures. Needs assessment and planning and implementation of measures should be based on social research findings and expertise. Personalised services should be enhanced through training, professionalisation and appropriate remuneration and working conditions achieved through free collective bargaining. The Quality Framework for Services of General Interest in Europe (34) can serve as a model for EU recommendations on welfare providers. Where expedient, the mobilisation and guidance of volunteers should be encouraged.

4.17. **Coordination**: management of cross-border issues relating to social security and social protection should be improved. The capacity of finance providers and taxpayers and contributors should be considered here, as well as the principles of social solidarity and proportionality. It is important to avoid placing a disproportionate burden on those national systems that are particularly efficient.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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(32) EESC work on the Social Business Initiative.
(33) Kocher/Welthi, 2010.
The following points of the section opinion were rejected in favour of amendments but obtained at least one quarter of the votes cast.

**Point 1.3**

The responsibilities of the Member States and the political and cultural differences between welfare systems must be heeded and a consensus pursued between Member States as far as possible when framing social policy principles with the aim of welfare systems converging as they develop.

**Voting:**

- For: 105
- Against: 51
- Abstentions: 15

**Point 4.2**

Need: development and provision of modern, professional social and healthcare services for different problem situations, including for families, people with disabilities, the sick, the unemployed, lone parents, children, family caregivers, refugees, young people with developmental problems (1), parents with parenting issues, care in the home and other services in private homes (2), and help with overindebtedness (3), addictive behaviour, homelessness and psychosocial problems. Effective social services include advice, supervision, guidance, support, care, empowerment and education, treatment and therapy (4). Because there are many reasons for unemployment and because it is important to prevent the downward spiral into poverty, it makes sense to deploy active labour market measures that are legally guaranteed to support prompt reintegration into the labour market and to provide cash benefits until that reintegration is achieved at a level intended to maintain the person's previous standard of living or to reflect contributions.

**Voting:**

- For: 119
- Against: 53
- Abstentions: 9

**Point 4.4**

Accessibility: ensuring that welfare provision, and above all social services, are affordable and accessible on a non-discriminatory basis wherever and whenever they are needed. Accessibility is facilitated by collective and sustainable funding, transparency as regards the services and benefits available and a specific legal guarantee with appeal and complaints procedures. Cash contribution requirements may be a sensible management tool. These should be balanced and should not constitute a bar to access. Bureaucratic procedures to verify actual needs can be counterproductive in the case of certain services such as drug dependency programmes or help with psychosocial problems. In particular, counselling and prevention services should be actively offered to users.

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(4) See Dahme/Wohlfahrt, 2015.
Point 4.7

**Personal responsibility: job-seekers and those finding it difficult to enter the labour market etc.** should be supported through social services and incentive systems with the aim of enabling them to subsist, fully or partially, through their own efforts. People should be given incentives and opportunities to supplement their income to a reasonable extent with low risk. Professional support with developing vocational qualifications and personal skills — such as communication, social and general coping skills — is often required so that people are sufficiently capable of assuming responsibility for themselves and being good citizens. People themselves bear part of the responsibility for looking after their own health. A healthy lifestyle could be promoted by social security systems through preventative measures, incentives and better consumer protection.
Opinion of the European Economic and Social Committee on the ‘Validation of skills and qualifications acquired through non-formal and informal learning — the practical input of organised civil society’

(own-initiative opinion)

(2016/C 013/09)

Rapporteur: M Pavel TRANTINA

Co-rapporteur: Ms Marie ZVOLSKÁ

On 22 January 2015, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on the:

Validation of skills and qualifications acquired through non-formal and informal learning — the practical input of organised civil society.

(own-initiative opinion)

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 17 June 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion with 212 votes in favour and 8 abstentions.

1. Conclusions and recommendations

1.1. The EESC strongly believes that emphasis should be placed on identifying, recording, assessing and hence validating the outcomes of non-formal and informal learning and doing so in the most comparable way possible that is comprehensible to all parties involved, particularly employers and educational institutions.

1.2. Member States should provide opportunities for people of different ages and qualification levels to get the outcomes of non-formal and informal learning validated. This may require further collaboration between providers of such education, public authorities and other interested parties, including on issues such as funding and recognition.

1.3. The EESC calls for support for all stakeholders, particularly social partners and other civil society organisations, to make them aware of the benefits of validation and enable them to participate actively in setting national qualifications frameworks and determining professional qualifications.

1.4. The public must be given relevant information on the benefits of having skills recognised and the options and mechanisms for doing so. The EESC recommends that Member States broaden the range of institutions providing this kind of guidance and counselling and, in particular, enlist employment services, youth information centres, educational institutions, employers, trade unions, career advice centres, youth organisations, women’s organisations, organisations providing support to migrants and people with disabilities, and public institutions.

1.5. A good national legislative framework is a prerequisite for ensuring the equal value of certificates achieved through formal and non-formal or informal study. This places significant demands on the quality of validation processes, which should be financially supported by, for example, the European Social Fund.

1.6. The EESC calls on educational institutions, particularly secondary schools, vocational training colleges and universities, to promote the recognition of skills and knowledge acquired through non-formal means. The EU has many examples of good practice in this field and these should be promoted.
1.7. The EESC is convinced that collective bargaining and social dialogue between unions and employers could play a key role in the process of validating non-formal education and lifelong learning and it should be used as an instrument to work on validating non-formal learning as an important contribution to the debate on employability and instruments to support it.

1.8. In the current climate of high youth unemployment, support should be given to opportunities for interaction between public and private employment agencies, volunteer organisations (particularly for young people) and employers. This can serve as a means of promoting the visibility — and raising awareness of the importance and value — of non-formal and informal education in voluntary organisations, as well as strengthening mutual trust.

1.9. Support should therefore be provided for the development and use of self-evaluation tools that help people identify and describe their learning outcomes. The experience of civil society organisations should be harnessed here. The EESC has already supported the creation of a European skills passport and, subsequently, the Europass Experience. It is therefore disappointed that the European Commission has suspended the preparatory work on the Europass Experience and calls on it to see this initiative through to completion.

2. Introduction: non-formal and informal learning

2.1. Despite the unfavourable economic and social circumstances many EU countries are currently facing, in which even formal education does not guarantee finding a job, the EESC believes that the EU cannot fail to validate the hidden wealth that lies in the experience and skills that people have acquired through non-formal or informal means.

2.2. This validation could provide opportunities in particular to certain disadvantaged groups (such as women, migrants, young people, older workers). However, it should not create false hopes that they would quickly find a place in the labour market. This requires economic and social policy aimed more at investment, creating quality jobs, and reducing poverty and the risk of social exclusion. These policies must also guide and support the strengthening of education, vocational training and retraining systems.

2.3. The EESC is drawing on an important document, the Council Recommendation on the validation of non-formal and informal learning of 20 December 2012 (1). It highlights the fact that the validation of learning outcomes (knowledge, skills and competences) acquired through non-formal and informal learning can play an important role in enhancing employability and mobility, as well as increasing motivation for lifelong learning, particularly in the case of the socioeconomically disadvantaged or the low-qualified. The validation of relevant knowledge, skills and competences has a valuable contribution to make in improving the functioning of the labour market, in promoting mobility and in enhancing competitiveness and economic growth.

2.4. The Council sees the following as key stakeholders with an important role to play in facilitating opportunities for non-formal and informal learning and any subsequent validation processes: employer organisations, individual employers, trade unions, chambers of industry, commerce and skilled crafts, national entities involved in the process of recognising professional qualifications and in assessing and certifying learning outcomes, employment services, youth organisations, youth workers, education and training providers, and civil society organisations.

2.5. As set out in the Council Recommendation of 2012, by 2018 Member States must have in place, in accordance with national circumstances and specificities and as they deem appropriate, arrangements for the validation of non-formal and informal learning which enable individuals to:

— have knowledge, skills and competences validated which have been acquired through non-formal and informal learning, including — where applicable — via open educational resources;

— obtain a full qualification, or, where applicable, partial qualification, on the basis of validated non-formal and informal learning experiences (…).

2.6. According to the Council Recommendation, arrangements for the validation of non-formal and informal learning should include the following elements, as appropriate, whilst allowing each individual to take advantage of any of these, either separately or in combination, in accordance with his/her needs:

— IDENTIFICATION of an individual’s learning outcomes acquired through non-formal and informal learning;

— DOCUMENTATION of an individual’s learning outcomes acquired through non-formal and informal learning;

— ASSESSMENT of an individual’s learning outcomes acquired through non-formal and informal learning;

— CERTIFICATION of the results of the assessment of an individual’s learning outcomes acquired through non-formal and informal learning in the form of a qualification, as credits leading to a qualification, or as otherwise deemed appropriate.

European guidelines for validating non-formal and informal learning (2) from 2009 (and the recently updated version from 2015) have been written for individuals and organisations that are responsible for establishing, developing, implementing and running validation. Those involved operate at various levels (European, national, sectoral and local) and in various contexts (public, private and voluntary sectors, education and training, and labour market services). The aim of the guidelines is to clarify the conditions for carrying out validations and to make stakeholders aware of their options at different stages of the process.

2.7. The EESC has on a number of occasions expressed its appreciation of the benefits of non-formal education and the importance of recognising them. However, this opinion is the first time we are making the case for it in a consolidated manner. It aims to summarise the views of representatives of employers, workers and other civil society organisations on the practical procedures for validation and to put forward workable proposals from their own perspective.

3. Skills and competences acquired through non-formal and informal learning

3.1. The decline in specialised production based on skilled trades, technological changes and the rise of the service sector mean that 21st century employers now put greater emphasis on ‘personality’, or ‘transversal’ and ‘transferable’ skills. The importance of lifelong learning and validation of the knowledge and skills acquired outside of schools is on the increase.

3.2. In 2012, the University of Bath and GHK Consulting drafted a study for the European Youth Forum looking at the impact of non-formal learning in youth organisations on young people’s employability (3). Youth organisations are important providers of such learning. This type of education in youth organisations is not primarily aimed at increasing employability, but research has shown that the skills acquired through it could help achieve this.

3.3. This study confirms the general recognition that the skills required by employers clearly correspond to those nurtured by the non-formal learning sector. Five of the six most frequently required soft skills are among those further developed by youth organisations — the sole exception being numeracy. The soft skills most sought by employers include: communication, organisation and planning, decision-making, teamwork, reliability/independence and numeracy. These soft skills are seen as key competencies for working successfully. Certain character traits are also developed, such as personal motivation, initiative and creativity, which are personal traits related to reliability/independence and enterprise.

(3) http://issuu.com/yomag/docs/reportnfc_print
3.4. Everyone is involved in the process of lifelong non-formal and informal learning. For instance, women (and men) often develop skills while performing domestic chores, which could be transferred to the workplace, especially in the social services field. If they have to change jobs because of redundancy or their family situation, they can use this knowledge in the transition to their new work, or female migrants could use it to get their first job. The EESC has already called on Member States (4) to 'speed up the process of recognising qualifications and experience gained abroad to enable women to find jobs corresponding to their skills and aspirations', to 'consider work in some sectors (such as cleaning, caring for children and the elderly, hotels and catering and agriculture) as offering opportunities for less qualified migrant women, provided that steps are taken to ensure that these sectors are legalised, professionalised and upgraded and that women are given training in these areas and enabled to develop their careers'. Social partners were called on to 'facilitate the recognition of women migrants' qualifications in collective agreements'.

3.5. A shift in emphasis towards the outcomes of such learning is important if validation of the non-formal and informal learning is to be successful. Indeed, since 2004 this has been expressly encouraged in the EU policy agenda for education, training and employment. The recent study by Cedefop (based on research conducted between 2013 and 2015) shows that the shift to learning outcomes is currently gaining ground across Europe — for example, in the creation of national qualifications frameworks, in defining and describing professional skills, in the use of learning outcomes in curricula and assessments and as reference points for validation. This is expected to increase the transparency, relevance and quality of education and its openness to non-formal and informal learning. At the practical level, it is important for students to have clear goals: this will provide motivation, enable flexible study plans and steer the focus towards assessing outcomes. At the same time, in order to achieve sound educational outcomes, methods and learning/teaching processes themselves must also be improved.

3.6. It therefore follows that emphasis should be placed on evaluating and documenting the outcomes of non-formal learning in a manner that is comprehensible to all parties involved, particularly employers and educational institutions. Then, insofar as people are interested and the required conditions have been put in place for them, these could then be recognised as standard professional qualifications on an equal footing with formal education programmes.

4. A practical perspective on the validation of skills and qualifications

4.1. Guidance, expertise and information

4.1.1. Member States should ensure, as part of the validation process, that individuals and organisations have access to information and guidance on the benefits of — and opportunities for — validation, as well as on the relevant procedures, and that validation of non-formal and informal learning is supported by appropriate guidance and counselling and is readily accessible.

4.1.2. Arrangements for the validation of non-formal and informal learning must be appropriately laid out whilst taking into consideration national, regional and/or local, as well as sectoral, needs and conditions.

4.1.3. Opportunities must be provided for people of different ages and qualification levels to take part. This may require further collaboration between the non-profit sector, public authorities and other interested parties, including on issues such as funding and validation.

4.1.4. People should be informed about other benefits of continued participation in voluntary organisations. Even a short period of involvement can have a major influence on the development of skills and can improve employability.

(4) Opinion of the European Economic and Social Committee on ‘Inclusion of migrant women in the labour market’ (OJ C 242, 23.7.2015, p. 9).
4.1.5. The public must be brought on board in a coordinated manner and given relevant information about the benefits of validating skills and the options and mechanisms for doing so. We recommend that Member States broaden the range of institutions providing this kind of guidance and counselling and, in particular, enlist employment services, youth information centres, educational institutions, employers, trade unions, career advice centres, voluntary associations, youth organisations and public institutions.

4.1.6. Guidance in the validation process is essential and beneficial, particularly for young people, at all stages — from identification through to certification. It should:

— help people determine their needs and motivate them to get involved in the validation process;

— create a safe environment for building trust with advisers — one that is not too institutional so that people can feel at ease;

— suitably incorporate information on validation as a recognised method directed at people who have completed training courses by using existing information and advisory mechanisms — in other words, show validation to be a possible route, but without encouraging unrealistic expectations.

4.2. Coordination of stakeholders

4.2.1. In the view of the Council, Member States should promote the coordination and involvement of all relevant stakeholders in the development and implementation of the elements and principles of validation. To foster participation in this process:

— employers, youth organisations and civil society organisations should promote and facilitate the identification and documentation of learning outcomes acquired at work or in voluntary activities, using relevant validation tools to ensure transparency such as those developed under the Europass framework and Youthpass;

— education and training providers should facilitate access to formal education and training on the basis of learning outcomes acquired in non-formal and informal settings and, if appropriate and possible, award exemptions and/or credits for relevant learning outcomes acquired in such settings.

4.2.2. The EESC therefore considers support for all stakeholders important, particularly for social partners and other civil society organisations, so that they can be made aware of the benefits of validation and actively participate in setting national qualifications frameworks and determining professional qualifications. Working towards ‘real’ changes in the attitudes of participating parties could be very difficult, particularly in Member States that do not consider this area a priority or where access to validation of non-formal or informal learning has no real support nationally. It would be useful to provide a platform/support and so on for those that have already made progress in this area (through pilot projects, for example) in their efforts at the national level.

4.3. Validation and national qualifications frameworks and systems

4.3.1. Member States should enable individuals to obtain a full qualification, or, where applicable, partial qualification, on the basis of validated non-formal and informal learning experiences. They should ensure that validation procedures are linked to national qualifications frameworks and are in line with the European Qualifications Framework and that synergies exist between validation arrangements and credit systems applicable in the formal education and training system, such as ECTS and ECVET.

4.3.2. Social partners and other civil society organisations, in particular, should be involved as much as possible (and suitably encouraged) in designing national qualifications systems. The experience of some Member States shows that, to implement validation procedures at the sectoral level, committees and units for sectoral skills need to be set up and staffed with the right people. It would then be possible to draw up national standards for individual professions and professional qualifications in the identified areas.
4.4. **Ensuring the quality of validation**

4.4.1. Member States should ensure that transparent quality assurance measures in line with existing quality assurance frameworks are put in place, since this type of measure supports reliable, valid and credible assessment methodologies and tools. This mainly means having appropriate legislation — a regulatory framework for validation and guarantees acquired through certification in accordance with national qualifications frameworks derived from the European Qualifications Framework.

4.4.2. For the EESC, this means that equal standing must be ensured for certificates obtained through formal, informal or non-formal learning. This places significant demands on the quality of recognition processes, which should be financially supported by, for example, the European Social Fund.

4.5. **Validation from educational institutions**

4.5.1. Educational institutions play a key role in the validation process. The Council recommends that education and training providers facilitate access to formal education and training on the basis of learning outcomes acquired in non-formal and informal settings and, if appropriate and possible, award exemptions and/or credits for relevant learning outcomes acquired in such settings.

4.5.2. The EESC calls on universities to further promote the validation of skills and knowledge acquired through non-formal means. Ireland could serve as an example here. Its National Strategy for Higher Education to 2030 supports the civic vocation of higher education and its 'engagement with wider society' as one of the 'three interconnected core roles of higher education'. It defines this engagement as: 'engagement with business and industry, with the civic life of the community, with public policy and practice, with artistic, cultural and sporting life and with other educational providers in the community and region, and it includes an increasing emphasis on international engagement' (5).

4.5.3. However, it is not only universities that can recognise the results of non-formal and informal learning. In Malta, for example, the secondary school certificate and profile presented in September 2010 recognises all forms of learning during the five years of secondary school. For both formal and informal education, it provides credits that encourage students to pursue further and higher education.

4.6. **Validation in connection with the labour market**

4.6.1. The Council Recommendation stresses the importance of implementing validation in the workplace and recommends that Member States promote the involvement of all relevant stakeholders, such as employers, trade unions, chambers of industry, commerce and skilled crafts, and national entities involved in the process of validating professional qualifications. Employers should also promote and facilitate the identification and documentation of learning outcomes acquired while working.

4.6.2. Validation of non-formal and informal learning could be part of collective agreements (as is the case in the Netherlands). This is an excellent example of providing access to validation for employees and contributes to effective human resource management in businesses. Employers should be actively involved in the evaluation of knowledge, skills and competences, both in the workplace and when setting up education and training programmes, which will improve the value of validation and help to build confidence in it.

4.6.3. Collective bargaining and social dialogue between unions and employers could play a key role in the process of validating non-formal education and lifelong learning. A specific example on the European scale is the European Metalworkers' Federation (EMF), which is working on validation of non-formal learning as an important contribution to the debate on employability and instruments to support it.

(5) National Strategy for Higher Education to 2030. www.hei.ie
4.6.4. In some countries, a new role is taking shape for union activists who provide advice during working hours and negotiate with employers on free access to educational opportunities in the workplace. In Austria, Denmark, Finland, Norway, Sweden and the United Kingdom, trade union representatives act as 'ambassadors', supporting staff in further education, filling gaps in their skills and advising companies on their educational needs (6).

4.6.5. Given that employers place great value on involvement in youth organisations when hiring young people with little or no work experience, this involvement should be supported as one of the ways of helping young people make the transition from school to work (7).

4.6.6. Furthermore, everyone interested in seeking validation should be given better guidance and coaching so that at the job application stage they are better able to present the skills and competences they obtained by non-formal and informal means and better understand how these skills apply in the work environment and help them in specific work-related tasks. This is a process to which career guidance services, counsellors in schools and universities, the youth sector and employment agencies, as well as employers and international organisations, can contribute. They could also help young people on this front by giving them information and useful tips.

4.7. **Validation in the voluntary sector**

4.7.1. In its Recommendation, the Council points out the importance of actively involving the voluntary sector in validation schemes. Youth and civil society organisations should promote and facilitate the identification and documentation of learning outcomes acquired at work or in voluntary activities, using relevant validation tools to ensure transparency such as those developed under the Europass framework and Youthpass.

4.7.2. People should be more aware of the value employers place on skills and competences developed non-formally or informally, for example through volunteering. This is especially true for those with a lower level of education, who are often less aware of the value this type of activity has for employers and are less well trained in how to present these skills.

4.7.3. In the current climate of high youth unemployment, support should be given to opportunities for interaction between public and private employment agencies, volunteer organisations (particularly for young people) and employers. This can serve as a means of promoting the visibility — and raising awareness of the importance and value — of non-formal and informal education in voluntary organisations, as well as strengthening mutual trust.

4.7.4. Support needs to be given to developing the assessment and training plans of volunteer organisations, as their existence is linked to a higher declared level of skills development. In this respect it should also be noted that the activities of volunteer organisations vary significantly, and so the benchmarks they use to assess the skills developed through their activities also vary. In the light of this, greater consistency in terminology and evaluation methods in the voluntary field should be promoted. Alignment of benchmarks could result in, for example, more volunteers being aware of the skills they develop through their involvement in voluntary social services.

4.8. **Tools for validation**

4.8.1. The Council Recommendation emphasises common European validation tools to ensure transparency, such as the Europass framework and Youthpass. *Member States should ensure that synergies exist between validation arrangements and credit systems applicable in the formal education and training system, such as ECTS and ECVET.*


(7) http://issuu.com/yomag/docs/reportnlc_print
4.8.2. The knowledge and skills developed through involvement in civil society organisations are also valuable on the labour market, but are often not documented or sufficiently visible. Support should therefore be provided for development and use of self-evaluation tools that help people identify the outcomes of learning through experience in civil society organisations. For instance, creating personal competence portfolios could offer people added value in their further education and career aspirations.

4.8.3. Certificates and portfolios are an important element in the validation of competences and qualifications acquired through non-formal means. Providers of non-formal education should aim to issue certificates/documents describing in detail the nature and results of participation in their educational activities and should make people aware of the value these activities have. This is above all about the value these documents have in terms of education (improving people’s awareness of the skills and competences they acquired in civil society organisations and how they can use these skills when looking for work or in further education), rather than as proof of an achievement.

4.8.4. The EESC has already supported the creation of a European skills passport and, subsequently, the Europass Experience. It is therefore disappointed that the European Commission has suspended the implementation of this initiative.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on 'Improving the performance of national dual training systems'

(own-initiative opinion)

(2016/C 013/10)

Rapporteur: Dorthe ANDERSEN

On 19 February 2015, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on:

Improving the performance of national dual training systems

(own-initiative opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 1 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 206 votes to 1, with 8 abstentions.

1. Conclusions and recommendations

1.1. Young Europeans have been hit hard by the crisis in several Member States, at huge human, social and economic cost. However, higher youth unemployment is nothing new and points to some structural problems that make the transition from school to employment difficult.

1.2. Well-functioning apprenticeships and other quality forms of work-based learning (WBL) systems can help young men and women to make a smoother transition from school to employment.

1.3. The EESC underlines that there is no ‘single best model’ for dual training; the aim is to promote a high-quality dual training which works.

1.4. European level:

1.4.1. The EESC believes that there is a need for a European quality assessment tool that documents progress as well as the effects of the reforms Member States are undertaking in order to improve performance of the VET and dual training systems.

1.4.2. The EESC recommends that the Commission — with the relevant partners — develop tools to monitor and collect data, evaluate what works in the Member States and identify the key elements of well-functioning dual training systems. The aim is to measure and assess what works, to ensure quality in the training systems and to highlight the correlation between dual training and employment.

1.4.3. High-quality and labour market-relevant vocational skills and qualifications will also in the future constitute a core segment of the labour markets and European competitiveness. The EESC therefore proposes setting an EU target for VET and dual training, which can serve as path for better youth employment opportunities. This could be part of a renewed EU 2020 strategy and the EESC therefore calls on the Commission to examine the options.

1.4.4. The EESC believes that an EU VET-target and the compilation of data could help keep the Member States on track to improve educational levels and ensure that young people have a positive experience of the education system and leave with the skills needed on the labour market.
1.5. Member States and the social partners:

1.5.1. The EESC recommends that Member States which do not have well-functioning dual training systems explore the costs involved in developing such systems, compared with the trade-off and benefits this would have for companies' competitiveness and young peoples' job opportunities.

1.5.2. The EESC emphasises the importance of partnerships between schools, training centres, trade unions and the business community. The social partners play a decisive role in all stages of well-functioning dual training systems (design, implementation, monitoring, evaluation, etc.). Strengthening and making better use of social dialogue at all levels can be an effective instrument to improve quality of dual training and to make it more attractive.

1.5.3. The EESC calls on the Member States to introduce or review on a systematic basis the professional development of VET teachers, mentors and trainers — and in particular in-company trainers, as these are key to improving the performance of VET systems.

1.5.4. The EESC emphasises the importance of employers and believes that employers — including SMEs — will get more involved in apprenticeship schemes when these genuinely meet their needs and when there are good links with schools. Putting in place dual training systems that allow for the cost-effective involvement of employers and giving them greater ownership should be the focus in the coming years.

1.5.5. The EESC recommends that the European social partners continue their work in this area as part of their stand-alone work programme.

2. Introduction — the current situation in Europe

2.1. The economic crisis in Europe has hit young people hard. 4.5 million young people under the age of 25 are out of work (1), although for certain EU countries, high youth unemployment is nothing new; it has simply been exacerbated by the crisis. The EU youth unemployment rate is more than twice the adult one — 20.9% against 9.8%. Around 7 million young Europeans are not in employment, education or training (NEETS) (2). With a rather weak short-term economic outlook, youth unemployment has reached extreme levels in some Member States at huge human, social and economic costs.

2.2. Unemployment was higher among young people than adults before the crisis too. This suggests a structural problem in establishing closer links between education and training systems and labour markets. Another argument in this direction is that in many countries there is high youth unemployment, while at the same time employers have difficulties in finding employees with the right skills.

2.3. The situation calls for a new approach improving the bases of employment and growth with a view to developing high-quality and labour market-relevant vocational skills and qualifications and well-functioning labour markets.

2.4. There are considerable differences between EU Member States, however, with regard to their experiences in getting young people onto the labour market.

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(2) Eurostat [tesem150], 2014.
2.5. In many countries, people with vocational training form the majority of employees in the private sector but also play a significant role in parts of the public sector. Today about half of upper secondary students across Europe follow a VET programme and about a quarter of them are in combined school- and work-based learning (3). But key challenges lie in making VET more attractive by improving its quality and relevance.

2.6. In a number of its opinions (4), the EESC has highlighted the importance of creating the right conditions for young people, with the aim of easing the transition from education to work by boosting opportunities to undertake different forms of dual training as part of high-quality vocational education and training (VET).

2.7. The EESC believes it is important to keep up the momentum and ensure that the individual Member States, in conjunction with the social partners, adapt their VET systems by incorporating dual learning components.

3. Understanding the definitions — dual training systems in Europe

3.1. This opinion focusses on the dual training systems in VET. Dual training is an umbrella term covering different national models. According to Cedefop, dual training concerns education or training combining periods in a school or training centre and in a workplace. The duality refers to the learning avenues (schools/VET providers and training companies sharing the responsibility to provide theoretical and practical training) and the duality of actors (public and private).

3.2. All Member States have systems that incorporate the work-based aspect, but their quality, outcome and scale vary (5). For example, how much time is spent in a workplace? Is there a contract between the learner and the employer or is the learner paid and what is the role of the social partners?

3.3. There is no single or ‘best’ model and developing a dual system depends on many economic and social contexts.

3.4. There are three broad avenues of VET training today.

— Apprenticeships combine and alternate company-based training with school-based education, and lead to a nationally-recognised qualification. Usually, there is a contractual relationship between the employer and the apprentice, with the apprentice being paid (as in Austria, Denmark and Germany).

— School-based VET with on-the-job training. This includes shorter periods of on-the-job training (e.g. internships and work placements) as a compulsory or optional element of VET programmes and leads to formal qualifications.

— School-based programmes.

3.5. The watchword is the close link between the workplace and the synergies to be developed between the student, the theoretical basis and practical learning and development in the workplace.

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(4) For example:
4. The European policy background

4.1. The European Council of 27/28 June 2013 (6) agreed on a new strategy for combating youth unemployment, including the aim to promote ‘high quality apprenticeships and work-based learning’. 22 Member States have received country-specific recommendations to adapt their vocational education and training systems, by placing greater emphasis on the work-based components of training and high-quality apprenticeships for young people.

4.2. At EU level, a range of measures have been taken. For example, a youth guarantee has been adopted, ESF funds have been allocated for the development of apprenticeships nationally, including the dual training system, and a European Alliance for Apprenticeships has been established.

4.3. In their June 2013 Framework of Actions on Youth Employment (7), the European Social Partners also highlighted the value of work based learning models, such as the dual learning systems.

4.4. The Latvian Presidency has endorsed five deliverables as part of the review of the Bruges Communique. The first of these deliverables will be to promote work-based learning with special attention to apprenticeship-type training (8).

5. Dual training as a way of building bridges towards working life

5.1. Studies by Cedefop and the European Commission, for example, suggest a positive link between VET-systems based on dual education and youth employment (9).

5.2. Experience and the figures speak loud and clear. Countries with relevant and attractive vocational training systems based on dual training principles perform better when it comes to getting young people onto the labour market. Some countries like Austria also provide good examples of training possibilities for disadvantaged young people such as work assistance or a safety net for apprentices.

5.3. A well-functioning dual training system provides young people with an initial work experience and consequently makes them more attractive to businesses and future employers. In Germany more than 2/3 of apprentices stay with the same employer after completing their apprenticeship (10). In Denmark, figures (11) show that VET graduates are among the fastest to find a new job if they are made redundant and that a high number start up their own companies.

5.4. However, VET and apprenticeships are not considered to be as attractive as academic education by many young people and parents; or are perceived only as traditional blue-collar employment. What is forgotten is the ‘competitive knowledge’ that can be acquired through dual training — so that young people do not have only one career opportunity but also gain competitive knowledge that can be further developed.

5.5. An EU target for the share of students in VET and dual training should be considered as part of the reviewed EU 2020 strategy. This could give more attention to the strong employability and inclusiveness component of dual training and apprenticeships.

5.6. Such a target has to be set high, as evidence shows a positive link to employment, and it has to take into account the future labour-market demands for skilled workers with mid-range qualifications.

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(8) Riga Presidency conclusions 22 June 2015.
(11) http://www.da.dk/bilag/AMR09%2CArbejdsmarkedssprapport%202009.pdf
5.7. To improve image and attractiveness, a combined effort is needed by schools, training centres and companies, the social partners and politicians. VET schools and training centres have to be more adaptable to the changing labour-market needs and economy. Skills competitions and role models could be encouraged to showcase skills or schools and to inspire young men and women. Opening up pathways into higher education to avoid apprenticeships being perceived as a dead-end by students and parents or enhancing EU intra-mobility programmes such as Erasmus+ could make such schemes more attractive.

5.8. Good and early career guidance and counselling services are essential in order to improve the understanding and image of the dual training systems.

5.9. Teachers also play a role making dual training systems more attractive and have a direct influence on young people's perceptions of VET. Becoming a VET teacher must also be perceived as an attractive proposition. One way is to ensure that VET teachers' professional and teaching skills are continually updated, improving cooperation between schools and companies so that teachers are up to date with companies' requirements, current working practices, new technologies, etc.

5.10. In a dual system, the presence of a qualified and motivated staff member acting as a tutor or trainer in the company should be a basic quality assurance requirement. Greater focus has to be placed on the responsibility of in-company trainers. Clearer and more detailed descriptions of the competences to be achieved can raise the quality of work-based learning.

6. Continual evidence-based monitoring and assessment of vocational education and training systems and policies

6.1. A number of studies have already been carried out, indicating that the German, Swiss and Austrian dual training systems, for example, work well, in that they provide young people with appropriate training and a good entry point into working life. But there is no 'single best model' — the aim is to identify successful structures and practices.

6.2. More transparent information on cause-content-outcomes could help to identify the key elements that characterise well-functioning dual training systems. While most Member States and the Cedefop collect data on VET graduate employability, greater use could be made of such data to improve systems — including dual training.

6.3. The share of 'work-based learning', for example, could be used as a variable in the EU-employability benchmark. A European benchmark for dual training could highlight the correlation between dual training systems and youth employment. Data for such a benchmark could be collected yearly through the Labour Force Survey.

6.4. In cooperation with Cedefop, Eurostat (Eurobarometer) could carry out a more systematic study of young people who complete vocational education and training, and have the skills that are in demand and also of how dual training in firms has helped them gain these skills.

6.5. It might be useful to compile comparable national data on which countries' performances can be assessed when it comes to the implementation and outcomes of the different dual training systems in Europe. Cedefop, Eurostat and the Commission already collect data as part of the ET2020 and Copenhagen strategies, but the EU needs a coherent tool which captures the progress as well as the effects of the reforms now being undertaken in many Member States to improve the performance and quality of national VET systems.

The EESC proposes that such a quality-assessment tool should at least address the following policy questions.

— How and why does dual training lead to higher employment?
— Does dual training lead to less friction in the labour market, such as shorter spells of unemployment, and better skills matching?

— How can dual training lead to increased mobility, both within and between different sectors?

6.6. A time-based set of relatively straightforward parameters could be used as a springboard for more qualitative analyses, and could at the same time be used to monitor developments in each country with regard to its process of adapting VET systems to the principles and benefits of dual training. A data platform of this nature could also feed into the work of the European Alliance for Apprenticeships, and into work on the EQAVET reference framework.

7. Better performance of national dual training systems and getting companies on board

7.1. There are many challenges that are still not being taken seriously, for example in terms of quality of training and relevance to business.

7.2. Apprenticeships play an important role in meeting companies' skills needs, while helping young people into the labour market. Apprenticeships offer employers a number of advantages; these include better skills-matching resulting from in-house training, new knowledge and perspectives. Fully-fledged apprenticeships entail a number of rights and obligations for all involved.

7.3. Companies must see this as an investment in future qualified human resources and take the responsibility to actually train a young person. But if companies — including SMEs — are to see apprenticeships as an investment there needs to be provision for them to have greater ownership of schemes, including curriculum design.

7.4. Some employers fear that the cost of training an apprentice outweighs the benefit, but this mind-set has to be challenged. A cost-benefit analysis from Switzerland shows that the productive contribution of an apprentice exceeds the training costs (including the apprentices' wages) by more than EUR 6 000 per apprenticeship (12) and BUSINESSEUROPE is currently conducting a cost-benefit study of apprenticeships.

7.5. In some countries, burden-sharing funds have been established whereby companies pay a certain sum into the fund to compensate for hours spent in school or transport costs (in Denmark, Arbejdsgiverernes uddannelsesbidrag). In Austria, companies receive a bonus for trained apprentices receiving a good assessment. There is a model of burden-sharing in Austria (Vorarlberg), under which companies pay 0.2 % of apprentices' salaries into a training fund. After 18 months, the training is assessed and businesses providing good apprenticeships receive compensation in the form of a bonus.

7.6. However, cost-benefit outcomes might differ in different sectors and under different VET-systems. National training systems therefore need to be constantly assessed and, where appropriate, adapted to ensure they contribute to European companies' competitiveness. More comparable and quality assessments tools can also help Member States in this.

7.7. Good quality assurance and assessment of apprenticeships and dual training schemes, including working conditions, is equally important and here the social partners can also play a role. Above all, the social partners must be involved in designing national provisions for dual training and can also make use of appropriate collective bargaining traditions to help ensure quality apprenticeships and other work-based systems. Trade unions and union representatives can also play a greater part in the training and well-being of young people within a company.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on ‘fighting corruption in the EU: meeting business and civil society concerns’

(own-initiative opinion)

(2016/C 013/11)

Rapporteur: Filip HAMRO-DROTZ

Co-rapporteur: Pierre GENDRE

On 16 October 2014 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Fighting corruption in the EU: meeting business and civil society concerns

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 15 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion with 184 votes in favour and one abstention.

1. Recommendations

1.1 The EU should develop without delay a coherent and comprehensive 5-year anti-corruption strategy and accompanying action plan, endorsed by the presidents of the European Commission, European Parliament and European Council. EU Presidencies and the EU institutions should commit themselves to clear anti-corruption objectives in their programmes, as well as in interinstitutional cooperation. They should have a forward-leaning agenda and focus on cross-cutting anti-corruption issues within the EU and in the EU’s external relations, on increased support to the Member States and enhanced transnational cooperation, on improvement of the integrity of the institutions and on protecting the EU’s financial interests. Promoting transparency and preventing corruption should be core objectives in all EU policies. The strategy should take into account the recommendations in this opinion.

1.1.1 The first priority should be to support the Member States in their efforts to implement and enforce existing national, European and international instruments.

1.1.2 Progress on the strategy should be reviewed as part of the European Semester exercise, taking into account the Commission’s anti-corruption reports and regular surveys. The prevalence of corruption should also be taken into account in EU monitoring of how the rule of law is upheld in Member States, and specifically addressed as part of the conditionality of economic support programmes agreed with Member States and third countries.

1.2 Enhanced and inclusive transnational anti-corruption cooperation should be the key concept of the strategy.

1.2.1 The European Commission and EU Member States should strengthen transnational anti-corruption cooperation in the context of the renewed EU Internal Security Strategy 2015-2020 (COM(2015) 185), enhance coordination among the relevant bodies (OLAF, Eurojust, Europol, Ombudsman, Court of Auditors) and ensure effective management of the European Anti-Corruption Network (EACN). They should expand exchange of best practices and enhance coordination and cooperation between national public prosecutors in cross-border criminal cases, for example in the recovery and repatriation of criminal assets.

1.2.2 The European Council has a key leadership role and can spur fighting corruption by:

— initiating programmes to promote awareness and education in the Member States concerning the value of integrity in society and the economy; the nature and extent of corruption in politics, the judiciary and public administration; the role of corruption in the repression of media freedom, the spread of organised crime and the erosion of competitiveness; and to open a substantive debate about the future of democratic governance in Europe,
— encouraging and introducing **enhanced measures to prevent corruption**; also initiating in this context actions to review and promote the implementation of the UNCAC within the EU (in line with UNCAC/Article 63 and Resolution 3/1),

— stepping up efforts to harmonise national criminal legislation, where this has become a barrier to effective investigation and prosecution of corruption cases. Particular attention should be paid to the **harmonisation of definitions of corruption** and conflicts of interest. This could be achieved preferably through EU legislation or through the ‘Open Method of Coordination’ with the aim of detecting legislative outlines that could guide Member States,

— adopting, without delay, the regulation to **establish a European Public Prosecutor’s Office (EPPO)** and the renewed regulation concerning Eurojust.

1.2.3 **The Tripartite Social Summit** should, based on Articles 152-155 TFEU, consider how the social dialogue at both horizontal and sectorial levels could contribute to the efforts to prevent and combat corruption.

1.2.4 Based on Article 11 TFEU, the **consultation and participation of civil society** and of the **European Economic and Social Committee and the European Committee of the Regions** concerning engagement in EU anti-corruption initiatives should be enhanced.

1.2.5 The EU institutions and the relevant bodies should, in cooperation with Member States, step up actions to **raise public awareness** of how citizens can become involved in the fight against corruption, highlighting the rights and redress available under EU law. An information campaign aimed at mass media outlets would be needed, for example to make clear the channels available to citizens to report suspicion of corruption and the misuse of EU funds. This should go hand-in-hand with greater transparency about how EU funds are spent.

1.3 The EU should, in addition to legislative measures, initiate and support alternative measures to **promote the adoption and implementation of codes of conduct and standards on compliance and anti-corruption, particularly bribery, in individual companies**, in line with international, sectorial and European instruments and guidelines. The concept of transparent and inclusive involvement of relevant stakeholders, including employees, should be part of the implementation of an ethical code (also including adequate provisions about whistle-blowing) by the individual company. Companies worldwide should be required to have an anti-corruption management system in place to be selected for projects which receive EU funds.

1.3.1 The EU should also use the renewal of the EU Corporate Responsibility Strategy to examine, with the assistance of business, social partners and commercial associations, how best practices in corporate governance and ethics can be widely disseminated.

1.3.2 The recent non-financial reporting directive which requires large EU companies to report on their compliance and ethical standards is welcome. It should **encourage companies to ensure that anti-corruption standards including adequate alert mechanisms are upheld throughout their supply chain** and that proportionate measures are also adopted by small and medium-sized enterprises.

1.3.2.1 This concerns particularly the supply of natural resources which is a frequent source of vulnerability for corruption. The EU can build on best practices in the forestry sector and regulatory approaches to conflict minerals in the US. The European Commission should, in this context, ensure a consistent approach in the review of its raw materials strategy. It should also work with European-level business representatives to develop a coherent and consistent approach to eradicating corruption in the supply chain.
1.4 The European Commission should again review public procurement directives, specifically to see how the transparency and soundness of the procedures can be improved. It should proactively monitor how existing provisions on preventing conflicts of interest and favouritism are implemented by Member States (also at regional and local levels) and provide more detailed guidance where necessary. Public procurement rules should cover all companies regardless of origin.

1.4.1 The European Commission should ensure that there are appropriate channels for reporting corruption in public procurement procedures at national and local level, and allow better possibilities for seeking redress — also by players other than those who are directly affected. The EU and the Member States should promote a high degree of transparency in these procedures. It is appreciated that e-procurement will become the standard. Awareness should be raised of the fact that information relating to the tender process and the winning contracts is available on the electronic EU platform TED (Tenders Electronic Daily) in formats that are easily accessible and analysable.

1.4.2 Companies bidding for public procurement contracts should provide information about their ownership, including the beneficial owner of the company. Large companies bidding for contracts should have in place a robust anti-bribery and anti-corruption code (in line with international, European and sectorial instruments/guidelines). Disclosure of information should respect the protection of trade secrets (re. EESC's opinion INT/145) and should not be hampered by differences in national data protection legislation.

1.4.3 The use of sanctions with, as the ultimate sanction, the debarment from public procurement tenders for a proportionate period of time, as well as equivalent measures for persons in the public sector, should be encouraged by the EU as a deterrent against corruption. The European Commission, the European Investment Bank and EU Member States should create an EU-wide cross-debarment system to integrate European-level and national-level debarment systems and ensure corrupt persons are prohibited from participating in public tenders in the EU, as provided for in the new EU procurement directives (2014/24 and 25). Persons in the public sector should have to face equivalent consequences. Such debarment should be considered above all in cases when a company has been convicted for wrongdoing or has neglected to put in place preventive anti-corruption measures. The system should make allowances for companies who have carried out reforms and taken appropriate steps to prevent corrupt acts from occurring (‘self-cleaning’). The use of ‘integrity pacts’ — commitments by public authorities and business to heightened standards of transparency and integrity in public procurement — should be promoted. Stricter attention to ethical behaviour and obedience in state-owned companies and public administration, both at national and regional/local level is required.

1.5 The EU should improve the transparency of financial flows across the EU. Recent legislation to improve the transparency of corporate ownership as part of the fourth Anti-Money Laundering Directive is welcome, but there is a need for public information on the beneficial owners of trusts and other corporate vehicles. Transparency of international financial flows would be improved above all through enhanced corporate reporting, based on international sectorial guidelines and relevant EU legislation that would require multinational companies to report key financial data in the countries where they operate.

1.5.1 The compliance of banks with applicable EU legislation should be improved. The European Commission and the European Banking Authority should in this context take a more active role in ensuring that weaknesses in the implementation of the rules in one Member State do not weaken the overall system. The European Commission should also use its competences to harmonise criminal sanctions in this area to ensure that there are properly dissuasive sanctions in all EU jurisdiction. Member States should also be guided to establish a criminal offence for intentionally committed illicit enrichment by a public official, as stated in Article 20 of UNCAC.

1.6 In many cases, exposure of corruption is dependent on the willingness of whistle-blowers to come forward, provided this is done in good faith and on reasonable grounds. The European Commission should seek alternative ways to promote the protection of whistle-blowers, undertake a study on the feasibility of EU-level instruments, possibly a regulation or directive, taking account of international sectorial guidelines and the relevant European Parliament resolutions. Respecting privacy and trade secrets should not prevent the exposure of corruption (Directive 2013/36/EU (CRD IV)). Appropriate safeguarding provisions should be in place to protect relevant parties against incorrect whistle-blowing.
1.7 The distribution and spending of EU taxpayers’ money via the EU’s structural and investment funds (including EFSI) present risks for misuse, as evidenced by experience and research. Fraud is often linked with corruption but investigation is hampered by weaknesses in cooperation between the EU and the national authorities. The EU should take a more prominent role in the monitoring/auditing of the use of the financing based on the concept of non-tolerance of corruption and fraud. The European Public Prosecutor’s Office (EPPO) should be set up as an independent and efficient European office having appropriate resources to investigate and prosecute not only crimes affecting EU finances, but also serious cross-border offenses such as corruption, as laid down in the Lisbon Treaty. Eurojust’s capabilities should also be strengthened as third states not covered by EPPO are occasionally involved.

1.8 The EU should step up its participation in anti-corruption efforts on the global stage. It should include strong anti-corruption provisions in agreements with third countries. There should be strict conditionality provisions in financing programmes (pre-accession, neighbourhood, development cooperation funds and overseas aid, etc.) in relation to tackling and preventing corruption (also to protect the funds themselves). Robust mechanisms to monitor implementation and effectiveness must be in place.

1.8.1 Measures to efficiently protect, both in the Internal Market and on the international stage, EU companies which observe ethical standards against third-country competitors which neglect such provisions, should be taken. One of the elements of protection should be that ‘contract conditions should be drafted in such a way as to fairly allocate the risks associated with the contract’ (recital 65 of CEF Regulation (EU) No 1316/2013). This principle should be included in the text of all EU instruments dealing with EU funding.

1.8.2 The EU should also strengthen efforts to prevent its financial system from becoming a safe haven for dirty money. Events for instance in Africa, the Middle East and Ukraine in recent years have demonstrated the inadequacy of bilateral approaches to the recovery and repatriation of stolen assets. The European Commission should take a more active role in providing assistance and coordinating the return of stolen assets to these countries.

1.9 The EU institutions themselves must ensure they are a beacon of transparency, integrity and good governance in a way that sets the standard for its Member States. Only in this way will the EU institutions have the authority and credibility to initiate, guide and implement the measures set out above. To this end, the institutions should aim for maximum accountability and transparency of the decision-making process, which would include the creation of a ‘legislative footprint’ for EU legislation and policies — i.e. a public and timely record of interaction between EU institutions, the Member States and lobbyists — as well as legislation about mandatory registering of lobbying in EU.

1.9.1 The EU should also be consistent and proactive in monitoring and preventing conflicts of interest, as they can sway decision-making. Independent ethics committees with the power to issue binding recommendations and sanctions should be established. Further reforms should be set out in the 5-year action plan referred to in recommendation one and taking into account the conclusions of the Commission’s and OLAF’s anti-corruption reports.

1.10 The EESC should take purposeful actions in contributing to fighting corruption in the EU:

— raising awareness in civil society as follow-up to the opinion,

— involving itself in the relevant public-private dialogue concerning corruption, as desired by the Commission,

— addressing the fight against corruption and fraud in forthcoming opinions and considering additional opinions, including opinions on sector-specific corruption,
— initiating the issue in the cooperation with national ESCs and contacts with stakeholders, as well as in the EESC’s external activities,

— assessing the revision of the internal EESC Code of Good Administrative Behaviour and of the Code of Conduct for EESC members, including the introduction of internal rules about whistle-blowers,

— promoting regular cooperation in the field of anti-corruption efforts with the EU institutions (the European Parliament, the European Council, the European Commission), with relevant agencies and with the Committee of Regions,

— establishing an anti-corruption monitoring group.

2. Description of corruption

2.1 Corruption is commonly defined as ‘any abuse of power for private gain’, inspired by UNCAC. The opinion has this definition as its point of departure.

2.2 Corruption is widespread globally. Corruption in Europe is estimated to cost the EU’s taxpayers approximately EUR 120 billion per year (excluding fraud of EU public money) which almost equals the EU’s overall annual budget, representing one per cent of the EU’s GDP. There are significant differences in corruption between the Member States. In many of them corruption penetrates all layers of public and private life. The European Commission mentions in the introduction to the 2014 EU Anti-Corruption Report ‘Corruption seriously harms the economy and society as a whole …. The Member States of the EU are not immune to this reality. Corruption … impinges on good governance, sound management of public money, and competitive markets. In extreme cases, it undermines the trust of citizens in democratic institutions and processes.’

2.3 Corruption has many faces. It can be classified as public sector corruption, private sector corruption and political corruption, depending on the sector in which it occurs. Corruption always involves at least two consenting players in the illegal act.

2.3.1 Typical examples of corruption are acts of bribery, both in its active and passive form, including the offering, giving and accepting or soliciting of an advantage as an inducement for a legal, illegal or unethical action, which can take the form of gifts, loans, fees, facilitation (side) payments, rewards (kick-backs) and other advantages such as reduced taxation, visas, services, sponsorship and donations. Corruption is in many cases linked to other illegal practices, such as price-fixing, bid-rigging, money-laundering, illegal enrichment, blackmailing and fraud. It is also present in less tangible transactions such as favouritism and nepotism in appointing public officials, influence peddling and trading in favours, clientelism, unethical immunity, amnesty and privatisation practises, bribing judicial and police authorities, funding of political parties, rigging electoral campaigns. Unregulated or poorly managed conflicts of interest can lead to corruption, for example lucrative positions in companies offered without ‘cooling-off’ periods to former public officials (‘revolving doors’).

2.3.2 All this unethical and illegal activity is facilitated by a number of factors. This includes legal impediments (immunities for elected officials and statutes of limitations); the absence of international standards, codes of conduct, ethical guidelines and adequate alert mechanisms; the lack of transparency around public decision-making and how this is influenced, for example lack of disclosure by elected or appointed public officials of outside income and activities, or of opaque meetings with persons aiming at influencing such decisions.

2.3.3 Corruption is often connected with the informal economy and with organised crime. In its 2013 Serious and Organised Crime Threat Assessment (SOCTA), Europol identifies an estimated 3 600 organised crime groups and networks currently operating within EU borders, increasingly infiltrating all aspects of the economy.

2.4 Corruption is perceived to be a major and increasing transnational problem across the EU and internationally. Corruption does not stop at national borders.
2.5 In June 2011, the European Commission took an important step to address and tackle corruption in Europe by adopting a comprehensive anti-corruption package. It established an EU anti-corruption reporting mechanism. In February 2014, the first EU Anti-Corruption Report — COM(2014) 38 final — was published. Further reports are intended to be issued every 2 years. This first report aims at launching a wide stakeholder debate, including civil society to support anti-corruption efforts and to identify ways in which European institutions can help to tackle corruption. The concept of ‘participation of society’ is inspired by Article 13 of UNCAC.

2.5.1 The report addresses corruption problems specific to individual Member States and underlines generally that the Member States should strengthen their efforts to tackle corruption, as they insufficiently transpose, implement and enforce provisions of international and European relevant instruments.

2.5.2 Two Eurobarometer perception surveys were published alongside the report: (a) the Special Barometer on Corruption and (b) the business-focused ‘Flash survey’.

2.5.2.1 Main snapshots of the surveys are as follows, where all ratios refer to the number of EU citizens/companies having responded to the survey:

— three quarters of EU citizens think that corruption is widespread in their own country. In ten Member States, the figure is higher than 90 %,

— more than half of Europeans think the level of corruption has increased over the past 3 years,

— three quarters of Europeans say that bribery and the use of connections is often the easiest way of obtaining certain public services (for instance in medical and healthcare) in their countries,

— more than two thirds of Europeans think that corruption exists in the EU institutions, and over half of them think the institutions do not help to reduce corruption in Europe,

— about half of the companies think that corruption is a problem for doing business. State-owned companies and the public sector, including taxation and customs authorities appeared particularly vulnerable,

— more than half of the companies note that corruption in public procurement is widespread due to conflicts of interest, non-transparent practices and favouritism. Public procurement for projects and contracts in urban development, infrastructure, construction and healthcare is identified as especially vulnerable to corruption at all levels.

2.6 An OECD report in December 2014 shows that the scale of foreign bribery remains unacceptable high. It describes over 400 cases in 2009-2014 of bribing foreign public officials. The bribes were 11 % of the total transaction value on average and in many cases linked to public procurement. Two thirds of the cases occurred in four sectors: extractive, construction, transportation and storage, information and communication.

2.7 As regards efforts to protect the EU’s financial interests (taxpayers’ money handled by EU), in 2013 there were 16 000 cases of irregularities reported (approx. EUR 2 billion) in the use of the EU’s funds, of which 1 600 cases (EUR 350 million) were fraudulent. Since 2009 the number of reported irregularities has increased by 22 % and the value by 48 %. Falsification of documents (probably often linked to corruption) was the main source for this behaviour. The EU Court of Auditors noted in its Annual Report for 2013 misuse or errors of around 5 % of the granted EU funds, above all in regional policy, energy and transport, agriculture, environment, fishery and health.

3. International instruments against corruption and bribery

3.1 In addition to their own national anti-bribery and anti-corruption legislation, EU Member States are party to a number of international conventions and treaties, as well as complying with the relevant EU legislation. Each of these conventions has its own monitoring procedures in place, usually involving some form of peer review.
3.2 The most important international instruments and mechanisms to fight corruption are:

— United Nations Convention against Corruption (UNCAC),

— OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,

— Council of Europe 1999 Criminal Law Convention on Corruption; Civil Law Convention on Corruption).

3.3 The EU’s most important legal instruments against corruption are:

— Article 83(1) TFEU which provides a mandate for EU to address serious crime (mentioning among others corruption) with a European or cross-border dimension,

— Article 325(4) TFEU which provides a legal basis for all necessary measures to fight against fraud affecting the financial interests of EU,

— 1997 Convention on the fight against corruption involving officials of EU and EU Member States,


3.4 UNCC is the most comprehensive of the international conventions, All EU Member States have ratified the convention and the EU is also a signatory.

3.5 The EU has adopted directives, communications and framework decisions which mainly establish minimum standards and address matters which relate to the fight against corruption and fraud: tax fraud and tax evasion, money laundering, corporate social responsibility, reporting on non-financial transactions, corporate governance, public procurement and auditing. The EESC has issued opinions on these EU initiatives on a regular basis.

3.6 The EU has also introduced anti-corruption and anti-fraud provisions in its funding programmes — both internal and external (including cohesion, regional, agriculture, enlargement, neighbourhood and development policies).

3.7 As a first measure to protect law-abiding EU companies working in third country markets, the principles contained in Recital 65 of the CEF Regulation (EU) No 1316/2013 and Rule 3.24 of the EBRD ‘Procurement Policies and Rules’, asking for fair allocation of the risks associated with the contract, should be included in the text of all EU instruments dealing with EU funding.

3.8 The European Commission has since 2011 implemented, based on Article 325 TFEU, a comprehensive anti-fraud strategy CAFS (COM(2011) 376) to improve the entire anti-fraud cycle — prevention, detection and the conditions for investigations of fraud and to achieve adequate repatriation and deterrence, with dissuasive sanctions. Commission services have developed sectorial anti-fraud strategies. The draft directive (COM(2012) 363) on the fight against fraud to the EU financial interests by means of criminal law (PIF) is also of relevance.

4. Self-regulation — ethical codes concerning corruption and bribery

4.1 Self-regulation has an important role in fighting corruption and bribery. Companies are increasingly including corporate responsibility, compliance and corruption prevention as part of their overall policy and management. The ethical codes of individual companies are mainly based on international, sectorial guidelines and are also supposed to implement related EU standards (reporting non-financial information, corporate social responsibility etc.). The core objective with a company code is to promote ethical behaviour in all of the company’s activities, to commit all stakeholders and to implement it in a transparent and inclusive way, addressing it also in the context of the social dialogue.
4.2 Core international guidelines and mechanisms, describing the principles for companies to avoid corruption and bribery and to spur ethical behaviour and transparency are:

— ICC Rules on Combatting Corruption, Guidelines on Whistle-blowing, Handbooks etc.,

— UN Global Compact: 10 principles against corruption and the accompanying guidance on reporting,

— OECD Guidelines for Multinational Enterprises: Recommendation seven on ‘Combating Bribery, Bribe Solicitation and Extortion’,

— ISO 37001 standard on ‘Anti-Bribery Management Systems’ (under work, ISO PC/278),

— World Bank Group Anticorruption Guidelines,

— Global Reporting Initiative (GRI, GR4),

— Transparency International’s Business Principles for Countering Bribery etc.

Guidelines by industry on EU level — for instance the European construction industry (http://www.fiec.org, including relevant guidelines and joint statements), extractive industries (www.eiti.org) — are of core relevance in the sectors concerned. The same goes for national guidelines (for instance the German Sustainability Code, Danish Industry’s Guidelines) which are considered to have a substantial role in the guiding of companies’ behaviour.

4.3 The European Parliament and the Commission have adopted their own internal ethical guidelines to complement the obligations of civil servants following from the EU Staff Regulations, including a code of conduct for European Commissioners and a code of conduct for Members of the European Parliament providing guidelines on how to deal with gifts and donations, other financial interests and conflicts of interest. The EESC has adopted similar codes.

5. Observations as regards business’ and civil society’s concerns

5.1 The situation concerning corruption and fraud of public funds within the EU is unacceptable. The consequences are felt keenly by civil society and business. Corruption brings additional costs for consumers and an uncertain environment for companies observing ethical standards. The EESC notes with displeasure the widespread corruption and fraud in the EU’s Member States, as well as the weak political commitment of governments and local authorities to fighting corruption effectively, including insufficient implementation and enforcement of existing international, European and national instruments.

5.1.1 Citizens, social and economic players, regardless of where they live in Europe are entitled to live in a transparent and fairly governed society based on rule of law. The financial and euro crisis has led to increasing criticism among citizens of flagrant corruption and to a fading trust and the citizens’ loss of confidence in democratic governance at EU level, and thus to spreading Euroscepticism. Civil society expects that the EU and the Member States enhance their efforts in fighting corruption and fraud. Decision-makers must convince that they are acting in the public interest.

5.2 The EESC engages itself for these reasons in the efforts to tackle the problem. It responds to the European Commission’s desire that civil society be involved in the fight against corruption; the opinion’s main objective is to contribute to the Commission’s next anti-corruption report (in 2016), as well as to take its share in raising awareness, spreading information, and promoting transparency.
5.3 **Corruption is not only a matter of integrity and ethics but also of economics since it damages the licit economy** — fair circumstances and conditions for trade, investments and competition — and thereby affects growth and competitiveness. World Bank and World Economic Forum data show that economic competitiveness is closely correlated with a government’s ability to control corruption. Studies have shown that control of corruption in the EU is strongly correlated with ease of doing business, as well as the negative impact of corruption upon private investment.

5.3.1 Corruption adds costs to business as ‘clean’ companies risk losing contracts in a corrupted environment. It thus hampers the efficiency of the internal market and could thereby have a damaging impact on efforts to achieve the goals of the 2020 growth strategy and to improve Europe’s global competitiveness — thus weakening possibilities to improve employment and wellbeing in Europe, as well as the competitiveness of EU companies operating abroad.

5.3.2 **Companies with a good anti-corruption track record attract investors.** The image of the corporate world is at stake when a company is found guilty of bribery and corruption. It not only damages its own reputation but also sheds a negative light on business as a whole. The administrative and financial burden for business, in particular SMEs, should however also be taken into account in the provisions about compliance with anti-corruption legislation and reporting requirements.

5.4 The media reports regularly about **corruption at the highest level** in many Member States as well as elsewhere in the world. **Political corruption** (for instance linked to appointments, bribes and the funding of political parties and electoral campaigns, the rigging of sport events), above all when judicial and police authorities are involved is perceived among citizens as most seriously damaging for society. An end must be put to this practice, as well as to the widespread practice of ‘under the table’ payments in many Member States which affect the daily life of citizens. These phenomena in society seem to be based on a change in the perception of legality. This must be addressed: citizens have the right to rule of law, good governance and public services, clear of corruption. A change in attitude is needed and a culture of transparency should replace a culture of corruption where it exists. This should basically be tackled by legislation and as part of fostering and education.

5.5 The EESC supports the **anti-corruption measures and recommendations by the European Commission**, the EU’s anti-fraud efforts, as well as the European Parliament’s actions, in particular Action-Plan 2014-2019 to tackle organised crime, corruption and money-laundering. In addition, the recommendations in the reports by the Council of Europe’s Group of States against Corruption (GRECO), the UN, OECD and ICC are indispensable and should be taken into account in the strengthening of the anti-corruption policies and activities of the EU and its Member States.

5.6 The strongly intertwined nature of the economies of the Member States and the growing scale and speed of cross border money flows increase the risk of spreading corruption within the EU. Corruption has become a transnational phenomenon and it can no longer be seen as only a matter of national criminal law. It could be compared with an infectious disease to which nobody can automatically be considered to be immune; it needs purposeful health care. Today's fragmented approach must be replaced by a more coherent approach to achieve significant progress. The Commission's reports should adequately address this dimension: **Anti-corruption measures must be designed and implemented in the context of an increasingly integrated Europe and globalised economy.**

5.6.1 **Fighting corruption must therefore be put at a higher place on the EU agenda;** the EU should take a more prominent role to promote transparency and safeguard the integrity of the internal market, external relations and the EU institutions and spending. **A stronger focus on fighting corruption is needed in all relevant EU policies,** both internal and external. Business and civil society expects this development and the opinion draws attention to the need for effective leadership and coordination by the EU. The EU has the potential to use its political weight to promote an EU-wide area based on integrity and high anti-corruption standards.
5.7 Nothing less than an implicit undertaking — a European anti-corruption pact to achieve a credible and comprehensive strategy — is needed. It must be managed ‘from the top’ and engagement of all relevant stakeholders at EU, national and local levels is needed in this endeavour.

5.8 The Member States are on the frontline in the fight against corruption and fraud. Implementation of robust anti-corruption measures is their responsibility (above all robust legislation and a functioning anti-corruption authority to tackle corruption in political and judicial governance, and organised crime), as well as their proactive participation in transnational cooperation and in raising public awareness about fighting corruption and fraud.

5.8.1 Engagement of civil society, including business, business associations and social partners in the national anti-corruption efforts would be important, above all with the objective of raising awareness and offering guidance on how to avoid corruption, fraud and bribery. Individual companies’ and authorities’ behaviour is, in this context, of core relevance. National arenas, for instance the OECD’s National Contact Points and Transparency International’s advocacy and legal advice centres (ALACs) would also play a significant role in national anti-corruption efforts. The media should acknowledge its profound role and responsibility in raising public awareness about corruption and anti-corruption efforts in the Member States.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Prospects for long-term smart, sustainable development of European offshore industry and its relations with the EU’s maritime sectors’

(own-initiative opinion)

(2016/C 013/12)

Rapporteur: Mr Marian KRZAKLEWSKI
Co-rapporteur: Mr José Custódio LEIRIÃO

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of the Rules of Procedure, decided to draw up an own-initiative opinion on:

Prospects for long-term smart, sustainable development of European offshore industry and its relations with the EU’s maritime sectors.

(own-initiative opinion)

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 15 July 2015. The rapporteur was Marian Krzaklewski and the co-rapporteur was José Custódio Leirião.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 132 votes to 1 with 3 abstentions.

1. Conclusions and recommendations

1.1. The offshore industry comprises the sectors of energy production, and extraction of gas, oil and minerals from the sea. The EESC believes that some of the most rapidly developing markets are linked to these sectors, offering potential for long-term, sustainable and smart growth.

1.2. The EESC is convinced that, in order to ensure the sustainable development of the offshore industry, a framework is needed for a coherent European strategic vision, providing advanced technologies and innovative solutions for this industry. Technologies are at the core of such a strategic framework.

1.3. The Committee believes that there is currently no comprehensive European strategic vision for offshore industry as a whole or its component sectors. Although the Commission and Council are gradually expanding the scope of regulation for this industry, particularly for the offshore oil and gas sector, these actions appear to lack a consistent and comprehensive vision.

1.4. The EESC feels that the lack of a strategic framework for offshore industry also stems from insufficient cooperation between offshore industry, EU institutions, Member States and civil society organisations. The Committee therefore feels that the idea of creating and implementing a European strategic vision for offshore industry would make it possible to achieve an effective level of cooperation that would benefit stakeholders, including other industries (e.g. tourism) that use offshore resources.

1.5. Regarding previous proposals, the EESC is concerned about the absence of Commission representatives both at the two study group meetings and at the public hearing in Aberdeen, held as part of the preparatory work on an own-initiative opinion on European offshore industry.

1.6. Comprehensive analysis of the relations between offshore industry and the European maritime industry confirms that offshore industry generates very strong, often green, drivers for the European maritime industry, particularly for the shipbuilding, repair and equipment sectors. It could be argued that the European shipbuilding industry has avoided the loss of critical mass that had until recently been threatening it thanks to demand from offshore industry.
1.7. The Committee considers that, in the light of the ongoing process of implementing the Safety of Offshore Oil and Gas Operations Directive, the European Commission, in cooperation with the Member States, should organise a system of verification and indicate ways of increasing the financing capacity of economic operators in the sector to cover remedial measures taken in response to accidents.

1.7.1. A ‘safety culture’ programme should be prepared and implemented and action taken to promote and support the accreditation of training institutions by offshore industrial firms to carry out more extensive training in the field of safety and environmental protection. The EESC notes that achieving a high level of safety in offshore industry also depends on ensuring good working conditions at sea.

1.8. The EESC proposes that the Commission and the Member States concerned, in cooperation with the ILO and the social partners, take steps to assess the possibility of extending the Maritime Labour Convention (MLC) to workers employed in the offshore oil and gas and offshore wind energy sectors in the EU and the EEA.

1.9. The Committee believes that the Commission and the European sectoral social partners representing the offshore industry should use the good example of the 2009 Directive implementing the Agreement concluded by the European Community Shipowners’ Associations (ECSA) and the European Transport Workers’ Federation (ETF) on the Maritime Labour Convention.

1.10. In view of the forecast shortage of qualified workers and skills in offshore industry in the EU and the EEA, the EESC considers that this problem should be addressed by ensuring good working conditions (enforcement of Maritime Labour Convention regulations) and applying policies for adapting skills and training and encouraging young people to work at sea.

1.11. In connection with offshore industry, the Commission and the Member States should promote cooperation and public-private partnership (PPP), including: joint ventures, guarantees, and arrangements for sharing production and concessions. Coordination should cover the legal framework, spatial planning, geological surveys and environmental protection in relation to the question of the sustainable use of energy resources.

1.12. The EESC considers that one of the dimensions of the Europeanisation of the offshore extractive sector should be the Commission’s involvement in a broad programme of geological surveys using ICT to provide data for more sustainable — current and future — exploitation of marine resources.

1.13. The EESC believes that the major challenges for offshore industry in the face of global and European competition and regulatory requirements are:

— extraction in deep waters, and — in the offshore wind energy sector — the move towards siting installations at greater distances from shore and in deeper open waters,

— procedures for horizontal drilling and hydraulic fracturing in offshore mining in compliance with environmental requirements,

— management of ageing offshore installation infrastructure,

— discovery, inventory and exploitation of resources in Arctic areas,

— response to the green impetus of the Marpol Convention, the Ballast Water Management Convention and the Ship Recycling Regulation.
1.14. The EESC encourages cooperation networks of offshore industry sectors, coastal regions and businesses in the supply chain with research centres and universities in the framework of the Horizon 2020 programme and projects in the area of ‘smart specialisation’. Within this cooperation, issues concerning innovation and ecology should have a greater role and use should be made of the opportunity created by the European Fund for Strategic Investment.

1.14.1. The EESC calls on the Commission to consider making adjustments to the Structural Funds or the Juncker plan to support investment in innovation in the offshore industry.

1.15. The Committee believes it is necessary to update the Europe 2020 strategy (review) to meet the EU requirements relating to maritime activities, projects, resources, a skilled workforce, and financing and promoting sustainable development, bearing in mind the wide range and variety of the types of work and skills that are necessary in the area of offshore activities.

1.16. The EESC calls on the European Commission to promote a debate on the potential for a specific strategy for the North Sea covering the challenges for sustainable and competitive offshore industries in Europe.

2. Background

2.1. The offshore industry mainly comprises offshore energy production and the gas, oil and mineral extraction sectors. Taking account of the supply and services chain, the industry is linked with the following maritime sectors: shipbuilding, ship repairs, maintenance and conversion as well as shipping equipment and supplies and offshore industrial installations.

2.2. Linked to offshore sectors, European industry has both specialist expertise and the requisite human potential to enable it to effectively reap the benefits of participating in markets associated with all offshore sectors.

2.3. The following were presented in the analysis of the state of the European offshore industry and assessment of its prospects for long-term and sustainable development:

— the situation of the offshore oil and gas industry in the global context and the challenges and driving factors;

— general characteristics of the offshore wind energy sector in the EU;

— relations between the European maritime industry and offshore industry;

— analysis of the need for innovation and sustainable development in the context of current challenges and potential areas for development of the European offshore industry;

— the proposal to ensure that there is a social, sustainable development dimension in employment matters in offshore industry;

— the EU regulatory framework for European offshore industry;

— the idea of promoting an EU North Sea strategy addressing the challenges facing a sustainable and competitive offshore industry.

3. The European offshore oil and gas extraction industry: current situation of the sector

3.1. Petroleum products and gas accounted for 26% of Europe’s energy mix in 2012; the largest contribution came from nuclear energy — representing 29% — and renewables, including hydroelectric power, at 22%.

3.1.1. The EU is the world’s largest energy importer, importing 53% of its energy at an annual cost of EUR 400 billion. 88% of oil and 66% of gas is imported, mainly from Russia.
3.2. The main problem for the offshore oil and gas sector in Europe is the question of whether the traditional European offshore oil and gas industry will grow, against a background of diversification and the challenges arising from the development of renewables and the efficient management of these changes in the sector.

3.3. The offshore oil and gas industry in Europe is characterised by:

— high operating costs;
— high environmental risks and a high level of regulation;
— the need to operate at greater depths;
— tax risks — low prices leading to high investment risks;
— potential problems with cheap products from the USA.

3.4. Current challenges facing the European offshore oil and gas industry include:

— the need for seismic surveys in order to update the maps of geological deposits;
— lack of harmonisation and sharing of data, which slows down the pace of development;
— pressure from producer countries on the discovery of new deposits;
— problems with tenders for extraction involving national and international companies;
— management of the sector’s lifecycle in successive stages: prospecting/discovery/FEED (1)|production|decomposition.

3.4.1. New challenges for the industry include:

— a reduction in available resources;
— the fall in oil prices and competition from new, cheap, related raw materials;
— issues related to entrepreneurship and government support for new businesses;
— boosting growth through innovation and internationalisation of the industry;
— the question of growth driven by the ‘green economy’.

3.5. The European offshore oil and gas industry deserves support, because:

— it exhibits the characteristics of a sustainable industry that takes the EU regulatory framework into account;
— it provides, directly or indirectly, almost 600 000 jobs (including Norway);
— it is one of the main drivers of the EU maritime industry;
— it contributes to positive social transformation in the regions;
— it makes a significant contribution to the budgetary revenue of the Member States;
— it plays a leading role in innovation and technological progress in engineering;
— it is characterised by substantial and growing exports from companies in the supply chain, which compensates for possible loss of revenue from the production of fuels.

(1) FEED — Front-End Engineering Design.
3.6. The results of a SWOT analysis of the offshore oil and gas industry were presented at the hearing in Aberdeen (\(^2\)); these, together with the proposals put forward during the discussions, have been set out in the Annex.

4. **The offshore energy market in the EU**

4.1. There are approximately 2,500 turbines operating in EU seas, with a total capacity of over 8 GW in 11 countries. The EU’s share in global production is almost 90%. After the 12 current projects are completed, the installed capacity will rise to 10.9 GW. Wind power currently provides 7% of the EU’s energy, 1/7 of which comes from offshore wind energy.

4.2. Current development and innovation trends in this sector concern: turbines, foundations and installations at greater depths and greater distances from shore.

4.3. Financial planning is becoming an increasingly important tool in the development of offshore wind energy. In 2014, this industry took out non-recourse loans of EUR 3.14 billion (\(^3\)), which is the largest amount received in the history of this industry. Financial partnerships are the key to success.

4.4. The outlook for the coming years is for a further increase of installed capacity. As for the more distant future, the European Wind Energy Association (EWEA) estimates that construction is already authorised for new farms with a total capacity of 26.4 GW and long-term plans refer to an increase of 98 GW.

4.5. According to EWEA data, at the end of 2011, 192,000 people were employed in the wind energy sector in Europe, of which approximately 30,000 were employed in the offshore wind energy sector.

4.6. Installed ocean energy capacity in the EU is approximately 1.5 GW (one sixth that of offshore wind energy, but it is predicted to reach 3.6 GW by 2020). Installations using energy from ocean waves, tides and currents and salinity gradients and conversion of ocean thermal energy into electricity contribute to this.

5. **Economic relations between the European maritime industry and offshore industry**

5.1. In 2014 the global value of contracts for ships was USD 370 billion, of which 170 billion was for offshore vessels. Global demand for various offshore vessels in 2014-2025 is estimated to be between 1,230 and 1,970 vessels. Demand for industrial submersibles will increase by 180%, and between 50 and 60% for installation vessels or those serving wind farms or floating offshore installations.

5.2. Contracts for all types of vessels are predicted to increase by 3.7% by 2025, which, compared to the much higher forecasts for offshore vessels shows how powerful the offshore industry is and will be as a driving force for shipbuilding. In Europe in 2014 the share of offshore vessels in total shipbuilding production was 30%.

5.3. The European maritime equipment industry, which is the world leader in production of drilling modules, engines, winches, cranes and electronics for the offshore sector, is similarly closely connected with the offshore industry.

5.4. Offshore energy is a green driving force for maritime industry. Its total global potential is estimated at over EUR 19 billion in 2012-2022 (approximately EUR 2 billion per year). These estimates are based on the number of ships and equipment required to build and use the planned wind farms.

5.5. A new kind of demand for products and services from the European maritime industry is also appearing in connection with moving operations to greater depths, mainly in the offshore oil and gas sector and offshore energy.

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\(^2\) Liam Smyth — Aberdeen & Grampian Chamber of Commerce.
\(^3\) *The European offshore wind industry — key trends and statistics 2014.*
5.6. Melting in Arctic areas is creating prospects for extraction of raw materials and waterways (although this is not a particularly 'green' driving force). This trend is linked, among other things, to the anticipated demand for construction of ice-breaking vessels and ice-strengthened transport and service ships.

5.7. The relatively new ocean energy sector will also be an increasingly significant green driving force for the European maritime industry, mainly in sectors associated with SEA Europe.

5.8. The range of products of the shipbuilding sector for the offshore oil and gas industry is linked to the lifecycle of this industry as follows:

- exploration and identification of deposits creates demand for support vessels,
- offshore drilling ships and installations are needed for drilling,
- managing the deposits creates the need for specialised construction vessels,
- floating installations for extraction and storage are needed when the fields are in use,
- when decommissioning fields, vessels are used for installing wind turbines or other offshore equipment.

5.9. The amount of offshore drilling needs to be increased significantly to ensure future supplies of oil and gas. This is linked to the significant demand for technically advanced platform modules and for repair and conversion of different types of installations and offshore drilling towers. These services are an important source of profit for the EU shipbuilding and repair sectors.

5.10. A new specialist area in shipbuilding is bringing interesting prospects — ships not only for transporting floating liquefied natural gas (FLNG) but also providing various services for the offshore oil and gas industry, including replacing LNG land terminals with mobile ones. This concerns the FPSO LNG (floating production, storage and offloading of liquefied natural gas support vessels) and FSRU (floating storage and regasification unit) versions.

5.11. European ports can also take advantage of the driving factors related to the offshore industry. This applies to handling general cargo and components for offshore wind energy: segments of towers, generators and rotor blades and other equipment ordered by the offshore industry.

6. The need for innovation and sustainable development in the context of current challenges and potential fields for development of European offshore industries

6.1. European investment in innovation has continued to lag behind its larger competitors (the USA) in the past decade. This impacts all industrial sectors, including offshore oil and gas.

6.2. One of the main challenges for the oil and gas sector is to ensure the safe exploitation of its ageing assets. On average 30% of platforms in the world have been in operation for more than 20 years and many of them have exceeded their original planned lifespan.

6.3. The main areas requiring action in the context of ageing assets in the offshore oil and gas sector are:

- monitoring and understanding of the integrity of materials;
— understanding of corrosion under insulation;
— the problem of inspection, repair and maintenance issues in the context of the management of ageing;
— recovery of old equipment.

6.4. Growth of the sector depends on innovative technologies to support extraction, making it possible to ‘squeeze’ as much as possible out of ageing installations and extend the lives of some production fields.

6.4.1. New technologies also play a key role in deep-sea prospecting and production, which require billions of euros in investment. The development of new technologies aims to reduce costs and operational risks and the exploitation of wells in high temperature and pressure conditions.

6.5. The EESC believes that the Commission should consider making adjustments to the Structural Funds or the Juncker plan to support investment in innovation in the offshore industry, mainly in the areas of:
— ageing infrastructure and ensuring continuity of production;
— new technologies for ‘squeezing’ production out of older oil and gas fields;
— the increasing complexity of production wells.

New areas of development

6.6. Developing shale gas while meeting environmental requirements is becoming an increasingly attractive prospect for the offshore oil and gas sector too. This is due to significant improvements in the technology for hydraulic fracturing of underwater rock. Sequestration of CO$_2$ at sea could be another green growth factor for the offshore industry in the race to develop a low-carbon economy.

6.7. Other new development areas are production of multifunctional industrial platforms after pilot projects (7th Framework Programme) and construction of complete installations and equipment for obtaining energy from ocean waves and tides.

6.8. The challenge for EU policymakers is to harness the potential of Horizon 2020 to maximise research and innovation (*) within the European offshore industry.

7. The EU regulatory framework for European offshore industry

7.1. Europe’s offshore industry operates against a background of continuously increasing regulation. The main provisions affecting these industries include:
— EU directives on: emissions (IED), integrated pollution prevention and control (IPPC) and the limitation of emissions of pollutants into the air from large combustion plants (LCP Directive);
— the Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCP Directive), which affects the production of oil and gas;
— the Emissions Trading System (ETS);
— the directive on maritime safety.

7.2. The Directive on safety of offshore oil and gas operations entered into force in 2013 and is to be incorporated into national legal systems by July 2015; the industry must adapt to new standards by July 2016.

7.2.1. In order to have a global impact and be able to monitor major accidents in Europe and further afield, there must be cooperation between the Commission, Member States and specialised companies in the following areas:

— publication of a guide to the impact on risk;

— creation of a safety culture in this area;

— accreditation of training institutions by mining companies to provide more extensive training;

— drawing-up of a code of best practice;

— promotion of partnership between investors and Member States;

— cooperation between Member States and investors in sensitive strategic areas and in offshore projects promoting PPPs for sustainable development and to allow the offshore industry to influence other industries, such as for example tourism and fisheries;

— cooperation in protecting critical offshore infrastructure against terrorism and piracy.

7.3. Representatives of the industry currently consider the work on the reference document (BREF) on the exploration and production of hydrocarbons in the EU using high-volume hydraulic fracturing to be a delicate regulatory issue.

7.4. Also in the context of the impact of regulation on the development of all sectors of the offshore industry, compliance is required with the most recent (July 2014) Directive establishing a framework for maritime spatial planning.

7.5. Communication COM(2008) 699 on raw materials policy, which maps out a path to greater international cooperation between national geological surveys with the aim of increasing the EU’s knowledge base, should also have an indirect impact on the offshore extractive industry.

7.6. The following are also no less important regulatory and political issues with an impact on the entire European offshore industry:

— the impact of the Maritime Labour Convention;

— the impact of the MARPOL Convention (SO$_2$ and NO$_2$ limits) and the Ballast Water Management Convention.

8. How can the difficulties in ensuring that there is a social, sustainable development dimension in employment matters in the offshore industry be overcome?

8.1. The great diversity of the European offshore industry and the significant impact of globalisation on this sector of the economy, as well as the still unresolved problems with social dumping and achieving a level playing field in this industry, have resulted in a complex situation with regard to labour issues. This is compounded by problems in the areas of social dialogue, collective labour relations and social standards.

8.1.1. These issues could be addressed comprehensively on the basis of the 2006 Maritime Labour Convention (MLC), which is currently entering into force, and the EU Regulation implementing it.
8.1.2. Unfortunately, opportunities for the broad application of this Convention in the offshore industry are still limited. This stems both from the lack of precise provisions in the MLC relating to offshore workers and the attitude of governments, operators and owners. This situation is further compounded by the existing problems in the EU with the registers of vessels and floating industrial equipment.

8.2. The EESC believes that the Commission and the European sectoral social partners representing the offshore industry should use the 2008 Directive implementing the Agreement concluded by the ECSA and the ETF on the Maritime Labour Convention, which is a good template.

8.2.1. The collective agreement of the International Transport Workers’ Federation (ITF) could be a model solution for the offshore industry. Currently, its implementation is hampered by a lack of willingness on the part of national authorities, the situation regarding the registers of vessels, the unsatisfactory state of social dialogue and the high rate of participation in the labour market of people employed on ‘junk’ contracts and the false self-employed.

9. European Strategy for The North Sea

9.1. The oil and gas industry has been 50 years in the making with estimates of another 50 years to go and it is facing a significantly changing energy environment as follows:
— an increased share of energy generated from renewables,
— an increased share of energy generated locally and from a mix of locally based sources,
— challenges in the ability of the current transmission system to balance supply with demand,
— EU 2030 Carbon Goals.

The question is: is the traditional O&G sector up to the major challenge of diversifying into the renewables sector and of managing such a change?

9.2. The North Sea Commission is intended to work with the House of Lords to involve the UK Government in promoting an integrated approach to maritime spatial planning in the North Sea Basin and to developing a communication document and strategy to identify the benefits to the public of a North Sea energy grid.

9.3. The EESC calls on the European Commission to promote a debate on the potential for a specific strategy for the North Sea covering the challenges for sustainable and competitive offshore industries in Europe, involving:
— product and design
— society
— production
— legislation
— financing.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
### Results of the SWOT analysis of the European offshore oil and gas industry

#### S — Strengths
- Experience gained in difficult operating conditions and in deep waters
- Globally acknowledged know-how
- Highly qualified and experienced workers
- The clustered nature of the industry

#### W — Weaknesses
- High production costs
- Production is less efficient than expected
- Uncertain tax position
- Ageing infrastructure
- Poor cooperation

#### O — Opportunities
- Discovery of new mining areas with lower operating and development costs
- Export of products, equipment and knowledge to new markets
- Cooperation in the areas of: common design/standardisation, use of infrastructure and knowledge exchange
- ‘Reaching an agreement’ on a sensible and realistic adjustment of remuneration levels
- Making use of the EU’s reindustrialisation programme

#### T — Threats
- Fall in global oil prices
- Job cuts in the sector in response to the sharp drop in oil prices in late 2014/early 2015
- Large-scale retirements of skilled workers within the next 10 years
- Falling prices following the growth in extraction from tar sands and shale in the USA
- Slowdown in economic growth in Asia
- OPEC approach to production limits
Opinion of the European Economic and Social Committee on ‘Creative and cultural industries — a European asset to be used in global competition’

(own-initiative opinion)

(2016/C 013/13)

Rapporteur: Emmanuelle BUTAUD-STUBBS

Co-rapporteur: Nicola KONSTANTINOU

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Creative and cultural industries — a European asset to be used in global competition

(own-initiative opinion).

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 15 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 215 votes to none, with 2 abstentions.

1. Conclusions and recommendations

1.1. Given the importance of cultural and creative industries (CCI) in the European Union, the EESC calls on the European Commission to draw up a multiannual strategy for the development of these industries.

1.2. The EESC considers in particular that these industries, which boost the European Union’s international influence, must be taken on board in the ongoing discussions at the European Commission on a communication expected in autumn 2015 on a new strategy with regard to trade policy.

1.3. In view of developments on the labour markets in some Member States, a better way of taking account of atypical workers’ needs in terms of working conditions, health and safety is needed. The EESC advocates stepping up collective bargaining in the media and culture sector in particular, in keeping with national traditions.

1.4. Several other aspects merit special attention: adjustment to new market needs, greater mobility for the sector’s professionals, training and education policies and tools, and development of crowdfunding platforms.

1.5. The task of promoting EU values — respect for human dignity, democracy, equality in law, protection of minorities etc. — should in part be entrusted to creative personalities, more likely to persuade a young audience by means of apps, videos, games, comic books and so on.

1.6. For these industries, which are not all able to ‘capture’ value, the question of capitalising on their intangible assets — client portfolios, celebrity and reputation, brands, know-how — which are long-lasting and a source of future profit, is crucial.
2. Introduction

2.1. For over 11 years the European Economic and Social Committee has been supporting the development of creative and cultural industries (CCI). Even before the European Commission drew up its 2012 communication on Promoting the cultural and creative sectors for growth and jobs in the European Union (1), several opinions were adopted between 2004 and 2014 (2).

2.2. Cultural and creative industries occupy a strategic position within European society that allows them to promote smart, sustainable and inclusive growth (Europe 2020) insofar as it has been shown (3) that one of the distinguishing features of CCIs is their ability to innovate, which is stronger than in other economic sectors.

2.3. Special attention should also be drawn to the particular role played by the CCIs within European society in promoting pluralism and cultural diversity, as well as a European identity (4).

2.4. In January 2015, the EESC Bureau decided to approve the drafting of a new own-initiative opinion on CCIs in the European Union, which are an asset that should be defended and promoted in international competition. Indeed, the United States, Canada and Korea, for example, are developing soft power strategies by promoting their culture and way of life in order to support the economic development of their businesses active in the design, production and distribution of goods and services with cultural content.

2.5. What are the main reasons for which the EESC intends once again to focus on the development of these industries?

2.5.1. Firstly their significance to the European economy is increasing. In the light of the different definitions that exist and the latest available statistics, CCIs represent one of the most dynamic sectors of the European economy. The TERA Consultants report, covering the 2008-2011 period (5), points out that the contribution from such industries to European GDP amounts to between 4.4% (for the purely creative, core industries alone) and 6.8% (when those strongly dependent on the former, or non-core industries, are added). Their contributions to employment stand respectively at 8.3 million jobs, or 3.8% of the total active population of the EU for the purely creative core industries, and 14 million when the strongly dependent, non-core industries are added, or 6.5% of the EU’s total active population. This makes them the EU’s third largest employer following construction and the beverages sector.

2.5.2. The scale of public debt has led governments and local and regional authorities to reduce the amount of subsidies granted to cultural and music associations, theatres, art-house cinemas and orchestras. Publicly-funded radio and television face difficulties in several Member States, as does the written press which is experiencing a crisis in its economic model as a result of the digital revolution.

2.5.3. Negotiations on a transatlantic partnership opened in June 2013 and there have already been nine rounds of negotiations. The cultural exception has been recognised from the outset and the EESC supports the position of the European Parliament which, in its resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America (6), calls for ‘the exclusion of cultural and audiovisual services, including those provided on line, to be clearly stated in the negotiating mandate’.

2.5.4. The Creative Europe programme, on which the Committee has already issued an opinion (7), has just come into effect and has been allocated a budget of EUR 1.46 billion for 2014-2020.

3. General comments

3.1. Questions on the economic development of the sector

3.1.1. Many iconic sectors for European culture and creativity have been undermined by the crisis:

— classical and traditional music concerts and orchestras,
— opera and theatre festivals,
— the European comic book sector suffers from pirating,
— audiovisual production for public television channels sometimes has faced significant budget cuts.

3.1.2. The Eurostat data for 2009-2013 confirm a decrease in jobs in sectors such as publishing in France, with 146 000 employees in 2009 and 112 000 in 2013, or programming and filming in Poland with the workforce falling from 25 000 employees in 2009 to 19 600 in 2013.

3.1.3. In contrast, according to a report by the European Foundation for the Improvement of Living and Working Conditions in Dublin (on Arts, entertainment and recreation: Working conditions and job quality) (8), employment in the arts, entertainment and recreation sectors increased slightly in the EU between 2010 and 2012 by 2%. In certain Member States the share of workers in these sectors is well above the European average (1.6% of the labour force): the United Kingdom and Estonia at 2.6%, Sweden at 2.5% (14% of businesses and 8% of GDP) and Latvia at 2.3%.

3.2. The architecture of the Creative Europe programme for 2014-2020, which raises some questions on financing and local representation

3.2.1. The reason for which businesses in the creative industry need to seek financing can be explained by the difficulty they have in designing income models that would enable them to capture value. Guiding SMEs in designing business and income models, enabling them simultaneously to create and capture value, would make them less dependent on public subsidies.

3.2.2. In the past the EESC has expressed doubts as to the new financial mechanism designed to give SMEs and other operators easier access to financing. The lack of expertise in the cultural field of the European Investment Fund (EIF) (9) was highlighted. Yet this is the authority responsible for providing the sectoral guarantee of EUR 121 million.

3.2.3. Under the Creative Europe programme, this guarantee must have a leverage effect of 5.7%, which would lead to around EUR 700 million being made available for a tender procedure and would make it possible to select the bodies responsible for strengthening administrative capacity for the guarantee mechanism.

3.2.4. It would also be worthwhile using a more diverse range of financing arrangements. Crowdfunding, including its cross-border dimension, would offer projects easier access to financing, and would reduce the risk for investors (La Tribune, 11 February 2014).

3.2.5. More broadly, this raises the entire question of assessing intangible assets in financial terms. The European Commission acknowledges the importance of these intangible assets but does not suggest any common method for assigning financial value to them.

3.2.6. Lack of local representation: there are between and one and four Creative Europe offices per Member State, either in the capital or another large city. This network is probably not sufficient to ensure promotion of programmes in all regions that are strongly geared to the CCI.

3.3. Adapting intellectual property law to the digital revolution

3.3.1. Reform of Directive 2001/29/EC of the European Parliament and of the Council (10) on copyright is currently being discussed, largely on the basis of the communication of 19 May 2010 (COM(2010) 245 final) A Digital Agenda for Europe, with difficult questions to tackle:

— should a single European copyright title be introduced?

— how should copyright, which exists in highly diverse and complicated forms at national level, be adapted to new forms of cultural expression?

— is it desirable to harmonise the duration of copyright protection in the EU?

— has the legislator anticipated the 3D-printer revolution?

3.3.2. Another sensitive issue concerns remuneration for authors and artists/performers in relation to the revenue generated by the online use of their works and performances.

3.3.3. The EESC stresses the need for a balanced system providing fair and equitable payment for all entitled parties, particularly content creators, artists/performers and producers.

3.3.4. It is also important to help SMEs/VSEs/micro-enterprises in the creative and cultural industries protect their intellectual property rights (11), especially in the fashion and design sectors.

3.3.5. In addition, the EESC calls on the European Commission to be consistent by also revising Directive 2000/31/EC of the European Parliament and of the Council (12) on electronic commerce to make all those involved (actors/entitled parties, hosts, search engines, suppliers of payment solutions, etc.) aware of their responsibilities in the fight against piracy.

4. Specific comments

4.1. The urgent need for territorial incentives

4.1.1. The EESC stresses that it is at local level that forms of cooperation will — or will not — be established. In this respect it is necessary to stress the vital role of cultural clusters, creative districts and easily-accessible meeting places provided free of charge by towns and regions, as indicated in several statements (Wallonia, Rhône-Alpes) at the hearing held on 15 June 2015. In their report on the resilience of creative and cultural industries during the crisis, experts from the European network (13) state that: ‘Public policies geared to foster culture and creativity appear to have a stronger impact at infra-state level’.

4.1.2. The annual programme for implementing Creative Europe provides for allocating EUR 4.9 million to the Creative Europe offices. There are too few of these offices and they are located in capitals or large cities, which does not necessarily best match where actors are located.

4.2. A necessary response to the sometimes insecure employment situation of atypical workers in the CCI (excluding the luxury industry)

4.2.1. According to a report by the International Labour Organization (ILO) in May 2014 on industrial relations in the media sector and cultural industries (14), there are:

— 2.3 million people employed in publishing, video and television production,

— 1.2 million people in printing and media reproduction,

— 1 million artists, half of whom have self-employed status.

4.2.2. In most of these professions, and in particular in the media and culture sector, what it known as atypical employment has grown over recent years, with part-time and fixed-duration contracts, temporary work and economically dependent self-employment spreading rapidly.


4.2.3. The EESC supports the points of consensus adopted by the ILO in May 2014 (\(^{15}\)), confirming that ‘fundamental principles and rights at work apply to all workers in the media and culture sector, regardless of the nature of their employment relationship’. It notes that some workers in the media and culture sector do not have sufficient social protection (unemployment, retirement, social security, etc.) and that sometimes the use of subcontracting and the existence of a wide spectrum of employment relationships among atypical CCI workers can increase health and safety risks.

4.2.4. The EESC advocates stronger collective bargaining in these different fields to improve working conditions.

4.2.5. The EESC calls on the European Commission to put forward an ambitious legislative package on mobility providing an appropriate solution to the problems of mobility within the EU for CCI workers and easing visa procedures for exchanges with third countries.

4.3. **A forward-looking approach to changes in education and training tools in the CCI sector**

4.3.1. The EESC has already highlighted the need to foster greater knowledge of the creative industries in school curricula and vocational training, in accordance with the International Charter of Artistic Craftsmanship (\(^{16}\)).

4.3.2. The important role of public radio and television services as the primary vehicle for cultural education and for broadcasting programmes of significant literary, historical and artistic content should be emphasised.

4.3.3. The EESC also believes that in a period when economic models associated with changes in, among other things, the habits of consumers are rapidly evolving, it is necessary to teach economics, management and strategy in training programmes for professions in the creative and cultural industries. Managers and entrepreneurs in CCIs should also have access to such training courses as continuing vocational training.

4.3.4. The EESC has stressed in many opinions that training is important for transferring rare know-how from crafts people. But what is increasingly striking in several Member States is the growing gap between the content of teaching and market needs, which has led some civil society players to get involved in training by setting up private institutions, or to introduce short (4-week), highly practical training courses under public-private partnerships focusing on an occupation where young people, whether qualified or not, can rapidly become operational.

4.3.5. A European Sector Skills Council for the audiovisual and live performance sectors started operating in November 2014. The EESC is interested in its work, which should lead to better anticipation of initial and continuing training needs.

4.3.6. Against this backdrop, the EESC sees it as important that the social partners and the European Skills Council should be closely involved with the work carried out by ESCO (\(^{17}\)) (multilingual European Skills, Competences, Qualifications and Occupations).

4.3.7. The EESC would like to see greater synergy between the ‘Knowledge alliances’ sector of the Erasmus+ programme and the Creative Europe programme.

4.4. **Vigilance towards our global competitors’ strategies**

4.4.1. The EESC calls for all the sector’s dimensions — employment, skills, training, intellectual property, etc. — to be taken into account, given their economic weight. The external dimension should be integrated into all ongoing bilateral and multilateral negotiations. Indeed, goods and services with significant creative and cultural content represent an increasing share in EU exports. According to ECCIA, luxury products accounted for some 17% of total European exports for 2013.

4.4.2. Taking the specific features of these industries into account in terms of content involves paying greater attention to intellectual property rights and regulation of e-commerce.


\(^{16}\) See footnote No 4.

\(^{17}\) The ESCO classification was launched by the European Commission in 2010. ESCO is part of the Europe 2020 strategy.
4.5. Setting out the European Union’s values in an appealing way

4.5.1. The EU’s values deserve to be promoted and disseminated on the social networks using attractive formats.

4.5.2. A call for projects addressed to video makers, graphic designers and artists, musicians etc. could lead to image-driven, lively content being produced, that might gain viral status among young audiences.

4.6. Cross-pollination should be encouraged

4.6.1. This objective, which aims to put in place and develop synergies between different creative and cultural industries, is part of the European Commission’s conceptual framework within the Creative Europe programme (18).

4.6.2. There have been very encouraging one-off experiences, for example between gastronomy, the digital industry and tourism, between art and luxury, culture and tourism.

4.6.3. These experiences of cross-fertilisation between CCIs and between CCIs and other industries are not often applicable on an industrial scale since they are based on an understanding of the specific characteristics of each sector.

4.6.4. The cross-fertilisation techniques being developed in the CCI sector are, thanks to technological advances (3D printing, digital printing), stimulating the growth of new types of occupation geared to creation and innovation, which are vectors for future jobs.

4.7. Harnessing the economic potential of architectural heritage

4.7.1. The EU has the highest cultural density in the world, with 363 of the 981 Unesco cultural and natural heritage sites. Indeed, it has been shown that the influx of Indian, Chinese, Japanese and American tourists is mainly due to the wealth of this heritage (19). Any improvement in the area of visa policy is to be encouraged, subject to security constraints as determined by the Member States and third countries involved.

4.7.2. However, given the high level of debt of several Member States that are particularly rich in architectural monuments — Greece (17), France (39), Italy (47) or Spain (44) — there are difficulties surrounding conservation and maintenance of this heritage. Since this European cultural and architectural wealth is a great asset that allows cultural tourism to continue to develop, we would ask the European Commission to take stock of the current state of maintenance of Unesco sites located in the European Union.

4.8. Setting up a multi-stakeholder European forum

4.8.1. The EESC has already requested this (20). The Committee of the Regions supports this request and calls for a European forum on creativity to be set up (21). This forum ‘would bring together public, private and voluntary groups to analyse ways in which Europe could apply creative solutions to pressing local and European problems’.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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(19) OJ C 44, 11.2.2011, p. 75.
(20) OJ C 198, 10.7.2013, p. 39.
Opinion of the European Economic and Social Committee on Rural Development Programmes — Sticking Plasters or Green Shoots of Recovery?

(own-initiative opinion)

(2016/C 013/14)

Rapporteur: Mr Tom JONES

Co-rapporteur: Ms Joana AGUDO I BATALLER

On 22 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Rural Development Programmes — Sticking Plasters or Green Shoots of Recovery?

(own-initiative opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 13 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 192 votes to 3 with 10 abstentions:

1. Conclusions and recommendations

1.1. The EESC welcomes the continuing commitment of the EU, Member States and regions to address some of the challenges facing rural areas through a wide ranging Rural Development Programme (RDP). It recognises the efforts of Commission and governmental staff in drafting and adopting the new programme. However, given the real crisis facing many disadvantaged rural areas, there is disappointment at the delay to submission, approval and start of the programme across several states and regions. We therefore recommend that the Commission, together with state and regional authorities, commissions an independent review of the process to avoid future new scheme delays.

1.2. The RDP depends for its success on the effectiveness of the Partnership Principle. The shared ownership of the programme between public and private stakeholders, the social partners and NGOs, under Treaty obligations and other commitments, is essential. The EESC notes that there have been improvements in engagement over previous programmes, but partnership is still variable across the EU.

1.3. The role of monitoring committees needs to be transparent. Members should be robust in scrutinising targets, with access to the financial guidelines. Membership should be inclusive with an ability to reflect clusters of interest, where appropriate.

1.4. In accordance with Regulation (EU) No 1303/2013, and in particular Article 5 thereof on partnership and governance, the EESC believes that the Commission should monitor its application during the preparation of partnership agreements and the implementation of programmes, including through participation in the monitoring committees.

1.5. The breadth of programmes based on local needs and priorities is welcomed, as is an increasing use of the Community-led Local Development (CLLD) model for inclusive community involvement. Best practice of efficient working in the use of the model should be disseminated.

1.6. The budgetary constraints imply a complementary, non-duplicative role to the remainder of the CAP budget. We recommend maximum use of governmental, private and voluntary co-funding sources, with a streamlined process for applicants. Managing authorities should facilitate access to Cohesion Policy and other European investment funds where projects fit wider criteria.
1.7. As already noted by the EESC (1), 15 Member States have transferred funds from direct payments to RDPs, while in 5 other Member States the transfers have gone from the second to the first pillar. Both options are legitimate — since allowed by the co-legislators — but they do not have the same value: RDPs serve the objective of a more balanced territorial development within each EU region. A study of the coherence and effectiveness of this flexibility is recommended, including its impact on competition within the Single Market.

1.8. Prioritisation of spending will vary greatly across states and regions. This opinion stresses the importance of sustainable development of economic activity, the environment and social justice with a strong emphasis on adding value to land-based resources. We recommend that the Commission undertakes a mid-term analysis of progress against targets for the above priorities, whilst honouring existing commitments. Authorities should be able to make adjustments to enable new projects to achieve a successful completion of the programme and to learn lessons for any subsequent rural framework policy.

1.9. There is a serious concern that the RDPs will be unable to deliver improved territorial cohesion. The more remote and economically marginal areas, both within and between states and regions, lack the structural capacity to capitalise on the funds and support available. Further targeted resources, for longer periods are required, including cross border mentoring, twinning, capacity building for advisory structures and innovative private and social enterprise loans and investments.

1.10. The well-established LEADER model is respected and the EC funded Rural Development Networks are encouraged to further disseminate good practice.

1.11. Strong emphasis on keeping jobs and creating new employment opportunities in rural areas is clear across programmes as is the importance of investments, knowledge exchange, training, mentoring, and closer ties with research establishments. Measures to incentivise young people to seek a future in rural areas are important, along with measures to facilitate the integration of all people with special needs or with physical or mental disabilities. Financial incentives that support generation renewal are crucial. Furthermore, rural schools and colleges need closer links with both traditional and changing skill-needs of their areas.

1.12. Succession planning needs to be addressed, integrating RDP opportunities for testing business models with national, regional rules on asset transfers. Mobility of labour is encouraged if supported by quality training and adherence to employment rights.

1.13. The contribution of women to the success of the programme should be specifically targeted and supported. Their role is crucial to ensuring that people can continue living in rural areas, not only in terms of the diversification and processing of farm products, but also in terms of the contribution they make to local territorial development by providing craft and rural tourism opportunities, not to mention as a key driver for innovation.

1.14. Measures to enhance the environment, its ecosystems and cultural landscapes, are welcomed. Support for local products, accurately labelled, for rural tourism and small scale and community renewable energy schemes should bring sustainable economic and community benefit. Rural regeneration can only happen if underpinned by efficient, profitable agricultural, forest and rural businesses. More effort will be required to improve understanding between farmers and forest owners producing food or renewable raw materials, environmental and recreational goods, and consumers from an increasingly diverse European citizenship.

(1) Information report on CAP Implementing Arrangements, EESC-2015-01409.
1.15. Tackling the impacts of climate change on agriculture and forestry, and vice versa, are priorities in the programmes. Projects to capture carbon, improve water and soil quality, reduce emissions, enrich ecosystems and develop the circular economy are welcomed. Improvements have to be long term and measured scientifically over several agricultural environment and other schemes, integrated with production.

1.16. Tackling social injustice depends on wider governmental and EU funds and policies, including provision of better internet, transport and education services.

1.17. Village economic and community renewal is essential and the RDPs should also be tested for their inclusiveness of all rural citizens. Civil society involvement and entrepreneurship are vital to the sustainability of rural areas.

2. Introduction

2.1. Rural Europe is the lifeblood of all European citizens, not just those who live and work there. It provides secure food, timber, minerals and water supplies. It provides a diversity of habitat, renewable energy, recreational access, historical landscapes, crafts, and above all, multi-skilled and diversely cultured people. Some 115 million (23%) of EU citizens are categorised as living in rural areas.

2.2. However, there is much variation between rural areas in terms of economic prosperity and social cohesion. Some are affluent and dynamic, others fragile, depopulating and fractured. Many are asset rich and cash poor, characterised by sparse settlements with limited access to public services. This is especially true for the more remote and mountainous regions and islands. The gravitational pull of modern economic and social activity towards towns and cities is unrelenting. This makes it difficult for governments, especially if implementing unsuitable urban solutions, to ensure rural communities are sustainable. Mobility and free movement of people are vital principles for the European Union. However it has unintended consequences for the poorest rural regions as too many people, especially the young, leave in anticipation of better living prospects without ever returning.

2.3. Europe needs a vision to restore confidence in rural wellbeing, based on green growth, promoting the circular economy, a greater understanding of community needs and smarter support services. This opinion seeks to address why there is variability in success rates and what the prospects are of real improvements during the new funding programme. Are lessons being learnt for the three pillars of sustainable development, economic, environmental and social justice? Is there a real sense of ownership and partnership among all stakeholders?

3. General comments

3.1. Measures to rebalance rural-urban economic opportunity and stabilise social cohesion by Member States and regions are numerous and the EU has, through the first (Regulation (EU) No 1307/2013) and second pillar (Regulation (EU) No 1305/2013) of the CAP, as well as its Structural/Cohesion Funds, made continuous efforts to reverse the decline, though with limited and variable success. The current EU support for rural development, financed by the European Agricultural Fund for Rural Development (EAFRD), established by Regulation (EU) No 1306/2013, is estimated before inter-pillar transfer at EUR 95.6 billion, which represents 23% of the CAP budget.
3.2. The 2014-2020 programmes build on years of experience of what works and what does not. The Commission supports the European Network for Rural Development (ENRD) and the European Innovation Partnership for agricultural productivity and sustainability (EIP-agri) to promote good practices and innovative solutions and the EESC recommend that this work be enhanced at all levels. Lessons could also be learnt from the best practices of other funding providers.

3.3. Although budgets are smaller than some of the other EU budgets, they can be smart and enlarged through governmental and other sources of co-financing. Programmes need to be complimentary to first pillar resources and linked to other funding streams, where appropriate, in a seamless bureaucratic infrastructure, which allows applicants a swift response, and mentoring support from advisory agencies and local planning authorities.

3.4. Components of the Programmes are flexible and local enough to build on the actual needs of communities. The LEADER model with the Local Action Groups brings a shared ownership and positive results, where they are most efficient and successful. Technical support for all stakeholders, coupled with mentoring and training is vital across all projects and initiatives.

3.5. However, the most disadvantaged areas struggle to deliver real improvements from short term programmes, given a lack of business resources, poor infrastructure, inexperienced community leadership and less access to other investments. For better territorial cohesion there should be greater attention given to these areas as under the previous Objective 1 of the Structural/Cohesion Funding Programmes.

3.6. The Commission has issued new financial regulations for this 2014-2020 period, which should be clearly understood and implemented by the managing authorities as well as the monitoring committees, without increasing the bureaucratic burden on project applicants. In this regard, the European Court of Auditors in its reports (\(^2\)) regarding the 2007-2013 programming period and the 2014-2020 legal framework has made proposals for ensuring greater value for money.

3.7. There has been a serious delay in the preparation and approval process for many of the new programmes, despite promises of simplification. This is highly regrettable given the parlous state of many of the poorest rural areas and the desire for these programmes to urgently contribute to tackling low income, youth unemployment, poor public services and the impact of climate change. As of May 2015 some 57% (\(^3\)) of regional and state programmes still had to be approved, although it is hoped that the process can be completed by the end of the year.

4. Consultation and stakeholder involvement

4.1. The EESC underlines the importance of implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council for establishing general provisions for the European Regional Development Fund, the European Social Fund, the Cohesion Fund the Agricultural Fund for Rural Development and the Maritime and Fisheries Fund. It points out the particular importance of Article 5 on partnership and multi-level governance, which stipulates that other public authorities, economic and social partners and other organisations representing civil society are to be included. Thus, the Commission should monitor how the regulation is applied when preparing Partnership Agreements and in implementing programmes, including through participation in the monitoring committees for programmes.

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\(^3\) European Commission — Press release 26 May 2015, Adoption of a further 24 Rural Development Programmes to boost the EU farming sector and our countryside.
4.2. This opinion examines the level of engagement during preparation of the Rural Development Programmes, though its conclusions are limited by the shortage and the narrow geographical range of approved programmes. Three hearings (4) were held along with a questionnaire more widely circulated. Early responses indicated a territorially variable but better, more mature, engagement process between governments and non-governmental organisations than for previous programmes. However, more effort should be made to disseminate good practices of engagement, including greater use of communication technology for continuous dialogue. Dialogue varies greatly within states and regions. The Partnership Agreements can be tokenistic, the CLLD methodology is only adopted in some areas, and real inclusive consultation ends nearer the beginning than the end of the process (5). There are examples of good practice available and they are often found where similar engagement has led to better results with other policy initiatives (6).

4.3. Governments alone cannot deliver the real change required to invigorate rural areas. They can provide the legislative and planning framework, the democratic accountability, better public services and catalyst funding. However, it is mostly private business, skilled employees and social and community enterprises that deliver for people and the environment. To be willing to invest time and resources, people have to be confident that a common vision for a better rural future can be delivered and not hindered by lengthy application processes.

4.4. To be successful, economic and social partners need resources to continuously engage with their members and governments. As plans vary and evolve there has to be a greater sense of shared ownership of policy and implementation. The monitoring committees need to have a broad based membership that is informed and able to scrutinise effectively. The EESC is committed to facilitating the development of better partnership models with civil and social partners (7).

5. Sticking plasters or long term recovery?

5.1. Our hearings (8) in Brussels and in North Wales confirmed that programmes included targets for outcomes. These should be assessed by the Commission, the monitoring committees and stakeholders periodically for real progress and value for money. There should also be a study of whether the transfer of funds between pillars was effective or contributed to wider geographical and competitive distortion.

5.2. Three testing themes for sustainable development are identified: entrepreneurship and employment, environment and social inclusion.

Entrepreneurism and employment

5.3. Though the CAP budget is decreasing, the extra requirements for compliance being made by the Commission on first pillar payments are increasing. Therefore, it is imperative that the RDP supports investments for a competitive agriculture and forest sector including through greater added value products, improved marketing, strengthened short supply chains, branding and knowledge exchange. Universities and colleges have an important role to play within their own regions and in supporting the most disadvantaged regions through twinning and mentoring. They should collaborate with

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(4) 13 April in Brussels, 21 May in Bangor North Wales and 9 June 2015 in Helsinki.
(6) Wales has an evolving maturity in its consultation processes stemming from a constitutional commitment in its Devolved Governmental Act which promotes sustainable development and works in partnership with its voluntary sector.
(8) idem footnote 4.
existing farmer and rural advisory services to draw down EU research funds to address specific local needs. The RDP should be a bridge between applicants and the European Investment Fund and Horizon 2020, helping science to be farm- or rurally-applied. Though not directly funded by the RDP, there is a clear role for schools, especially in rural areas to address the relevant business needs of future generations. Farm open days, work experience and apprenticeships from other funding schemes are vital to inspire a well trained workforce (9). Training, formal and informal, has to be vocational, business related and locally based, where possible (10).

5.4. Agriculture and forestry industries move in a dynamic economic environment, characterised by globalisation, rapid technological progress and increasing societal demands. Innovations are an essential key to maintain the efficiency and competitiveness of farmers and forest owners. The newly created EIP-agri is a valuable tool that needs to be implemented quickly and widely. Streamlined funding conditions are needed to mobilise and facilitate innovation.

5.5. The Youth Guarantee and similar schemes need to be related in rural areas to RDP initiatives so that there is hope for progression and ambition. Investment and training support for young farmers and new entrants is essential. Projects to support and retain young people in rural areas must be a top priority. Young people should be encouraged to take ownership of measures to help themselves. Rural areas need a better succession planning framework (11) that is legally equitable, accessible and stimulates intergenerational transfers that are sustainable in matching youth with experience.

5.6. The role of women in agriculture is fully recognised. Their contribution to the design and delivery of rural projects is invaluable and as exampled in Finland, targeted advisory support leads to the release of entrepreneurial potential (12).

5.7. Rural tourism, producing crafts and enhancing recreational and health fitness initiatives deserve support as does the promotional work of festivals, shows such as the Royal Welsh and in Berlin — the Green Week. Re-engaging town and country in a changing pluralist Europe is a must for rural business and consumers as well as better access to broadband internet services. The creation of regional value chains provides a major opportunity for crafts, agriculture, tourism and trade, and rural areas (13). The EESC supports the proposed European Fund for Strategic Investments (EFSI) and its commitment to support rural projects.

Environment

5.8. The impact of climate change on agriculture and forestry has been studied in an opinion (14). One of the solutions to increasing production by using less resources and improving resilience to climate change is to support sustainable intensification of the agriculture and forest sector. Modern land usage is encouraged to develop mitigating activities to combat climate change and increase biodiversity, especially through agri-environment schemes (15). Recycling and the

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(9) The Welsh Agri-Academy is a good example of leadership training.
(10) Opinion on Vocational development and training in rural areas — NAT/650 (not yet published in OJ).
(11) Malcolm Thomas Review in Wales.
(12) Opinion on The role of women as drivers of a development and innovation model in agriculture and rural areas (OJ C 299, 4.10.2012, p. 29).
(13) Opinion on Agriculture and crafts (OJ C 143, 22.5.2012, p. 35).
(15) Glastir (Wales), Stewardship (England), Glas (Ireland), Kulep (Bavaria).
circular economy should be encouraged (16), while renewable energy (17) is a valuable rural asset which, if invested wisely, will contribute economically, socially and environmentally in an increasing way. There is real scope for community ownership and investment if technological improvements can be made to storage, logistics and infrastructure.

5.9. The EESC highlights the importance of agri-environment climate measures being complementary to the greening of the first pillar. Targeting aid to specific criteria such as land at risk of erosion, clustering of land habitats, water catchment and support for species requiring particular management practices are beneficial. However, compliance requirements must not become additional burdens. An accurate scientific baseline is required to measure progress while understanding the longer term time scale required for real improvements (18).

5.10. The landscape of rural Europe is primarily the result of human activities, fashioned by generations of activity in the quest for work in producing food, timber and shelter. Its diversity is appreciated by European citizens. The RDPs have a role to play in ensuring the sustainability of such cultural landscapes through ensuring skills transfer and transparently funded rural activities that contribute to such a valuable mosaic.

Social inclusion

5.11. Injustice in a rural context is difficult to define and target. As referred to earlier, it is about scattered settlements, low population numbers, age imbalances, poor public services for transport, health and social services. It is about low income, isolation and poor quality housing and technology services. There is the special problem of ill treatment and exploitation of workers in some areas (19), especially migrants that requires greater efforts to help with their integration and to enable access to appropriate vocational training.

5.12. The TFEU, Article 39, establishes, as one of the most important objectives of the CAP, a fair standard of living for the agricultural community by increasing productivity, encouraging technical progress and ensuring sustainable development of agricultural production and the optimum utilisation of the factors of production. The TFEU makes provision for considering the particular characteristics of agricultural activity, which result from the social structure of agriculture and from structural and natural disparities between the various agricultural regions, when framing the CAP.

5.13. Rural development programmes help to create and consolidate direct and indirect jobs in both the agricultural and agri-food sectors and also contribute to a lesser extent to the economic diversification of rural areas. However, regional development programmes can realistically make only a limited contribution to tackling the structural problems and shortcomings in public services in rural areas.

(18) See evidence from Bangor University — hearings in Bangor 21.5.2015.
5.14. Other government budgets and policies that are rural proofed or, better still, specifically designed for rural issues, are required including schemes for community transport, energy efficiency in homes and retraining opportunities to encourage innovation. Nevertheless, rural development programmes should also be assessed for their contribution to social justice using the indicators provided for in EU legislation and other indicators that should be included for a more effective evaluation, such as those for encouraging social enterprises and social farming projects which tackle disability, create employment and use redundant farm land and buildings. Much more effort is needed to support and encourage the inclusion of disabled rural people to play a fuller role in their communities.

5.15. Villages are vital hubs for community solidarity. Village renewal, through encouraging small businesses and social enterprises, supported by philanthropy and volunteering should be a key priority for strengthening communities (20) as demonstrated in Finland and prioritised, for example, in the Wales RDP (21).

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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(20) Wales Council for Voluntary Action — Active Inclusion Fund and Village SOS — Big Lottery — Wales, WCVA.
(21) Wales RDP (MO7).
Opinion of the European Economic and Social Committee 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'

(own-initiative opinion)

(2016/C 013/15)

Rapporteur: Mr Volker PETERSEN

On 19 February 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

The importance of agricultural trade for the future development of farming and the agricultural economy in the EU in the context of global food security.

(own-initiative opinion)

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 13 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 179 votes to one with 7 abstentions.

1. Conclusions and recommendations

1.1. In terms of market and price policy, the CAP has been largely liberalised. The EU agricultural market is open and is a part of the global market system, which is driven by supply and demand. With the opening up of markets, the EU’s agricultural trade with third countries has advanced very dynamically in the last 10 years.

1.2. In the light of this development, the EESC notes that agricultural trade is a critical economic factor for the agri-food sector and for rural areas. The EESC is perturbed by how critically society perceives agricultural trade, in contrast to other branches of the economy such as the automotive or chemicals industries.

1.3. There is no doubt that agriculture shoulders a special responsibility in a world where there is hunger or qualitative and quantitative malnutrition. The EESC is keenly aware of this responsibility. In a world with a growing population, with rising income in many countries and poverty in others, we need to both meet the demand of those with money to spend and to give help and support where people cannot eliminate hunger and shortage on their own.

1.4. The EESC welcomes the fact that the EU’s agriculture and development policies are pointing in the same direction. This, it feels, is the prerequisite for making sure that the direction and roles of agricultural trade and development are accommodated in a sustainable manner.

1.5. The EESC recommends that the EU agri-food sector be helped in a sustainable way to participate successfully in the emerging worldwide trade in agriculture. Trade in agricultural products plays an important part in securing the economic infrastructure in the EU’s rural areas. It also provides forty million skilled jobs in the various links of the food chain in the EU — jobs that are less affected by crises than those in other sectors.

1.6. Bilateral free trade agreements concluded by the EU can help considerably in dismantling non-tariff barriers to trade. At the same time, there will always be rules that are non-negotiable on both sides. In these areas rules must be adopted to facilitate trade outside the framework of harmonisation.
1.7. SMEs play a significant role in EU agricultural trade. In the international context, they are particularly dependent on sustained administrative support for accessing markets in third countries — support that must be provided by the relevant EU staff.

1.8. The EESC welcomes the further extension of the partnership agreements with developing countries, which are the basis for allowing those countries to enjoy the benefits of open and fair trade. The objective of such agreements should be to support a degree of self-sufficiency in agricultural products for such countries, with agricultural trade serving to supplement local production.

2. Background

2.1. Historically, trade in agricultural goods and processed food has always been particularly important. In the 20th century, which experienced two world wars, international agricultural trade was long dominated by a very managed approach. In the GATT concluded after World War II, it still occupied a position apart that excluded it from trade liberalisation. It was only in the GATT Uruguay Round, concluded in 1993, that agricultural trade was drawn more closely into the GATT rules and regulations. Cutting back on domestic support and dismantling customs duties and export subsidies were the commitments the EU undertook at that time. With some few exceptions, the EU’s trade in agriculture has in consequence been extensively liberalised since the scrapping of import tariffs and export subsidies. However, international agricultural trade is still relatively heavily regulated — in particular through non-tariff measures, for example.

2.2. The EESC has adopted a number of opinions on general issues relating to trade (1), emphasising its importance in promoting steady growth and hence in the successful development of a social market economy. The Committee has always championed open and fair trade. It concludes that this alone can ensure that the continuing process of globalisation and internationalisation of markets creates benefits and opportunities for all countries commensurate with their economic potential.

2.3. The EESC has in all of its previous opinions on trade also taken the interests of developing countries into consideration and highlighted their issues. We have consistently argued that trade and trade policy in a globalised world must make a contribution to growth and development in countries at different levels of development.

2.4. Discussion of the role of agricultural trade is fraught with tension. Recent years have seen an upturn in global demand for agricultural products and foodstuffs from those that can afford them, such as emerging economies experiencing population and income growth. However, agricultural trade has not been able to guarantee that an end is put to every food shortage. Almost 800 million people in the world are suffering from hunger, a situation due mainly to insufficient purchasing power.

2.5. The EESC wants to use this opinion to explore the opportunities a growing world agricultural trade offers for agriculture and farming in the EU. This should also involve looking at the responsibility the EU must assume towards developing countries.

3. EU agricultural trade in relation to the broader economy

Significance of agricultural trade for the EU’s external trade

3.1. In 2014 the EU’s agricultural exports amounted to some EUR 125 billion, making up 7 % of its total exports. Both the 2,2 % year-on-year increase in 2014 and the 8 % annual increase from 2005 to 2014 meant that growth in agricultural exports was markedly stronger than growth in total exports, which even fell in 2014 by 2 % compared with 2013 (5,5 % annual increase between 2005 and 2014).
The situation is similar for agricultural imports, which were worth EUR 104 billion and accounted for 6.2% of EU imports in 2014 (see Tables A-1 to A-3 in the Appendix).

3.2. The EU’s agricultural exports are a pillar of its external trade, coming fourth after machinery, chemical products and pharmaceuticals. In the course of the trade liberalisation of the past, the EU has evolved from a net importer to a net exporter, notching up a trade surplus in agricultural products since 2010. In 2014 this trade surplus stood at around EUR 21 billion.

Structure of agricultural trade and significance for added value, employment and rural areas

3.3. A fact of particular interest for this own-initiative opinion is that the share of agricultural trade in total EU external trade was significantly higher in 2014 — at 7% — than the entire agri-food sector’s share in GDP, which stands at 3.5%.

3.4. This clear difference between the economic importance of the sector and the importance of agricultural trade for external trade underscores the latter’s growing importance over the past few years. Growth in the agri-food sector is increasingly generated from exports.

3.5. Importance of the food value chain for the economy as a whole:

— The EU’s agricultural trade is by no means a matter for agriculture alone, as the public often supposes, though it is true that even now agricultural exports account for more than a quarter of the revenue of farmers. It is already providing — and will continue to provide — an important support for maintaining an economic base in the rural areas of the EU, which are contending with problems posed by urbanisation and demographic change.

— Two thirds of agricultural exports are finished products made from raw materials that have been through many stages of processing and adding value. They are the result of the combination of many-layered, efficient and internationally very competitive value chains. These range from input industries for agriculture to farmers to the food industry and trading companies. Overall, the companies in this value chain employ around 40 million people in the EU. This employment is relatively cyclically stable and less vulnerable to crises than jobs in other sectors.

Agricultural trade within the EU internal market

3.6. This opinion focuses in particular on the EU’s agricultural trade with non-EU countries. However, we shall also look briefly at such trade within the EU. Trade within the EU continues to be significantly more important for the Member States than external trade, with almost 73% of all agricultural exports going to other EU Member States in 2014. This means that the common market has contributed to a boost in trade — and thus also to increased prosperity — in the EU. What applies to intra-Community trade can also be transferred in a liberalised international environment to trade with third countries.

Position of the EU in global agricultural trade

3.7. The EU has since 2013 been the leading agricultural trading bloc in the world, contributing significantly to the increase in agricultural trade over the past few decades. Its exports to non-EU countries have been growing by around 8% annually since the year 2000. But this increase in agricultural exports from the EU has been surpassed by the growth in exports achieved by other countries. Thus the EU’s share of world agricultural trade fell from nearly 13% in 2000 to 10.3% in 2012 (see Table A-4 in the Appendix).
4. Conditions affecting the development of EU agricultural trade: the external dimension of the CAP

4.1. In the past — for example, in GATT/WTO negotiating rounds — the EU has been criticised internationally for its agricultural exports. This situation changed radically after the year 2000.

4.2. EU support prices have been substantially reduced following several reforms of the CAP. Market prices in the EU are set by movement in international supply and demand and so tend to follow global market prices. Common organisation of the market now only offers EU farmers a safety net that would take effect in the event of a massive international price collapse. Export subsidies — which in 1992 still amounted to EUR 3 billion — no longer play a significant role.

4.3. As the world’s largest agricultural exporter — ahead of the USA, Brazil, China and Canada — and its largest agricultural importer — ahead of the United States, China, Japan and Russia — the EU bears a twofold and growing responsibility for worldwide nutrition and food security. With this responsibility in mind, the external dimension of the CAP must be substantially bolstered and moved higher up the agricultural policy agenda.

4.4. The EESC notes that the coherence between the CAP and development policy has already improved by leaps and bounds. Agricultural exports operate without subsidies and cause no market distortions, while the EU has become one of the most open markets, especially for developing countries, when it comes to imports. Imports from the 48 least developed countries (LDCs) accounted for an average of 3% of EU agricultural imports over 2011-2013: quadruple the value that Canada, the USA, Australia and New Zealand together imported from these countries.

5. Trade and food security

Effects of trade on food security and development

5.1. In a world where over 800 million people across many countries — particularly in Africa and Asia — still suffer from hunger, one of the principal aims of agricultural and trade policy must be to improve nutrition quantitatively and qualitatively.

5.2. In view of these challenges, agricultural trade is often the subject of polemical debates in civil society because of its particular role in food security. This is partly because agricultural trade can have very diverse impacts, helping to address food shortages, but also potentially leading to unwanted dependency.

5.3. The EESC therefore wishes to explore more closely not just what agricultural trade achieves but also what is required of it. The challenges are globalisation, liberalisation of the EU agricultural market, the growth in global agricultural trade, the expanding global population, changes in consumption patterns, and demand shifts due to economic growth.

Food security and self-sufficiency

5.4. In terms of achieving food security, it is advisable for very poor countries in particular to have a certain level of self-sufficiency in agricultural products. However, complete self-sufficiency for every country and region should not be the only criterion. Even in a country that is more than 100% self-sufficient there is no guarantee that its population is adequately supplied with and has adequate access to food. Thus it can be noted that even in countries with agricultural surpluses there are people who are malnourished or undernourished.
5.5. Undernutrition should be seen as an issue of poverty rather than of supply, and understood and addressed on this basis. Food security should preferably be ensured by creating income, and has less to do with a given self-sufficiency and/or trade status. In very poor countries a large proportion of the population practises subsistence farming and has virtually no other income. When it comes to improving food security, the main criteria focused on, alongside income generation and an appropriate income distribution, must therefore be availability, affordability, and accessibility and stability of access to food.

5.6. Agricultural trade can contribute to income growth based on both exports (creating income and employment) and imports (purchasing cheap food products on international markets while exporting other goods). However, this strategy presupposes access to international markets in agricultural and industrial products.

6. Problems and challenges

Agricultural trade helps to reduce volume and price fluctuations

6.1. One feature of agricultural production, in contrast to industrial production, is its susceptibility to the forces of nature. Production and supply depend on variables that are difficult to predict or control. This applies to the weather or occurrence of plant and animal diseases. Worldwide climate change will increase the unpredictability of natural phenomena. This will affect other parts of the world and other countries much more dramatically than it will affect the EU itself.

6.2. Following the substantial opening up of its agricultural markets, the EU will therefore generally feel the impact of volume and price fluctuations on global markets much more keenly. At the same time its responsibility for global food security is increasing given its comparatively favourable and stable production conditions.

6.3. Agricultural trade is part of the solution to the problem of such increased volatility, not the cause of it. Global agricultural trade enables the neutralisation of volume fluctuations and thus helps to limit price fluctuations. Experience has shown that isolated market intervention by individual countries, and export bans and duties or import restrictions, are more likely to exacerbate the problem for all parties than to alleviate it.

Geopolitical effects

6.4. Sometimes general political developments — such as the import ban imposed by Russia since 2014 — have disruptive effects on agricultural trade, as experienced by the EU in 2014 and 2015. Such geopolitical effects can result in significant market disruption, losses and other economic penalties affecting farming and the food industry. Agricultural trade is thus at the mercy of the broader political climate. In such situations, farmers and businesses need political support to offset the handicaps in the trade relations affected.

Further guidelines and recommendations for the direction of EU agricultural trade

6.5. Given that agricultural trade is becoming much more important globally and for the EU, the EESC believes that the external dimension of the CAP requires significant strengthening. There are several ways of achieving this goal.

6.5.1. The rules governing global agricultural trade originate above all in different approaches to ensuring consumer and health protection in different countries. The EU institutions, in particular the Commission, are called upon to urge countries with such technical regulatory barriers to trade to open their markets rapidly; where necessary the EU should enter into appropriate negotiations.
6.5.2. In the EESC's view it is urgently necessary for the Commission to clearly and explicitly assume responsibility for the whole EU in these matters. This is the only way that EU positions can be efficiently and emphatically enforced vis-à-vis its trading partners. It is also detrimental to fair competition between the Member States if they have various agreements with non-EU countries. Only where regional or country-specific restrictions are appropriate at Member State level should they be able to introduce special provisions for justified cases.

6.5.3. In increasingly open agricultural markets where there is global competition, the EESC would like to see the EU take every possible expedient measure to strengthen the international competitiveness of the EU agricultural and food sector and further expand agricultural trade. The objective announced by the new Commission of cutting red tape is a step in the right direction. It must also be ensured that administrative systems are designed to be more effective.

6.5.4. EU standards should be the basis for licences granted for imports into the EU. Production conditions and other rules should be based on minimum requirements for imports that take sufficient account of the situation in the EU and do not put businesses there at a competitive disadvantage.

6.5.5. The EESC points out that the success of EU agricultural trade in largely liberalised markets is attributable chiefly to SMEs. It calls on the European Commission to step up its administrative support for accessing international agricultural markets, as non-EU countries are already doing. SMEs must be able to base their planning on reliable market information, for instance.

6.6. Global markets calls for global market transparency. This requires well-founded prognoses and information about trends in volumes, prices, exchange rates, weather, diseases, and so on. The EESC welcomes the EU's active involvement in creating the FAO's Agricultural Market Information System (AMIS). However, these efforts must be targeted at ensuring that information provided by AMIS is made available especially to those operating in the market so that they can benefit directly from it.

6.7. The EU's free trade agreements are particularly important. If multilateral negotiations in the WTO do not bear fruit, solutions must be sought at bilateral level in order to open up new markets. However, bilateral agreements must be well balanced with regard to the many sectors affected by them. It would not be acceptable for the EU's agricultural trade to bear disproportionate costs compared with other economic sectors.

6.8. The EESC points to the particular importance of partnership agreements with developing countries. Further expansion of preferential agreements could enable these countries to enjoy the benefits of trade relations based on open and fair trade through improved access to EU markets.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
ANNEX

Opinion of the European Economic and Social Committee on ‘Social innovation, networking and digital communication’

(own-initiative opinion)

(2016/C 013/16)

Rapporteur: Bernardo HERNÁNDEZ BATALLER

On 10 July 2014, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on:

‘Social innovation, networking and digital communication’.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 204 votes to 1 with 11 abstentions.

1. Conclusions and recommendations

1.1. Social innovation and collaborative networks must be fully used in order to boost participation by the public and civil society in general in designing and managing EU policies, by means of distributed, collective and bottom-up projects that strengthen more direct democracy.

1.2. Universal access to the new technologies in general, and broad-band internet in particular, must continue to be a priority for the European Union, and it should be seen as a service of general interest that must narrow the digital divide and counter the consequences of the ensuing social exclusion.

1.3. The new information and communication technologies, with the support of social innovation and use of collaborative networks, should play an important role in creating skilled, high-quality jobs by supporting projects seeking to set up innovative businesses and generate initiatives that can bring down current unemployment rates.

1.4. The EESC sees strengthening digital training as essential. Good training should include appropriate learning within the educational system that provides young people with the skills to meet future challenges. There should also be ongoing training that qualifies workers to use the new information and communication technologies on the labour market. Such training should offer lifelong learning and protect the more fragile sectors from exclusion.

1.5. The EESC supports the objectives of the Europe 2020 strategy and of the Strategy for equality between men and women. It supports its flagship initiatives on Innovation Union and the Digital Agenda, together with the measures necessary to achieve synergy between the two in order to move forward in the field of social innovation. It therefore considers it important to integrate these objectives into the National Reform Plans (NRP) and to follow them up in the European Semester. The Committee also considers it essential that, in addition to the social partners, civil society at European, national and regional level be involved in the implementation, monitoring and evaluation of activities financed by the European Union to achieve these objectives.
1.6. The EESC calls for social innovation combined with the new technologies on the basis of social networks and collaborative work to enable technical solutions to be implemented that help people with disabilities to integrate better, making it easier for them to achieve maximum autonomy and participation, and enabling them to meet specific challenges and overcome any barriers that might give rise to discrimination.

1.7. The EESC urges the institutions to stimulate capacity-building and the use of essential digital environments and to help create spaces for horizontal, innovative connections to ensure their viable development, so as to put into practice the ‘social innovation + collaborative working + digital communication’ equation and to facilitate and promote quick and secure real-time access.

1.8. The European Union is urged to use its EaSI (Employment and Social Innovation) Programme to finance the framing and implementation of civil society-driven projects that are implemented via social networks and collaborative working, subject to the condition that their aims are geared to the common interest and tap their potential in terms of employability and integration.

1.9. In practice, the European Commission must launch a clear and concrete policy on social innovation and public access to the new technologies, that triggers initiatives bringing shared benefits to the population. This should be line with the European Commission’s Social Investment Package (1). Similarly, investment in human talent must be stepped up and knowledge-based markets must be opened up, promoting cooperation between businesses and citizens.

1.10. Essentially, a package of investments is needed to strengthen social innovation on the basis of technological development, the promotion of collaborative research, implemented jointly and on a multidisciplinary basis, access to new knowledge, and institutional strengthening through the direct democracy made possible by these new network participation and digital communication tools.

2. Introduction

2.1. This opinion sets out to assess the conditions needed for social innovation to benefit fully from the ICTs, in order to serve the common good, and calls for measures to be taken in favour of digital technology and platforms to promote online relations and the development of synergetic interactions. A study of network structures and how to adjust them to the foundations of organisational culture are among the approaches needed for this purpose.

2.2. The ‘social innovation + collaborative working + digital communication’ equation raises the question of finding the right processes and tools for these elements in order to efficiently develop the expected results.

2.3. Education (collaborative learning), training (MOOC or Moodle), e-health (health monitoring devices), job creation (e-recruitment), social entrepreneurship, logistics and transport, food and product safety, e-administration and public services (e-voting), economic democracy (crowdfunding, alternative currencies) and social participation are all seen as essential.

2.4. In the current context the significance of social innovation draws support from areas such as research and development, efficiency and sustainability, cohesion and social integration, shared responsibility and public participation, business ethics and corporate social responsibility, and direct democracy and e-administration.

(1) Source: http://ec.europa.eu/social/main.jsp?catId=1044
2.5. The EESC (²) would again point to the importance of broadening the scope of the universal electronic telecommunications service to include broadband, focusing not only on geographical exclusion but also on social exclusion, in order to achieve the objectives of narrowing the digital divide and strengthening economic, social and territorial cohesion. The EU must also create the framework conditions for a single big data market and cloud computing, in a way which promotes social innovation.

3. Promoting social innovation in the current digital setting

3.1. Cooperation and digital communication networks play an important role in the field of social innovation. The concept of social innovation is still emerging: the most frequently used definition is that set out in the BEPA report:

‘Social innovations are innovations that are social in both their ends and their means. Specifically, we define social innovations as new ideas (products, services and models) that simultaneously meet social needs (more effectively than alternatives) and create new social relationships or collaborations. They are innovations that are not only good for society but also enhance society’s capacity to act’ (³). Thus it is basically viewed from the perspective of the satisfaction of complex, hitherto unsatisfied social needs in the framework of social inclusion and cohesion policies.

3.2. The main components of the social innovation process are: identification of new, unmet or poorly met social needs; development of new solutions in response to these social needs; evaluation of the effectiveness of new solutions in addressing social needs; and dissemination of effective social innovations. In addition, social innovation initiatives are closely linked to a package of social investment measures, investing in individuals with a special focus on life expectancy and preventive care.

3.3. It is important to explore the connection between cooperation processes that information technology and what is known as social innovation offer, and to discuss the predicted benefits for people and society. The main components can be summarised as follows:

a) collaborative processes open to participation for anyone who is interested;

b) seeking social improvement and change;

c) entailing the shared creation of solutions and necessarily cross-cutting proposals;

d) as yet untested solutions;

e) generating learning, facilitating commitment and leading to changes with a local impact focusing on four aspects:

— involvement of local actors guided by the subsidiarity principle;

— citizen involvement and commitment;

— the specific role of civil society and the social economy;

— a bottom-up approach.

3.4. What is new compared to other types of solution is therefore the type of relationship established between the actors involved in developing it, in its design, processes and phases of development; innovation must take account of the place to be given to social partners who are representative and in a position to create contract law.

(²) EESC exploratory opinion, at the request of the French presidency, on High-speed access for all: development of the scope of universal service for electronic communications (OJ C 175, 28.7.2009, p. 8).
3.5. As the EESC has already pointed out, a better balance should be struck between economic and social indicators when measuring social progress (4). Using the logic of social progress measurement with a balance between qualitative and quantitative measures offers a medium and long-term perspective, in the context of a balanced, transparent system of governance with clear technical and socioeconomic implementation indicators.

3.6. If we are to seek new solutions to the problems and challenges of present day society, we need to make the most of the creativity and talents of all — across all sectors — in a holistic way; in other words, the overall result must be more than the sum of its parts as well as maximising cost efficiency. This precondition is unarguably best met by collective intelligence and co-creation in collaborative networks.

3.7. Social innovation arises to address unmet needs in society or complex social challenges, touching upon areas and instruments such as:

a) areas

— enhancing democracy, especially participatory democracy;
— social inclusion;
— social economy;
— collaborative consumption;
— open data, open source, open hardware;
— wearable technology;
— citizens’ awareness platforms;
— digital social innovation based on the network effect.

b) instruments

— reintegrating excluded groups;
— boosting sustainable behaviour and lifestyles by increasing awareness of the sustainability impact of consumer choices with respect to energy, the environment and health;
— securing the support of public opinion for better decision-making (at personal or institutional level);
— increasing confidence in collectively-generated statistics;
— using collective awareness of environmental and social situations to drive policy improvements or to create new economic, social and democratic models;
— implementing alternative collaborative approaches in problem-solving in order to improve public services, urban environments, democracy and internet on open-data foundations;
— connecting people, doing things together, with a view to the requirements of privacy and inclusion;
— building a collective awareness of the environmental challenges;
— removing collective barriers to inclusion;
— experimenting with new collective forms of creativity and cooperation;
— enabling citizens to assess corporate social responsibility;
— assessing the impact of collective awareness platforms.

(4) EESC opinion on Social impact measurement (OJ C 170, 5.6.2014, p. 18).
3.8. The capacity to share knowledge today could contribute to the emergence of innovations supplementing social policies. Here digital technology can play an important role in supporting social innovators who aim to address the needs of individuals.

3.9. Consequently, obstacles to innovation and social experimentation must be dismantled, so that an innovation-friendly environment and culture can be established, recognising and supporting the specific roles of the different actors (foundations, cooperatives, associations, mutual societies, savings banks, SMEs and other social economy enterprises, etc.) as partners and service providers (5).

4. Collaborative work networks

4.1. Collaborative networks consist of a number of people making an intellectual contribution to a project, with a common group objective. They function as a single brain (‘global brain’), a single organ made up of millions of cells generating ideas, tackling huge challenges such as language or communication. The advent of the internet, combined with other factors, has generated a wide range of joint projects and collaborative networks, but this technological opportunity must be given a purposeful meaning that serves the common good.

4.2. Social innovation can benefit from the use of new digital tools and networks in achieving its objectives more effectively, such as services for elderly people in remote areas, etc.

4.3. Events, decisions, actions and individuals exist in a shared context, a new digital space in which they coincide in real time to generate collective intelligence.

4.4. Collective intelligence is a type of emerging process in which the coordination of many intelligent capacities gives rise to a solution that would be unachievable by individuals working separately. Multiple intelligence thus takes the form of synergistic action by many coordinated talents. It is crucial to build up collective intelligence so that the collective approach becomes creative and processes of innovation and social change can be generated by means of platforms to support these collaborative developments.

4.5. Such collaborative networks achieve their objectives far faster than any finite organised group, regardless of its structure and functioning, can, by seeking talent outside the organisation, leading to open, democratic, distributed, community-led innovation.

4.6. There are two basic conditions for people to share knowledge: symmetric expectations and asymmetric knowledge. Fostering shared expectations and completing diverse knowledge helps to forge cooperation networks.

4.7. However, any type of network for cooperation or collaborative work must face up to three categories of threat: ‘free riding’ (relations are sustained by the fairness of contributions); crowdfunding (6) with ulterior interests; and lastly conspiracy. This latter problem reveals the role of trust in this area of cooperation.

4.8. Networks are built on trust which in turn represents an expectation of the capacity for commitment and response, of the competence of the people with whom we cooperate. Complete and sustained trust generates a stable reputation which protects against network conspiracy. There is no trust without network security that depends on equal law for everyone and on supervision. Security stems from respect for ethics with regard to networks’ declared objectives and operation, and to the conditions for creating and removing networks which must be laid down and declared publicly together with respect for fundamental rights, which must include the right to be forgotten.


4.9. In conclusion, the sequence of the following processes — development of cross-cutting work structures, online interaction and emergence of platforms — leads to creativity and social innovation by means of a heterogeneous model marked by openness, horizontality and distribution, without overlooking the key role of connectors who make it possible to set forth and channel ideas and projects, and to promote these new forms of organising for action.

4.10. Online platforms provide a format which can boost collective intelligence processes that foster a model which is respectful of individual identities. The use of internet was the turning point, on account not only of the democratisation of the communication model, but also of the connectors who are working for an alternative organisational model, based on digital culture.

5. Digital communication as a tool for social innovation through collaborative networks

5.1. Digital communication allows us to visualise public co-responsibility, collective intelligence and collaborative networking, which provide a receptive environment for implementing collaborative economic models based on the common good.

5.2. The EESC has already pointed out (7) that social networks can promote responsible digital citizenship and must ensure that citizens can effectively exercise their rights in the digital environment, such as freedom of expression and information, protection of personal data, privacy, requirements for transparency and decent quality internet services.

5.3. However, the negative aspects of social networks must be taken into consideration and their risks anticipated, at the same time highlighting the opportunities and synergies they offer, in order to foster responsible and intelligent use in a single digital market.

5.4. The European Union must stop being merely a digital user and become a designer and producer of content too, and in order to do this it must promote talent, with a focus on providing information, training and education and ensuring access to the digital society.

5.5. It is important for consumers to receive adequate guidance, especially in areas such as data anonymisation and pseudonymisation, personal data risk analysis and tools and initiatives enhancing consumer awareness, since with these digital tools they can help to better control and secure their data.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

(7) EESC opinion on Responsible use of social networks (OJ C 351, 15.11.2012, p. 31).
Opinion of the European Economic and Social Committee on ‘Social dumping in the European civil aviation sector’

(own-initiative opinion)

(2016/C 013/17)

Rapporteur: Anne DEMELENNE

On 11 December 2014, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

‘Social dumping in the European civil aviation sector’.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 200 votes to 3 with 7 abstentions.

1. Recommendations

1.1. The EESC endorses the intention of the President of the European Commission who said in his opening statement in the European Parliament in Strasbourg on 15 July 2014 that ‘[w]e have to fight social dumping and we will fight it’. His statement was echoed by the Transport Commissioner, Violeta Bulc, who during the Commissioners-designate hearing in October 2014 added ‘I am strongly opposed to social dumping. […] Social legislation also needs to be part of the “refit”’. Social dumping creates unfair competition. However, it is difficult to define because the factors underpinning it are complex and there are many actors involved. In civil aviation, the role of political decision-makers at different levels, airlines, employees and passengers, as well as the political, legal, economic and social environments both inside and outside the European Union should be considered. The CJEU has acknowledged the fight against social dumping to be a legitimate goal, enabling Member States to justify certain barriers to freedom of movement (1). As the EESC is concerned by recent developments in civil aviation, it urges the Commission to monitor the situation closely and to take steps if required. All aspects set out in this document will have to be taken into account when preparing the aviation package that has been announced as part of the Commission’s work programme for 2015. In addition, the EESC considers that DG MOVE and DG EMPL need to cooperate closely.

1.2. Based on the outcome of its work on new business models, the European Aviation Safety Agency (EASA) must scrutinise the developments to ensure the optimal safety of passengers and staff regardless of the business model, with a particular focus on these new models in order to stabilise the industry. Particular attention must be given to monitoring by the relevant administrations of the increased use of false self-employed workers and temporary employment agencies.

1.3. The EESC expects that current legislation will be enforced correctly and that the judgement of the Court of Justice of the European Union (CJEU) will also be taken into account. This concerns mainly:

(a) social security and labour law:

— the Rome I Convention (1980) and Regulation (EC) No 593/2008 (2);

— Regulations (EU) No 465/2012 (3) and (EU) No 83/2014 (4), which define the concept of ‘home base’.

(1) CJEU judgment of 18 December 2007, C-341/05, Laval, p. 1,117/67, item 103.
(b) the relation with self-employment status:

— Directive 2014/67/EU (For the first time, the concept of a subordinate relationship has been included in the directive to allow for the monitoring of self-employment status)(5):

— Judgment C-413/13 FNV Kunst en Informatie en Media v. Staat der Nederlanden of 4 December 2014: ‘… on a proper construction of EU law, it is only when self-employed service providers who are members of one of the contracting employers’ organisations and perform for an employer, under a works or service contract, the same activity as that employer’s employed workers, are ‘false self-employed’, in other words, service providers in a situation comparable to that of those workers, that a provision of a collective labour agreement, such as that at issue in the main proceedings, which sets minimum fees for those self-employed service providers, does not fall within the scope of Article 101(1) TFEU. It is for the national court to ascertain whether that is so.’

1.4. The EESC acknowledges the position taken by the Social Partners of the Air Crew Working Group (see point 5.1) and stresses that the following loopholes should be addressed in order to prevent any unintended negative social impact in this sector. With this goal in mind, the following steps should be taken:

— Revise the common rules for the operation of air services to ensure notably proper enforcement of national social legislation and collective agreements with regard to staff in this sector (Regulation (EC) No 1008/2008); in the same regulation, pin down the concept of ‘principal place of business’ so that the operating licence is granted by a state if the volume of air transport therein is substantial;

— Prevent any unfair competition to Community air carriers from countries which are not members of the EU through subsidies, state aid and unfair pricing practices (Regulation (EC) No 868/2004);

— In the context of the coordination of social security systems, pin down multiple home bases in the civil aviation sector (including temporary bases) and shorten the transitional period which is set at 10 years (Regulation (EU) No 83/2014);

— Extend the single permit to aircrew to ensure equal treatment of all workers in the industry (Directive 2011/98/EU).

1.5. In addition, the EESC suggests that as part of coordinated work by DG MOVE and DG EMPL, the Commission should scrutinise the application of the Directive on temporary agency work in the aviation sector. The EESC considers that the promotion of direct employment shall remain the usual form of employment in aviation and that the limitation of such temporary contracts which could potentially harm safety levels (2008/104/EC) must be possible. Furthermore, a common definition of ‘employed person’ and ‘self-employed person’ is needed at EU level.

1.6. The EESC supports a possible initiative by EU social partners in aviation to negotiate an agreement on the working conditions and social rights of employees in this industry. The social partners may also have joint positions on some legislation which they may submit to the Commission. Lastly, the Commission should consult the social partners on any EU legislative instrument and/or initiative which has social impact (6).

1.7. Given that the proposal for a regulation on ground handling services has been dropped from the Commission work programme and there are no EU-wide social standards in this field, the issue of transfer of staff in the event of a call for tender and/or partial loss of activities needs to be addressed. To address this issue, the Commission is in the process of consulting European social partners on the potential usefulness of submitting a consolidated proposal on the revision of Council Directive 2001/23/EC of 12 March 2001 (safeguarding of employees’ rights in the event of transfers of undertakings) for the end of 2015.

1.8. The EESC will launch a separate internal work to complete the social issues raised in this opinion.

1.9. The EESC recommends that the Commission continuously monitors the working conditions in civil aviation on a permanent basis.

2. Introduction

2.1. Given its contribution to the European economy in terms of jobs and growth, aviation is a strategic industry for the European Union. It is estimated that aviation is responsible for 2.6 million direct and indirect jobs and contributes one billion euro to European GDP every day, driving trade and tourism (7).

2.2. The liberalisation of air transport in the early 1990s has undoubtedly brought benefits to the travelling public in terms of democratisation, lower air fares and a diversified offer. But what are the effects on employment, wages and working conditions in the sector? Eurostat data show that despite an average yearly growth of approximately 5% in the period between 1998 and 2010, both direct and indirect employment in airlines has been stagnating (8). Together with other developments, this has resulted in a substantial increase in productivity. In addition, airline jobs for cabin crew and pilots have been outsourced or replaced by more flexible forms of employment (In a recent study by European social partners in civil aviation, only 52.6% of respondents working for low-cost airlines stated that they have a direct employment contract.). There is no complete data available on salaries, however, the example of the UK shows a visible decrease in remuneration for cabin crew (9) there. In a nutshell, jobs that used to be prestigious and high-quality some years ago are disappearing and being outsourced or replaced by higher productivity and less expensive labour.

2.3. Given the fact that airlines are facing fierce competition, the profit margins are lower than in other industries (according to IATA, the net post-tax profit of the airline industry worldwide has been 0.1% of revenues on average over the past 40 years) (10) and employers are looking for ways to cut costs in order to remain competitive. While some costs (such as fuel or aircraft ownership) are to a certain degree fixed, some airlines believe that labour costs can be pushed down continuously. Some of them have also discovered that using the freedom of establishment inside EU is one way to pursue further cost cutting and social dumping.

2.4. Faced with increasingly intense competition from Low Fares Airlines (LFAs), several legacy airlines have developed a low-cost version of the main brand to fly short haul or have developed a low-cost workforce within main line operations. Some LFAs are now targeting major airports and business passengers, which puts them in more direct competition with legacy airlines. This results in a loss of decent jobs (fair income, security in the workplace, social protection, freedom to express, organise and participate and equality) (11) in legacy airlines (12). Nevertheless, the social practices of low-cost companies do not automatically create social dumping.

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(7) ATAG report on Powering global economic growth, employment, trade links, tourism and support for sustainable development through air transport, 2014.
(11) Global topic on Decent Work, International Labour Organization.
(12) See studies by European social partners: — 2012: The development of the low cost model in the European civil aviation industry, Professor Peter Turnbull (Cardiff University), Dr Geraint Harvey (Swansea University), commissioned by the European Transport Workers’ Federation. — 2014: Evolution of the Labour Market in the Airline Industry due to the Development of the Low Fares Airlines, Professor Peter Turnbull (Cardiff University), Dr Geraint Harvey (University of Birmingham), commissioned by the European Transport Workers’ Federation. — 2015: Atypical Employment in Aviation, University of Ghent, team led by Professor Yves Jorens, commissioned by the European Cockpit Association, the Association of European Airlines and the European Transport Workers’ Federation.
2.5. The development of competition at global and EU level raises concerns about the sustainability and competitiveness of European aviation, both in economic and social terms. In order to guarantee fair competition, a more level playing field must be established. Airline companies should compete on the basis of innovative products, quality and price, not on use of legislative loopholes and/or low-cost jobs. Steps must be taken to ensure the competitiveness and sustainable development of the European industry and the preservation of quality jobs in Europe.

2.6. Social dumping, when it exists, obstructs fair competition. Safety must remain the number one priority and social dumping must not have any negative impact on it. A genuine common EU external aviation policy should replace the uncoordinated bilateral approach of individual countries and should cover the issue of foreign investment in European airlines as well as ownership and control, state aid, market access and fair competition.

2.7. Safety is paramount for aviation. As stated in the white paper, ‘European aviation safety is high but not the best in the world. Our aim should be to become the safest region for aviation’ (13). Despite the lack of statistical data, EASA has already indicated that fragmentation and outsourcing of core safety-related jobs, including air and maintenance crew, may have adverse effects on safety. The so-called new business models optimise fiscal, operational and social processes. The EASA must scrutinise these models and take all necessary measures to ensure that safety is not compromised. EESC supports the work of the newly established special working group in EASA with such tasks. No risks should be taken if people's safety (14) would be affected.

3. Deterioration of working conditions in some sub-sectors of aviation

3.1. Social dumping in the airline industry can be divided into two separate areas: internal market and external aviation.

3.2. In the area of the internal market, the main drivers of social dumping are airlines with multiple bases — with labour hired in country X, working in country Y, but with an employment contract under the laws of country Z. This has the effect of dis-embedding the workers from their ‘home country’ (i.e. the country of nationality and/or residence). The main challenge is to reconcile the freedom of establishment/freedom to provide services with the objectives of quality employment and social progress. While changes introduced under the Rome I Regulation (15) and under the coordination of social security (16) will mitigate some of the problems faced by mobile workers, there are still issues to be resolved.

3.3. The EU’s external aviation policy does not adequately protect the interests of EU airlines and their workers in this fast changing global environment. While there are a number of requirements that EU airlines have to comply with in terms of ensuring fair competition (transparency, state aids, pricing, etc.), requirements on third-country airlines operating to/from EU airports are non-enforceable or non-existent. These airlines then compete head-to-head on the same routes with EU carriers while benefiting from unfair advantages.

3.4. There is also the separate issue of using non-EU crew members on board EU-registered airplanes. Traditionally, foreign cabin crew have been used on board European aircraft for language and/or cultural reasons. Lately, some airlines have resorted to the use of foreign nationals to operate flights into/from and even within (!) the EU with inferior working conditions/salaries. However, these airlines do have to apply national rules of the Member State issuing the AOC.

4. New business models and the labour market in the airline industry

4.1. The studies carried out by the social partners (17) show that the deterioration of working conditions is ubiquitous in the aviation industry in Europe and goes beyond the changes of the market due to competition, both in legacy and low-cost airlines.

(14) Report on New Business Models, EASA’s Rulemaking Advisory Group, 17.4.2015, p. 1, point 2; p. 5, point 9.3; p. 6, point 9.5.1; p. 7, point 9.5.2 and p. 7, point 9.6.
(17) Global topic on Decent Work, International Labour Organization.
4.2. There is no uniform model for a low-cost airline: their strategies range from ultra low-cost (no frills whatsoever) to a hybrid company combining elements of a low-cost and traditional company, by way of practices of 'conventional' low-cost companies which promise little but always deliver. Consequently, there is no uniform model of employment; some airlines provide quality jobs on open-ended contracts, while others rely primarily on outsourcing, agency work and, even in some cases, false self-employment. The same is valid for union representation: some companies deliberately try to avoid trade unions, while other companies recognise them and sign collective agreements. The evolution of LFAs has also had a significant impact on ground handling services, mainly in terms of baggage handling (stricter hand baggage policy), short turnaround times and cuts in training.

4.3. Employers as well as aviation unions now acknowledge that the business strategies and associated HR/industrial relations policies of some LFAs are driving a 'slow descent to the lowest common denominator' (18). The dividing line between LFAs and legacy airlines is slowly disappearing as some LFAs have joined global alliances or been brought into (legacy) airline groups; at the same time, other airlines have decided to establish their own 'in-house' LFA. Some of the legacy carriers have also recruited a low-cost workforce within their main line operations. This new organisation does not mean that the services are the same between legacy airlines and LFAs.

4.4. However, there are substantial differences between EU Member States in terms of working conditions, equal treatment, health and safety at work, social protection (which is only coordinated at EU level), etc. which creates an asymmetry between economic regulation (single market) and harmonisation and social cohesion. Nevertheless, some Member States have adopted national solutions to ensure that mobile staffs based on their territory enjoy conditions which comply with national labour and social laws and collective agreements. This issue should be considered at European level.

4.5. The core of aviation legislation related to employment stems from the pre-liberalisation era and is therefore no longer fit for purpose. Social security regulations with regard to aircrew have improved, but there is still a risk of loopholes. The concept of home base is problematic because it is defined by the operator and self-employed crew members are not properly checked. Another complicating factor is the lack of a single European text with a positive definition of employee and self-employed worker in EU legislation; definitions vary between CJEU case-law and directives, for instance on the 'subordination' criteria. Specific rules for highly mobile workers are needed.

4.6. One of the three major Gulf carriers has been publicly challenged for practices that are in breach of EU legislation, such as dismissal for pregnancy, obligation to get permission to marry, etc. Nevertheless, this airline is still operating flights into the EU, and recently even with increased frequency to some airports. Due to the close ties between the Gulf airlines, airports and their civil aviation authorities, there is also a concern regarding possible unfair advantages granted to these companies. There is a need to replace bilateral relations between Member States and 3rd countries by a coordinated and genuine EU external aviation policy.

5. Role of social partners

5.1. The EESC supports the key role of the European social partners in civil aviation in advising EU institutions, as well as scrutinising and formulating their own proposals. On 5 June 2014, the social partners of the Air Crew Working Group (ACWG) adopted a Joint Declaration against EU-based Flags of Convenience in Aviation denouncing recent developments that seriously threaten the European social model, employment and fair competition in the aviation market and proposing legislative changes (19).

(18) Report on Submission by Scandinavian Airlines (SAS) to US regulators on Norwegian Air International’s (NAI’s) application for a US Foreign Air Carrier permit, Airline Business, April 2014.
(19) Joint Declaration against EU-based Flags of Convenience in Aviation, Air Crew Working Group of the Sectoral Social Dialogue Committee, 5.6.2014.
5.2. In terms of the future agenda of social dialogue, the social partners of the ACWG (AEA, ECA and ETF) adopted the following joint declaration on 13 February 2015: ‘The Social Partners […] are ready to launch discussions about a framework for the aviation sector that aims for a global level playing field. Common actions should be envisaged to stop the trend towards deteriorating employment conditions and flags of convenience. The Social Partners agree to continue their work in this field. They will take the necessary steps to actively engage with the various EU Institutions and with the national authorities to define, as a matter of urgency, a European aviation strategy with clear global objectives, priorities and deadlines.’

5.3. The European Commission also needs to step up consultation with the social partners. Commission Decision 98/500/EC establishing sectoral social dialogue committees stipulates that each sectoral social dialogue committee, for the sector of activity for which it is established, shall be consulted on developments at Community level which have social implications. This obligation is often neglected. It is also necessary to address social implications of safety-related rules developed by the European Aviation Safety Agency.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Cyberactivism and civil society organisations’

(own-initiative opinion)

(2016/C 013/18)

Rapporteur: Mr Bernardo HERNÁNDEZ BATALLER

On 19 February 2015, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on:

Cyber activism and civil society organisations.

(own-initiative opinion)

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 205 votes to 2 with 8 abstentions.

1. Conclusions and recommendations

1.1. In today’s digital society, cyberactivism is a useful tool for empowering citizens insofar as it facilitates and promotes active social engagement and participation through new technologies, while contributing to reducing social and digital exclusion. A conceptual approach to cyberactivism defines it as a form of activism that encourages people to actively champion political, environmental, social, civic and cultural, etc. causes, without the prior need for defined ideologies, hierarchies or programmes, and which uses technological tools that promote viral dissemination and participation in order to do so. In this respect, it must be distinguished from initiatives that are not prompted by democratic and solidarity-based principles and values and do not have the public interest and common good at heart.

1.2. If cyberactivism is to develop as a tool, both the European Commission and the Member States need work agendas that incorporate initiatives and measures to promote structures that accommodate an appropriate expansion of the network society by facilitating free and universal access, ensuring transparency and confidentiality and protecting the right to privacy and data security, paying particular attention to the most disadvantaged groups.

1.3. The EESC believes it is essential to provide the public with the necessary knowledge and skills to handle cyberactivism intelligently and securely. It therefore urges the European institutions to encourage awareness-raising activities, training and education, with special emphasis on disseminating good practice and eradicating the malicious use of online activism. In this regard, the resources considered necessary for the evaluation and development of cyberactivism should be made available.

1.4. Moreover, and in relation to institutional governance, cyberactivism promotes co-decision areas and shared power through proactive and reactive multidirectional interactions between multiple actors (governments, civil society organisations, social stakeholders, citizens and businesses).

1.5. As a result, support for cyberactivism requires a shared online configuration comprising both horizontal relations between citizens and vertical relations between governments and citizens. Horizontal interaction fosters online solidarity through active and committed cyber volunteering, and cooperation and collaborative activities and initiatives. Top-down vertical interaction is on the rise due to e-government, which contributes to transparency and facilitates public access and information regarding public affairs. Bottom-up vertical interaction strengthens citizen representation in institutions in an open e-democracy context, enabling effective participation through grassroots consultations or legislative initiatives.
1.6. Finally, the EESC sees a need to build and apply specific evaluation methodologies and indicators for measuring the economic and social impact of cyberactivism and to carry out studies and reports to achieve greater consistency in its activity with respect to factors such as effective representativeness and leadership, continuity and the emergence of new structures and social trends, etc.

2. Introduction

2.1. The impact that new technologies are having on today's society is reflected in the virtual space known as the Digital Ecosystem, where new ways of living are being developed to replace traditional forms of expression and interaction in society.

2.2. In addition to the economic, cultural and innovation-related aspects of this technological revolution, particular consideration should be given to the challenges and opportunities in the field of information, communication and participation, against the backdrop of a new governance framework in which interconnected co-responsibility may, to a large extent, determine major changes in the way in which society is structured and organised in future.

2.3. The impact of online social networks — provided they are inclusive — and the internet have opened up new horizons for the role that citizens can play in building society, empowering them and giving them a leading role in designing their own shared development.

2.4. At global level, this collective trend has been reinforced over time, helping to strengthen the initiatives already taken and to further consolidate the ability to connect and interact, feeding back into decision-making and power over ever-wider areas, with a high degree of immediacy and scope. Consequently, the initiatives undertaken generate new ones in a process of positive reinforcement, with action being scaled up as a result.

2.5. In this respect, it is important not to regard digital grass-root movements simply as a body of internet users with typical 'crowd' overtones, but rather as a 'smart mob', i.e. a group which acts intelligently and efficiently due to the exponential growth of links in the network. This network of links enables people to connect with one another to access information and interact with other people, thereby bringing about genuine social coordination which aims to construct a society that is aware, responsible and in which people get involved.

2.6. As a result, the main added value of the scenario outlined above is the active involvement of people who have no desire to give up control over the matters which affect them and who are prepared not only to shoulder this responsibility but also to act on it, as evidenced by some of the data (Tascón, Mario and Quintana, Yolanda: Ciberactivismo: Las nuevas revoluciones de las multitudes conectadas ('Cyberactivism: the new revolutions of the connected masses'), La Catarata, 2012) on day-to-day online activity: 1.6 million blog entries and 140 million tweets.

2.7. The same would apply when reviewing the documentation on cyberactivism, which highlights events and social movements of considerable reach and scope such as Occupy Wall Street, Gezi Park, the Arab Spring and the Spanish 15M; and campaigns to enlist support for philanthropic and solidarity-based causes promoted by recognised civil society organisations, including by raising funds through crowdfunding mechanisms or simply joining platforms that have transparent funding formulas.

3. Digital or net activism

3.1. Drawing on the various definitions put forward to describe cyberactivism, it is possible to sum up this concept as a strategy or activity which seeks to influence the public agenda through electronic media and using new technologies as a communication channel, and with the goal of transmitting information in the area of civic participation.

3.2. Furthermore, the media used for cyberactivism is regarded as all information and communication technologies which use social media and networks allowing for rapid and effective electronic communication among people. This is linked to a common commitment to actively address needs, problems or issues of interest to them because of ideological motivations or values, underpinned by ethics and solidarity.
3.3. Normal and non-destructive use of the internet for a cause or objective is clearly different from other types of activities (Denning, 2001) such as 'hacktivism' or electronic civil disobedience, both in terms of methods and goals, when they are of a criminal nature. In the case of digital activism, or cyberactivism to use the correct term, actions must be geared towards the common general good or in particular to resilience and efforts to overcome difficulties or adverse circumstances which certain population groups may endure on a recurrent or unexpected basis.

3.4. The most common forms of cyberactivism are searching for information on the web; constructing internet sites which provide information and documentation; electronic publications; setting up virtual communities; bulk e-mailing of letters; creating spaces and forums for debate on the net; planning, announcing and coordinating activities; establishing strategic alliances and cooperation; promoting associations; offers of support and/or calls to sign up to collective initiatives already under way.

3.5. Cyberactivism could also include international political appeals via the internet or 'web squared' measures, which are collective actions in which individuals who are physically dispersed (at global or local level) come together using mobile communication tools, converging in a specific physical location.

3.6. In conclusion, online activism or cyberactivism is a highly effective and powerful tool, enabling information and knowledge to be transferred on important issues which may not be known to the public, who are therefore unable to respond in a timely fashion by rallying support. However, its validity still lacks legitimacy as an alternative to the traditional channels used to champion causes.

4. Cyberactivism in the context of EU policies

4.1. The EU approach to cyberactivism is based, on the one hand, on policies to promote a digital society and, on the other, policies to promote participation and social policies, with an emphasis on applying the principles of good governance in public administration.

4.2. Article 11 of the Charter of Fundamental Rights of the European Union stipulates that everyone has the right to freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The freedom and pluralism of the media must be respected.

4.3. In addition, Article 12 of the EU Charter of Fundamental Rights provides for freedom of assembly and association, stipulating that everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters.

4.4. Consideration should also be given to Article 8 of the charter, which refers to the right that everyone has to the protection of personal data concerning him or her, with an obligation to process this data fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Equally, everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. An equally important consideration is the principle of equal opportunities as a fundamental right to address digital exclusion, especially with regard to vulnerable groups.

4.5. Furthermore, the Digital Agenda for Europe addresses the following aspects, among others, which Member States are required to protect:

— freedom of access to digital services and content. This is a key factor for exercising citizenship in both electronic and real-life democratic contexts;

— citizen involvement: Europe will only reap the benefits of the digital revolution if all EU citizens are mobilised and empowered to participate fully in the new digital society;

— ensuring universal and high-speed access, which is both essential and all that is needed for effective and powerful cyberactivism;
— transparency in any form of management of digital resources, tools and structures that prevents open participation, or undermines the objectives and processes of cyberactivism and its development;

— the promotion of digital skills for an inclusive digital society. Europe’s potential lies in the skills of its citizens, its workforce and its organisations. Without omnipresent infrastructure, only limited use can be made of ICT and without skills, only limited economic and social value can result from that use. It is also crucial to narrow the digital divide, which causes imbalances and inequalities;

— effective protection of digital rights; Unless people feel sufficiently confident, they will not actively participate, interact or express their opinions freely;

— development of what is known as the ‘fifth freedom’: the free movement of content and knowledge.

4.6. Active citizenship includes involving individual citizens, citizens’ groups and civil society organisations, particularly the social partners, in drawing up policy (vertical dialogue between civil society and public administrations) and ensuring networking and cooperation between them (horizontal dialogue).

5. Volunteering as a component of cyberactivism

5.1. In a digital society such as today’s, the opportunities for social change provided by the internet and social networks are clearly immense. With no limits imposed by time or space and in a simple and accessible way, people can contribute to achieving significant change in their surroundings, and also outside their everyday sphere, helping thousands of people without seeking any personal gain from it.

5.2. Far from encouraging so-called ‘slacktivism’ or half-hearted activism, the new information and communication technologies enable citizens to address their concerns, participate in managing their affairs and defending their rights and interests, and to collaborate actively and with commitment in initiatives that help express their ideas, principles and values. This fosters a sense of personal achievement and prevents social alienation. It also becomes a factor for community cohesion and integration.

5.3. Virtual or online volunteering means volunteering through the medium of the new technologies in activities that do not require a physical presence, through support for campaigns, the dissemination and production of information, providing assistance and any other tasks that can be carried out online in an altruistic way, committed to a specific goal or cause.

5.4. When this digital volunteering is confined to supporting, disseminating and communicating campaigns, it falls within the scope of cyberactivism, here taking the form of participation in protest activities and electronic reporting (collection of signatures, personal contributions, exponential information dissemination activities, etc.).

5.5. In the quest for progress and to scale up action, different platforms and websites are empowering millions of people, raising their awareness and encouraging them to react to urgent and important issues, irrespective of where they are taking place and regardless of their nature (economic, social, environmental, political, etc.).

5.6. This model of mobilisation through the internet makes it possible to unite thousands of people’s individual efforts and aspirations. While they might be anonymous or not directly concerned, this unity becomes significant in that it can quickly become a powerful collective force that is able to influence the appropriate spheres of power and decision-making.

Ultimately, this type of remote volunteering boosts the capacity of organisations and provides a space for involving as many people as possible, thereby making it more inclusive.
6. Proposals for action

6.1. Despite the proven potential and benefits of cyberactivism, however, the strategies used in the social media sometimes bring people together but do not create stable virtual communities, which to some extent undermines the sustainability of the social changes being pursued. An objective assessment linked to qualitative criteria and principles, as well as the social returns provided by the initiative, should therefore help establish a methodology in this area.

6.2. We believe it would be appropriate to support the proactive development of cyberactivism and digital volunteering, since the environment provided by social networks and internet portals offers greater accessibility, immediacy and critical mass for social participation and public co-responsibility, with considerable cost savings for the management, coordination and implementation of activities. Furthermore, they promote the conditions that foster inclusion: accessibility, responsibility and affordability.

6.3. The European Economic and Social Committee therefore calls on the European Commission and the Member States to take the necessary steps within their respective remits to effectively promote the implementation and development of mechanisms for cyberactivism and online participation, so as to encourage and strengthen social engagement and boost volunteering.

6.4. Support should also be provided for setting the relevant standards and evaluation criteria for endorsing and legitimising these mechanisms, and help bring transparency and added value to awareness-raising and mobilisation processes. An additional reason is to be able to determine the social returns that have been generated.

6.5. It is also important to ensure the effective protection and exercise of the rights conferred in this area on European citizens, as stated above, particularly as regards facilitating access and freedom of information and ensuring the flow of exchanges and their integrity, confidentiality and continuity through networks, without in any way diminishing the speed of transmitting their communications. These guarantees should be applied proportionately and as necessary in the case of vulnerable groups.

6.6. Furthermore, due to their importance in the context of cyberactivism, it is worth mentioning active e-justice and the values of trust and reputation, with a view to exploring the improvement of cyberspace safeguards.

6.7. The institutions concerned should ensure that they make infrastructure and technological tools available to the public to enable people to carry out their digital activities on an ongoing and regular basis. They should also adapt social structures to the new technologies and promote the educational and training activities needed to empower people to use these tools and narrow the current digital divide in the interests of greater territorial, social and economic cohesion.

6.8. Lastly, programmes should be designed and adopted to raise people’s awareness of social participation and volunteering through these new technologies, assisting bodies and initiatives in these fields through cooperation, against a backdrop of sound institutional governance.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the Economic and Social Committee on the revision of the EU-Mexico Association Agreement

(own-initiative opinion)

(2016/C 013/19)

Rapporteur: José Isaías RODRÍGUEZ GARCÍA-CARO

Co-rapporteur: Juan MORENO PRECIADO

At its plenary session of 10 July 2014, the European Economic and Social Committee decided, under Rule 29 (2) of its Rules of Procedure, to draw up an own-initiative opinion on:

The revision of the EU-Mexico Association Agreement

(own-initiative opinion)

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 16 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September 2015), the European Economic and Social Committee adopted the following opinion by 92 votes to 0 with 4 abstentions.

1. Conclusions and recommendations

1.1. The Economic and Social Committee (EESC) believes that the revitalisation of relations with Mexico must be carried out from the viewpoint of the European Union’s overall relations with Latin America and the Caribbean. In addition to purely economic and trade aspects, this process should value other shared historical and cultural ties. This could counterbalance the growing influence of the pan-American and Pacific dimension on this continent. Against the backdrop of globalisation, Mexico and the EU have cultural links, shared languages and, primarily, values, that create special ties between the two societies. These should be developed and extended and they should certainly lead to overlapping positions in international forums.

1.2. The EESC believes that it would be more efficient to carry out a thorough review that broadens the scope of the existing agreement, factoring in experience gained during the 15 years that the agreement has been in force, than starting from scratch and negotiating a completely new agreement.

1.3. The EESC considers it necessary to establish a Joint Consultative Committee (JCC) immediately, comprised of 9 or 12 representatives from the EESC and an equal number from Mexican organised civil society. The JCC should be recognised by the governing bodies of the Agreement — to which civil society’s proposals are to be presented. The JCC will have advisory powers over the general content of the agreement without prejudice to establishing other mechanisms of participation for the specific areas of trade and sustainable development. It also requests that the future agreement include a Committee of this kind.

1.4. The new agreement should include a section which requires the parties to ratify and enforce the International Labour Organisation (ILO) conventions and resolutions on fundamental social rights and principles, which encompass the ILO ‘decent work’ objectives, and particularly, ILO Convention 98 on the application of the principles of the right to organise and collective bargaining.
1.5. Moreover in the area of trade and investment, certain aspects of the current agreement relating to non-tariff barriers, agreements for mutual promotion and the protection of investments and intellectual property should be improved, and cooperation on taxation enhanced for the purposes of ending fraud and tax evasion.

1.6. Priorities in the area of cooperation should also be reconsidered once again, giving precedence to components of the strategic partnership in order to ensure that they are joined up and create a positive synergy. Up to now this has been insufficient in the absence of a proper link between individual projects.

1.7. More specifically, the EESC would highlight three areas in particular that it considers priorities for reinforced cooperation: better governance, scientific and technical research and cooperation on sustainable development, climate change and environmental protection.

2. Relations between the European Union and Mexico in the wider context of relations with Latin America

2.1. The link between Europe, Latin America and the Caribbean has been showing signs of fatigue for more than a decade. The challenge facing current leaders on both sides of the Atlantic is to rekindle this link and infuse it with new energy.

2.2. It is clear that Latin America is influenced by the development of the whole American continent, as well as growing economic interdependence with the Pacific countries and in particular, China. However, relations between Europe and Latin America are underpinned by cultural ties, common languages, and values which create deep affinities between their societies. They mean that both regions have the privilege of enjoying shared cultural and historical roots which, against the complex backdrop of globalisation, run deeper than mere commercial values and objectives. In view of this, economic relations should be viewed as just a further part of the whole, not at as their central focus or fundamental theme, in contrast to what may be the case with other regions of the world.

2.3. At the same time, it is evident that relations between the European Union and Mexico — despite the latter being a strategic partner — have progressed more slowly than with other countries around the world and it is clear that a certain fatigue has set in, making it more imperative than ever to provide new areas for debate and discussion, in order to provide the relationship with new impetus.

3. Background

3.1. Mexico is important to the European Union for the following reasons (among others): firstly, its high population of 120 million inhabitants, its 2% share of global GDP and a per capita GDP of around EUR 9,000, which make it an important global trading partner. Secondly, its membership of the NAFTA Treaty and what that means in economic and diplomatic terms as regards the global transatlantic agreements with North America and the Heiligendamm Process. Thirdly, sharing broad cultural ties means that the European Union could contribute to the Mexican government’s efforts to strengthen social structures, and to create a fairer society and more peaceful coexistence.

3.2. In 1997, the European Union and Mexico signed an Economic Partnership, Political Coordination and Cooperation Agreement, which entered into force in 2000. This agreement is founded on three main pillars: political dialogue, trade and cooperation.

3.3. In October 2008, the European Council endorsed the establishment of a strategic partnership between Mexico and the EU and following on from this, approved the strategic partnership joint executive plan in May 2010. The plan contains 14 specific multilateral measures and initiatives, four regional measures and a further 14 measures in the area of bilateral relations. A wide range of mechanisms for institutionalised dialogue have been set up between Mexico and the EU to implement the partnership, including a biennial summit (which includes the Civil Society Dialogue Forum), an annual Joint Committee, the Joint Parliamentary Committee and up to nine sectoral dialogues on issues ranging from human rights and climate change to cultural aspects.
3.4. Cooperation between Mexico and the European Union is based on four complementary principles: firstly, bilateral cooperation, with social cohesion, the sustainable economy and competition, and education and culture as the priority topics for the 2007-2013 programming period. The second involves sectoral cooperation in areas such as democracy and human rights, non-state actors, the environment and nuclear safety, health, migration and asylum. The third covers Mexico's active involvement in the regional programmes for the whole of Latin America and the Caribbean. And finally, the fourth relates to Mexico's direct participation in other Community programmes, such as the seventh framework programme for research.

3.5. On several occasions in the last few years, both Mexico and the EU have expressed the need to step up and expand mutual relations. In connection with trade in particular, there have been calls to extend the Free Trade Agreement — which has been in force since 1997 — and to enhance cooperation both at multilateral level and as part of the EU's relations with all the Latin American and Caribbean countries.

4. Appraisal of the current situation

4.1. At the beginning of President Peña Nieto's term of office (December 2012), the main parties signed a 'Pact for Mexico' and the government launched a series of reforms designed to modernise the economy and the state, in order to boost the dynamism of the Mexican economy. However, Mexican economic vitality will be put at risk if the ongoing fight to eliminate violence and establish full respect for human rights is not won. Efforts to tackle criminal networks in order to reduce the violence which has worsened in the country in recent years have not produced the desired results, as there are still a considerable number of random mass killings, disappearances, kidnappings, etc. It should also be emphasised that a series of measures have been implemented at federal level (national human rights programme, coordination between local, state and federal governments, restructuring of state police and public prosecutors' offices) to end the lack of coordination between the various police services and to prevent cases of police collusion or involvement in crimes.

4.2. From a strictly trade perspective, the 1997 agreement can be considered as moderately beneficial for both sides. Mutual trade has increased threefold in the period 2003-2013 and Mexico has increased its share of European Union exports from 1% to 1.7%, while the EU has maintained an almost constant trade surplus of between EUR 7 billion and EUR 10 billion in each of these years. This ranks Mexico as the EU's 17th largest trading partner, accounting for 1% of the EU's total imports and, as indicated above, 1.7% of the EU's total exports. While these figures are still below Mexico's 2% share of world GDP, the European Union is Mexico's third largest trading partner after the United States and China.

4.3. Moreover, there have been substantial direct investments by the European Union in Mexico (EUR 11 138 billion in 2008-2012 alone) and by Mexico in the European Union (particularly in sectors such as cement, telecommunications and foodstuffs). Generally speaking, Mexico has signed bilateral investment protection treaties with all the countries of the European Union, including a bilateral agreement between Mexico and the European Investment Bank to fund activities in Mexico, which has meant that credit facilities amounting to EUR 495 million have been granted since 2000. Nevertheless, enough progress has not been made on tackling tax fraud.

4.4. However, these investment figures are heavily influenced by the traditional Mexican policy of restricting access by foreign investors within certain strategic sectors, such as energy, postal services (which is written into the Mexican Constitution), or to telecommunications services and land passenger transport. Many of these rules are being phased out by Mexico's 2013-2018 development plan, which has brought significant progress. The committee hopes that this progress continues in the future and that it takes the opinion of the whole of Mexican society into account.

4.5. In terms of supporting and strengthening Mexican civil society, a wide range of joint projects have been carried out entailing the establishment of a Social Cohesion Laboratory, numerous projects supported by the European Instrument for Democracy and Human Rights involving equality issues and protecting minors and 15 projects concerning non-state actors. Finally, initiatives linked to public health, migration and asylum have been undertaken.
4.6. As regards boosting competitiveness and environmental protection, initiatives have been taken forward by the competitiveness and innovation programme (PROCEI), designed to promote Mexican SMEs, as well as a number of sectoral initiatives in the field of agriculture and climate change, and nuclear safety. Similarly, Mexican researchers, research centres and universities have access to the European Union’s Horizon 2020 programme.

4.7. A number of interesting projects in the cultural sector have been carried out under the ‘EU-Mexico Cultural Fund’, phases I and II, in which the main Mexican partner involved was Conaculta.

4.8. One aspect which has resulted in differences in interpretation from time to time has been applying the principles of ‘coherence and conditionality’, which the European Union promotes in its external agreements with other countries and regions. More specifically, points relating to conditionality were interpreted by some Mexican representatives as ‘interference in domestic affairs’, particularly with respect to the strengthening of democracy and human rights, and the treatment of indigenous communities. The EESC believes that these points cannot be left out of the future revision of the Agreement.

4.9. The Joint Executive Plan for 2010 implemented by the Mexico-European Union Strategic Partnership, stipulates that: ‘Mexico and the EU undertake to strengthen the areas of political dialogue in the region, encouraging bi-regional dialogue, especially with the Rio Group, at Latin America and Caribbean-European Union (EU-LAC) summits and promoting triangular cooperation via the Mesoamerican Integration and Development Project. Mexico and the EU will also explore possibilities of engaging in triangular cooperation with other regions of the world, such as Africa’.

4.10. As a country with a sufficiently high level of GDP, there are distinct possibilities that Mexico may no longer continue to receive the aid for bilateral cooperation that the European Commission grants to less developed countries.

4.11. An analysis of the minutes of the various institutional meetings that have taken place with both the European Commission and the European Parliament, and between the EESC itself and its Mexican counterparts, does not support the conclusion that this strategic partnership is delivering tangible results commensurate with its political importance. The diplomatic language used in these minutes suggests that minor potential differences are not being dealt with in detail, and that there are no precise guidelines to take this strategic partnership forward comprehensively.

4.12. The negotiation of the Transatlantic Trade and Investment Partnership (TTIP) between the United States and the European Union will inevitably have repercussions for North American relations, both with the EU and in the region as a whole.

4.13. As the Trade Commissioner, Karel de Gucht (1), emphasised back in 2012, despite the fact that in 1997 Mexico and the EU were pioneers in establishing a Free Trade Agreement, successive agreements with many other countries in the Americas and the rest of the world have improved and developed the provisions of this Agreement, with the result that it may have become obsolete, and this does not help to ensure that Mexico continues to be a major political, trade and strategic partner for the European Union. Since that statement was made, there has been little real progress on improving the agreements in force, even in terms of the purely economic and commercial aspects.

5. Civil society participation

5.1. In order to help to drive this process forward, the EESC believes that, as part of the negotiations to modernise the agreement, the authorities of both parties should agree to establish a Joint Consultative Committee under the agreement itself, made up of equal numbers of representatives of the EESC and of Mexican civil society.

5.2. The expectations raised by the ‘democratic clause’ prompted interest from many Mexican and also European organisations in taking part in monitoring the implementation of the Global Agreement. The Joint Committee, composed of the Mexican Government and the European Commission, decided to convene a Mexican and European Union Civil Society Dialogue Forum to provide a channel for these requests.

(1) Karel de Gucht, Trade Commissioner, ‘Open for business: The European Union's relations with México in a changing world’, speech to the EU Chambers/ProMEXICO, Mexico City, 12 December 2012.
5.3. The first forum took place in Brussels in November 2002, bringing together more than two hundred employers organisations, trade unions, NGOs and various associations. The EESC was also represented. Since then five forums have taken place, alternating between venues in Mexico and Europe. At each of these, requests have been made to the bodies involved in the Global Agreement, which have noted them without — except on a few specific issues — accepting them.

One of the most frequently repeated requests at these Forums has been the need to institutionalise this dialogue between the authorities and civil society on both sides. It has been proposed, among other things, that the Forum be held regularly every two years, and that a Social Observatory and a Joint Consultative Committee be set up.

5.4. The Forum has been held fairly regularly, but not at the intervals requested. For example the Sixth Forum, which should have been held in Mexico in September 2014, has not yet taken place.

5.5. The establishment of a Social Observatory was accepted in principle by the authorities, however it has not yet been launched and its objectives and membership have not yet been set out. Various Mexican civil society organisations consider it to be a purely Mexican resource which enables citizens to evaluate the Global Agreement, i.e. without any European participation.

5.6. Mexico does not have a national Economic and Social Council (ESC) which could constitute a natural counterpart to the EESC in the EU (although some of its federal states do have ESCs). Draft legislation the observatory was drawn up some years ago on the request of various social sectors, but to no avail. Several organisations, institutions and some federal state ESCs have again requested that this project be included in the current political reforms.

5.7. The EESC has put forward similar proposals in previous opinions, and in its dealing with the authorities, in order to improve civil society’s participation in the agreement. The 2006 EESC opinion on EU-Mexico Relations (1) called for the institutionalisation of dialogue with organised civil society and highlighted Article 49 of the agreement which provides the possibility of setting up any other committee or body in relation to the establishment of a Joint Consultative Committee.

5.8. As regards the possible setting up of a Mexican Economic and Social Council, the EESC has stated that the creation of a similar body in Mexico would be positive for the joint monitoring of EU-Mexico relations, however it will respect whatever Mexican civil society and the Mexican authorities decide on this matter.

6. Prospects and possible guidelines for the future

6.1. The ‘Brussels Declaration’ made at the EU-CELAC Summit on 10 and 11 June 2015 noted the significant progress that has been made towards modernising the EU-Mexico agreement, and therefore towards ‘launching negotiations as soon as possible’. The EESC hopes that a new agreement will be reached by revising and extending the existing agreement. This would involve analysing the strengths and weaknesses of the approach pursued so far between the EU and Mexico and making the most of experience gained from the Partnership Agreements signed in recent years between the European Union and various countries worldwide. It should also serve to revitalise wider relations between the European Union, Latin America and the Caribbean.

6.2. The EESC is aware that the Mexican government and the EU institutions have a different vision of the role that civil society should play in this process. However, failure to channel civil society’s opinion in an organised manner could lead to the emergence of alternative approaches of a populist nature.

6.3. The revised agreement should include a section that requires the parties to ratify and comply with the International Labour Organisation (ILO) conventions and resolutions on fundamental social rights, which encompass the ILO ‘decent work’ objectives.

6.4. Mexico has still not ratified ILO Convention 98 (3) on the application of the principles of the right to organise and collective bargaining. Ratifying this important convention, and making the necessary changes to relevant legislation, would prevent the widespread practice of ‘protection contracts’, which damage dialogue between workers and employers, and would oblige all Mexican or foreign companies to respect international labour standards.

6.5. In addition to these points relating to labour issues, in the area of trade and investment aspects linked to non-tariff barriers and the protection of investments and intellectual property should be considered, together with enhanced cooperation on taxation to combat fraud and tax evasion.

6.5.1. It would be desirable to have a comprehensive agreement on investment with the EU to replace and consolidate the bilateral agreements previously signed between Mexico and many EU countries, in a context of compatibility with existing provisions in EU Member States.

6.5.2. Mexico has made a major legislative effort to improve the protection of intellectual property, however this has not been implemented effectively. Ways to reinforce the effective application of this legislation should be established, particularly with regard to protecting trademarks against counterfeiting.

6.5.3. As regards non-tariff barriers, Mexico does not allow foreign owners to register their geographical indications, recognised within the EU. This is allowed for example by the EU’s agreement with Colombia and Peru. This is a major difficulty in terms of increasing the trade of numerous EU products.

6.6. Mexico has also pointed out that it is necessary to find ways to facilitate access for Mexican agricultural products to the EU markets, thus helping to reduce the current trade gap.

6.7. The participation of organised civil society from Mexico and the European Union should be particularly important in ensuring the successful implementation of the cooperation aspects included in the agreements between them. Priorities in this area should be reconsidered once again, along with available funds, in order to ensure that these priorities are joined up and that they generate a positive synergy. Up to now this has been insufficient given the absence of a proper link between individual projects.

6.8. More specifically, the EESC would like to highlight three areas in particular that it considers priorities for participation: better governance, scientific and technical research and cooperation on sustainable development and environment.

6.8.1. Governance should undoubtedly be the central element of cooperation policy. Mexico should gradually incorporate the numerous ‘best practices’ in this area, adapting them to reality in the country. This should be done in order to structure civil society’s activities, organising and consolidating them efficiently, as an addition to traditional political power and a contributing factor towards better adherence to human rights in Mexico.

6.8.2. With regard to scientific and technical research, Mexican universities and researchers should be encouraged to get involved in EU R & D programmes such as Horizon 2020, focusing on priority sectors in the strategic partnership — such as climate change mitigation and adaptation — in order to find common positions on them. In this regard, consideration could be given to reintroducing the EU-Mexico International Cooperation Fund in Science and Technology (FONCICYT), which ran until 2011.

(3) In April 2015 Mexico ratified ILO Convention 138 on the Minimum Age for Admission to Employment.
6.8.3. In relation to sustainable development and the environment, projects on specific areas could be set up in addition to those on climate change adaptation, covering areas such as: reducing air pollution, minimising discharge into water and the contamination of groundwater, and treatment and recycling of all types of waste.

6.8.4. The EESC believes that sufficient elements exist — both at the level of Mexican government and the EU, and in terms of parliamentary bodies and the representatives of civil society — to implement many of these initiatives without having to wait for the signing of the new agreement to materialise. The conclusions of the summits between the European Union, Latin America and the Caribbean, and between the European Union and Mexico, in June 2015, as well as the 19th meeting of the EU-Mexico Joint Parliamentary Committee (7—9 July 2015), provide an opportunity to develop such initiatives at regional level, and Mexico should be one of their central pillars.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
At its plenary session of 21—22 January 2015, the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on:

Agriculture, Rural Areas and Sustainable Development in the Eastern Partnership Countries

(own-initiative opinion).

The Section for ‘External Relations’, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 16 July 2015.

At its 510th plenary session, held on 16—17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 217 votes with 6 abstentions.

1. Conclusions and recommendations

1.1. The EU should build strong partnerships with its neighbours. We need to step up close cooperation with countries in our neighbourhood to further strengthen our economic and political ties (1). What happens in the countries in Eastern Europe and the Southern Caucasus has consequences for the EU. As the EU has expanded, these countries have become closer neighbours and their security, stability and prosperity increasingly affect those of the EU. Closer cooperation between the EU and its eastern European partners — Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine (and the cooperation among them) — is of primary importance for EU external relations.

1.2. The EU is committed to growth and stability in its Eastern Partnership Neighbourhood, recognising the importance of agriculture, as well as the upstream and downstream sectors for the maintenance and the socioeconomic development of rural areas.

1.3. For the six Eastern Partnership (EaP) countries, economic development remains a key priority through flows in capital, goods, people and know-how. This can only be achieved in a secure environment, which is a prerequisite for sustainable development, overcoming the all too prevalent corruption.

1.4. The EESC encourages the process of diversification of rural areas in the EaP countries, which could provide an additional income source through alternative activities and opportunities for higher employment.

1.5. The EESC supports the EC and its efforts to set up a stable dialogue on agriculture and rural development with all partner countries and is prepared to assist in implementing policies and related reforms for all those committed to making agriculture and rural development a key sector in their cooperation with the EU. Most EU investments should be focused on the countries which make agriculture and rural development their priority.

1.6. The EESC insists that the EU assist the EaP countries in preparing long-term agricultural and rural development strategies with all the relevant stakeholders, and in building the necessary institutional capacities at national and local levels.

1.7. The EESC expresses its wish for a strong monitoring system to be strictly applied following the implementation of the EU allocated resources to the EaP countries.

1.8. The EESC calls for strategic modernisation of the agricultural sector in the EaP countries that increases domestic production of safe food in a sustainable manner. The EESC believes that the EU should continue to be of great help to the EaP countries in improving the SPS standards of their products and developing their rural development programmes. We hope that the DCFTA will be properly implemented and will also be efficient in this aspect.

1.9. The EESC places great value on the importance of the European Neighbourhood Programme for Agriculture & Rural Development which was launched to support the sector and hopes that ENPARD, together with the ongoing or planned programmes in other countries, will lead to sustainable progress in agriculture and improved living conditions in rural areas in the whole of the EaP region.

1.10. The EESC clearly expresses its readiness to share the EU’s experience and know-how in the context of a solid partnership for rural development and for the sustainable development of these regions’ agricultural potential in the framework of the ENPARD programmes. This will not only contribute to job creation, but will also help to improve the quality of life for people in rural areas. Moreover, support for agriculture and rural development is also a key element of the EU’s commitment to inclusive growth in the neighbourhood.

1.11. The EESC insists that the EU’s experience in reforming agriculture and rural areas in pre-accession countries be taken into consideration, together with the diversity of experiences and efforts in partner countries. The EESC calls for a strong focus on the participation of civil society and the involvement of stakeholders in the sector.

1.12. With this opinion, the EESC also clearly states its wish for civil society to be much more widely represented in Platform 2 — ‘Economic Integration and Convergence with EU Policies’; in its Panel on Agriculture and Rural Development, the Panel on Environment and Climate Change with regard to the promotion of green technologies, eco-innovation and biodiversity, the Trade Panel on SPS matters and in the SME Panel where the Committee’s expertise and skills provide a useful contribution.

1.13. Support for agriculture could become a cornerstone of economic reforms in EaP countries on which stronger economic and trade relations with the EU could be built. This would also provide reliable protection against trade disruption with other partners.

2. Background

2.1. The Eastern Partnership is made up of six countries in two geographic areas: the South Caucasus, comprising Georgia, Armenia and Azerbaijan on the border of Eastern Europe and Southwest Asia between the Black and Caspian Seas, and Moldova, Ukraine and Belarus. The situation with the EaP countries is relatively dynamic. Two of the countries, Belarus and Armenia, are already members of the Eurasian Economic Union. The crisis in Ukraine is ongoing, with state institutions and the rule of law steadily deteriorating, which seems to be bringing about a massive land-grabbing phenomena. Border clashes between Armenia and Azerbaijan continue and affect the development of the area.

(2) On 29 May 2014, the presidents of Kazakhstan, Belarus and Russia signed the treaty on the Eurasian Economic Union; Armenia’s accession treaty was signed on 9 October 2014 and came into force on 2 January 2015.

(3) http://www.bundestag.de/presse/hib/2015_01/-/357564
2.2. The Committee has produced opinions on Eastern Partnership issues (4) but has never considered the problems of rural areas, agriculture and sustainable development in these countries. This opinion therefore focuses on the possibilities of better development of rural areas and achieving sustainability in the Eastern Partnership countries.

2.3. The EU recognises the significance of agriculture, rural areas and sustainable development in EaP countries and ENP ARD has been launched to support the sector.

2.4. Platforms are the main tool of the Eastern Partnership multilateral track. Platform 2 deals with economic integration between Partner Countries and the EU and convergence with EU policies, thereby contributing to the goals of the EaP. Platform 2 and its various Panels and Work Areas aim to contribute to the smart, sustainable and inclusive development of a free market economy in Partner Countries.

2.5. In light of the importance of agriculture and rural areas for further sustainable and inclusive development of the EaP countries, the Agriculture and Rural Development Panel (ARD Panel) was established at the end of 2012 and is linked to ENP ARD.

2.6. The Panel on Environment and Climate Change focuses on cooperation with regard to enforcing Association Agreements and the gradual approximation with the EU acquis in the area of environment and climate change. This includes promoting alignment with EU standards, exchanging information and best practices, building administrative capacities and supporting civil society development. Topics for discussion and activities include waste reduction and recycling, air pollution, biodiversity and water management. The Panel is also trying to develop regional dialogue on climate change policies with a view to strengthening the visibility and negotiation capacity of Partner Countries and to cooperate with EU Member States in global climate negotiations.

2.7. The Eastern Partnership made significant progress in 2014. The new Association Agreements signed with Georgia, Moldova and Ukraine are already being provisionally applied. For Georgia and Moldova, provisional application already includes the Deep and Comprehensive Free Trade Area (DCFTA), while for Ukraine provisional application of this part of the agreement has been postponed until the end of 2015. The AA/DCFTAs involve ambitious political, economic and social reform agendas, drawing the Eastern partner countries concerned closer to the EU.

3. General comments

3.1. The agriculture and rural development sectors of the EaP countries vary in nature, composition and relative size, all of which are set against the background of their respective traditions, cultures and organisational methods. Climate, natural resources and location define the natural constraints.

3.2. Agriculture is a major sector in the economic fabric of all EaP countries. It employs a large part of their population and, after decades of difficulties, it still has vast potential for development. Every effort must be made to ensure that the development of a more productive agriculture sector delivers benefits to farmers and rural areas.

3.3. Many of the EaP countries have large rural populations relying to some extent on small and fragmented land plots and the use of communal or state-owned pasturelands for their livelihoods. These small-holders have very limited resources with little growth potential. In many cases, the small-holders account for practically all the national production of agricultural products. The products derived from small-holdings are often primarily for subsistence or semi-subsistence purposes. The selling of any surpluses is made more difficult by limited links to organised markets and a degraded and dilapidated rural infrastructure. The major issues (especially in the South Caucasus) are a lack of cooperation, training and education in the sector as well as lack of a proper taxation system.

3.4. Dynamics in the agricultural markets and volatility of food prices have demonstrated the need for the EaP countries to develop agricultural and rural development policies, including measures for small-scale farmers. On one hand, they need to modernise agriculture and increase production on a sustainable basis and on the other hand, they must develop rural areas, infrastructure and increase income opportunities providing for a better quality of life and brighter prospects for families.

3.5. Programmes on regional development, including pilot programmes, aiming at income and employment possibilities potentially offered by alternative activities in rural areas are underway in most countries. These are intended to stimulate the development and economic diversification of rural areas and reduce regional disparities (5).

3.6. The rural populations in all EaP countries have long been taken for granted and often ignored in the policy and programming process. One of the consequences of this policy vacuum has been the gradual depopulation of rural areas as the economically active migrate to cities or abroad. These negative demographic trends, combined with a need for a vibrant working population to support the agri-industry, require the quality of infrastructure and healthcare to be improved and a more robust policy and institutional commitment to be developed in response.

3.7. The South Caucasus agricultural sector does not fully utilise its potential and currently has low productivity and competitiveness. Degradation of natural capital (land, water, forests, etc.), mountainous terrain, decreased crop and animal production, biodiversity damage and the volatility of the ecological balance are among the issues hampering development of the farming sector. Rural poverty, lack of employment opportunities and the low level of rural living standards are amongst the factors contributing to the vulnerability of South Caucasus rural areas.

3.8. In the EaP countries there are still gaps in standards, regulations, legislation and comparative information. There is a need for common standards that must meet international and EU standards, including compliance measures — monitoring and inspection mechanisms for existing regulations. Under-developed food safety and animal health systems, especially in the South Caucasian countries, require efforts and work in the field of compliance with SPS standards, especially veterinary-sanitary standards for animals and animal products.

3.9. The EESC believes that every effort must be made to ensure that the development of a more productive agriculture sector delivers benefits to consumers, farmers and rural areas in general, which are often among the poorer regions in every country. With this in mind, the EU has launched a broad package of programmes in recent years in conjunction with its Eastern partners. These programmes range from providing specific technical assistance to very large sector programmes, to supporting in-depth reforms in the areas of agriculture, rural development and food safety. In any case the EESC is in favour of strictly monitoring the effectiveness of the agricultural reforms in the EaP countries.

3.10. The EESC encourages the EC and the EP to engage in a renewed and deeper policy dialogue on strategic planning and reforms in the spheres of agriculture, forestry and sustainable development at individual country level, respecting the rules set out and increasing the competitiveness of agricultural structures and the transparency of the domestic agricultural markets.

3.11. In order to support the agricultural development process in the EaP countries, the EESC believes that, as a priority, local agricultural organisations should be established and strengthened through development projects designed to improve farmers’ level of representation and involvement in the decision-making process.

(5) In 2014 Georgia launched its second regional development programme to provide further support in improving the socioeconomic development of all nine of its regions and the living conditions of the population. The implementation of the regional development support programme continued in Armenia in 2014. Moldova is benefitting from a new project which aim to improve regional planning and project pipelines for north, south and central development regions. A new programme on regional development was launched in Azerbaijan.
3.12. Entrepreneurship should be a focus of EU activity in EaP countries, we should not forget that promoting entrepreneurship in rural areas is of great importance and this could be achieved by providing an appropriate business environment: access to start-up capital, bank loans and proper tax incentives.

3.13. The EESC considers it essential to highlight and enhance the role of women and young people in farming and rural society via broader inclusion in vocational training and special measures in the rural development plans.

3.14. The EESC hopes that The Panel on Environment and Climate Change will be successful in implementing the three following projects as part of Platform 2 — ‘Economic Integration and Convergence with EU Policies’: Shared Environmental Information System (SEIS) (6), the GREEN Project (7) and the Clima East Package (8).

3.15. The EESC calls on the EC and the EP to continue their efforts to improve environmental governance and data collection and management systems in the EaP region, to assist EaP countries as regards climate change mitigation and adaptation, to focus on green policy measures and to demonstrate sustainable consumption and production patterns.

3.16. The EESC recognises the importance of the sustainable development programme ‘Greening Economies in the Eastern Neighbourhood’ (EaP GREEN) which is being implemented by the OECD in cooperation with UNECE, UNEP and UNIDO to assist the EaP countries in their transition to green economies.

4. Country-specific comments

4.1. Armenia

4.1.1. Agriculture is a major economic sector in Armenia, with around a third of the population living in sparsely populated and mountainous rural areas, where low-input, subsistence and semi-subsistence farming is important as a source of livelihood. Practically the entire gross agricultural product (approx. 97 %) is produced by small farms.

4.1.2. Armenia has also implemented one of the most comprehensive land reform programmes; by mid-1994 most of the agricultural land had been privatised. As a result, lands were divided into more than 1,2 million plots.

4.1.3. Armenia has limited land resources, arable land constituting only 16.8 % of its total land area. Fertile volcanic soil allows cultivation of wheat and barley as well as grazing for animals. Irrigated crops include apricots, peaches, plums, apples, cherries, walnuts, quince, figs, pomegranates, other fruits and grapes, the basis for its internationally-known brandy.

4.1.4. Negotiations on the Association Agreement, including a DCFTA, were finalised in July 2013. However, as Armenia joined the Customs Union, as announced in September 2013, the Association Agreement, which was incompatible with membership of the Customs Union, was not signed. The European Union continues to cooperate with Armenia in all areas compatible with this choice.

4.2. Azerbaijan

4.2.1. Since the economy of Azerbaijan relies on oil and gas as the leading sector, agriculture is a key component of the country's non-oil economy. Almost half of the Azeri population lives in rural areas and their livelihood depends on agriculture.

(6) This project aims to promote the protection of the environment in the Eastern Partnership region by extending the principles of SEIS to this area.
(7) The overall aim of the GREEN project is to support partner countries in their efforts to shift to a greener economy by decoupling economic growth from environmental degradation and resource depletion.
(8) The Clima East Package supports climate change mitigation and adaptation in the Neighbourhood East Region and its aim is gradual alignment with the EU acquis in the area of environment and climate change.
4.2.2. Mixed farming is the most common, with similar cropping patterns. The major crops for agriculture in Azerbaijan are agricultural cash crops, grapes, cotton, tobacco, citrus fruits and vegetables. Livestock, dairy products, wine and spirits are also important farm products.

4.2.3. In 2010, the EU and Azerbaijan began negotiations on an Association Agreement (excluding the DCFTA due to the WTO application which is still pending). The government of Azerbaijan officially applied to the WTO secretariat to become a WTO member in 1997 and discussions are still ongoing.

4.3. Belarus

4.3.1. The agricultural sector in Belarus employs about one-tenth of the labour force and is dominated by large collective and state farms. Most of the country has mixed crop and livestock farming. Potatoes, sugar beets, barley, wheat, rye and corn (maize) are other important field crops; a large percentage of the grains are used for animal feed. Cattle, poultry and pigs are the main livestock. Nearly two-fifths of Belarus is covered by forests, which are exploited for the production of wood and paper products.

4.3.2. Ratification of an EU-Belarus Partnership and Cooperation Agreement (negotiated in 1995) has been frozen since 1997 in response to the political situation in the country.

4.3.3. Belarus applied for WTO membership in 1993. Its accession process is ongoing.

4.4. Georgia

4.4.1. Agriculture in Georgia is essential to the country's population, as it provides an important safety net in rural areas, where almost half of Georgia's inhabitants a live. The rural land is highly fragmented — 95 % of farmers are 'small farmers', usually with around 1.2 hectares (ha) and 2 cows per family. This fragmentation was intensified by the land privatisation process of the 1990s, which resulted in a new class of about half a million 'farmers' categorised as self-employed farmers.

4.4.2. Milk and meat are the highest value agriculture products overall. Livestock keepers provide animals with very little high quality feed, relying on free, or extremely cheap, grazing and hay in the winter. This not only results in low milk yields, but it makes competitive meat production extremely difficult. Wine production is also a very important part of the agricultural sector. Most farming activity is concentrated in the fertile river valley flood plains, with the main produce being citrus fruits, grapes and nuts.

4.4.3. Relations between the EU and Georgia have been guided by the Partnership and Cooperation Agreement (PCA), which has been replaced by the EU-Georgia Association Agreement, including a DCFTA, signed on 27 June 2014 and provisionally applied since 1 September 2014. As regards trade in agricultural products, ambitious concessions have been made in the DCFTA. The import of EU agricultural products into Georgia is fully liberalised.

4.5. Moldova

4.5.1. Agriculture is extremely important for Moldova. Agricultural land accounts for around 75 % of total land area and most of it is used to grow temporary crops. About one-tenth of the land is used to cultivate permanent crops. Moldovan society is predominantly rural; the agriculture sector employs 26,4 % of the working population, and generates 14,6 % of the country's GDP.

4.5.2. As a result of the land reform, the structure of agricultural land use has changed. After privatisation in the 1990s, a large share of land remains as small individual plots. The privatisation process has resulted in an average landholding of 1,4 ha, further subdivided into separate plots based on land type (arable, orchard, vineyard), to around 1 million title holders. Of the total agricultural land 0,66 million ha are under a public form of ownership (26,2 %) and 1,84 million ha are held under a private form of ownership and/or use (73,8 %).
4.5.3. In terms of the value of agricultural production, plant production contributes over two thirds of the overall value, while animal production and services contribute around 30% and 2.4% respectively. Grapes and milk are the highest value agricultural products.

4.5.4. Since 1998, relations between the EU and Moldova have been guided by the Partnership and Cooperation Agreement, now replaced by the EU-Moldova Association Agreement signed on 27 June 2014, including a DCFTA in force on a provisional basis since 1 September 2014.

4.6. **Ukraine**

4.6.1. Partly because of rich soils and a favourable climate, Ukraine's crop production is highly developed. Its output of grain and potatoes is among the highest in Europe, and the country is among the world's largest producers of sugar beets and sunflower oil. Ukraine's livestock sector lags behind the crop sector but its total output is still considerably larger than that of most other European countries.

4.6.2. A new Association Agreement, including a DCFTA, was negotiated in 2007-2011 and initialled in 2012. The political parts of the Association Agreement were finally signed on 21 March 2014 while the remaining parts of the agreement including the DCFTA were signed on 27 June 2014. Since 23 April 2014 the EU has unilaterally provided autonomous trade preference to support Ukraine in the current situation.

4.6.3. The EU-funded project 'Improvement of Food Safety control System in Ukraine' (IFSSU) was launched in July 2014 with the objectives of improving the sanitary quality of Ukrainian food products and of increasing the confidence of Ukrainian consumers in national production. The EU is also assisting the State Veterinary and Phytosanitary Service of Ukraine to improve the system of ensuring safe food 'from farm to fork'. With a budget of almost EUR 3.8 million for 33 months, the IFSSU project is part of the priority area 'Food safety and food security'.

5. **The role of ENPARD**

5.1. ENPARD was established by two joint Communications of the European Commission and the European External Action service of March and May 2011, as part of the EU commitment to inclusive growth and stability in its neighbourhood, recognising the potential importance of agriculture in terms of food security, sustainable production and rural employment.

5.2. The EU offers a dialogue on ENPARD to all partner countries, and is prepared to assist in implementing ENPARD policies and related reforms for all those committed to making agriculture and rural development a focal point in their cooperation with the EU. This includes assistance in preparing long-term agricultural and rural development strategies with all the relevant stakeholders and in building necessary institutional capacities at national and local levels.

5.3. This programme is already delivering results in Georgia: the law on Agricultural Cooperatives, the network of 54 ‘agricultural strategy information and consultation centres’, etc. On 11 March 2014, the European Union signed four grants totalling EUR 15 million in support of small farmers within the ENPARD initiative in Georgia. The projects will assist the establishment of more than 160 cooperatives with technical assistance and will target all the regions of Georgia. The aim of these cooperatives is to allow small farmers to organise collectively and to gain economies of scale, enhance their efficiency and improve their links to the markets. The total ENPARD for Georgia amounts to EUR 52 million for five years (March 2013-March 2018).

5.4. EU assistance to Armenia amounted to EUR 157 million for 2011-13 (compared to EUR 98.4 million for 2007-2010). In December 2013 the EU adopted new funding of EUR 41 million to support civil society, regional development and agriculture in Armenia within the framework of the European Neighbourhood Policy. Of this overall amount, EUR 25 million have been allocated to implement the ENPARD initiative in Armenia. This funding will be used, in particular, to improve the performance of agriculture related institutions, to support the development of farmers' associations, to develop agriculture statistics and to improve access to more affordable food for Armenian citizens. It also relates to improving the conditions in rural areas by creating jobs, developing public-private partnerships and training the labour force.
5.5. As regards Moldova, the ‘Economic stimulation in rural areas’ programme, which has been underway since 2010, has proved to be a useful instrument for job creation in Moldova’s provinces. Agriculture and rural development has been identified as a focal sector for the Moldova-EU development cooperation in 2014-2017 amounting to between EUR 100 and 120 million available for assistance to the sector. In this context, a comprehensive EUR 64 million ENPAD Moldova programme was adopted in summer 2014 and started being implemented from the beginning of 2015. Through budget support and technical assistance the programme will support a long-term comprehensive sector development strategy prepared by the government. This financial aid helps raise the competitiveness of the agricultural sector and will deepen the discussion on the development of new policies.

6. **The role of the EESC**

6.1. The EESC, aware of the fundamental role of civil society in the EaP countries, is ready to play an active role and share its expertise with the aim of building a more efficient agricultural sector, in particular by:

— assisting in mapping civil society organisations in the sphere of agriculture and sustainable development and improving the situation through an open and inclusive dialogue with a broad range of stakeholders,

— sharing its expertise, including that gained from new Member States joining the EU, in defining specific criteria and processes for the establishment of truly representative agricultural and environmental civil society organisations and their inclusion in decision-making in the EaP countries,

— exchanging best practice in areas such as agriculture, rural development networks, sustainable development, entrepreneurship and corporate social responsibility,

— getting more actively involved in the work of EaP Platform 2 ‘Economic Integration and Convergence with EU Policies’, especially in the Panel on Agriculture and Rural Development, and also in the Panel on Environment and Climate Change with regard to the promotion of green technologies, eco-innovation and biodiversity.

Brussels, 16 September 2015.

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*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE
EU assistance to Eastern Partnership Countries (2014-2020)

<table>
<thead>
<tr>
<th>Country</th>
<th>2014-2017 allocation (million EUR)</th>
<th>Focal sector</th>
<th>Indicative allocation (%)</th>
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<tr>
<td>Armenia</td>
<td>140-170</td>
<td>Private sector development</td>
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</tr>
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<td>Public administration reform</td>
<td>25</td>
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<td></td>
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<td>Justice sector reform</td>
<td>20</td>
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<tr>
<td>Azerbaijan</td>
<td>77-94</td>
<td>Regional and rural development</td>
<td>40</td>
</tr>
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<td>Justice sector reform</td>
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<td></td>
<td>Education and skills development</td>
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<td>Belarus</td>
<td>71-89</td>
<td>Social inclusion</td>
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</tr>
<tr>
<td></td>
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<td>Environment</td>
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<td></td>
<td></td>
<td>Local/regional economic development</td>
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</tr>
<tr>
<td>Georgia</td>
<td>335-410</td>
<td>Public administration reform</td>
<td>25</td>
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<td></td>
<td></td>
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<td>Agriculture and rural development</td>
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<td></td>
<td></td>
<td>Police reform and border management</td>
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<td>Ukraine</td>
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\(^1\) Information from the website of the European External Action Service: http://eeas.europa.eu/enp/documents/financing-the-enp/index_en.htm
ANNEX II

Opinion of the European Economic and Social Committee on ‘Towards an ILO standard against gender-based violence at work’

(own-initiative opinion)

(2016/C 013/21)

Rapporteur: Béatrice OUIN

On 19 February 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

‘Towards an ILO standard against gender-based violence at work’

(own-initiative opinion)

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 16 July 2015.

At its 510th plenary session, held on 16—17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 209 votes to 2 with 5 abstentions.

1. Conclusions and recommendations

1.1. With its tripartite structure, the International Labour Organisation (ILO) plays an essential role on the world stage in improving the situation of workers and the operation of businesses. The European Union is not a member of the ILO but the EU Member States are, along with the organisations representing European workers and employers. The European Economic and Social Committee (EESC) calls on the EU Member States and European organisations to take action to promulgate European values and achievements internationally, taking into account the global context.

1.2. The European Economic and Social Committee considers that:

— sexual and gender-based violence at work are an impediment to decent work (which respects the dignity and ensures the security, accountability and autonomy of workers),

— gender-based violence at work is a serious violation of human rights and an attack on dignity and physical and psychological integrity,

— it damages the economy and social progress by weakening the bases upon which work relationships are built and by impairing productivity,

— it reflects unequal power relations between women and men and contributes to perpetuating inequalities at work,

— combating it requires the involvement of civil society, in particular the social partners, but also of health professionals, the police and the law to assist victims, as well as the media and teachers to prevent violence,

— it is in society’s interest to combat such violence wherever it occurs and to banish it from the workplace.
1.3. In November 2015, the ILO Governing Body is to decide whether to put a proposal for an international standard on gender-based violence at work on the agenda of the International Labour Conference (the ILO’s decision-making body). The EESC supports this proposal and calls on the Member States and European social partners to do the same.

1.4. The EESC calls on the Member States of the European Union, which thanks to Directive 2002/73/EC of the European Parliament and of the Council (1) already have instruments in place for tackling inequalities between men and women and sexual harassment in the workplace, speak with one voice at the ILO.

1.5. The European social partners signed a framework agreement on harassment and violence at work in 2007, which is an indication that they are likely to take a joint stance in the debate on the proposal for an international labour standard (2).

2. Introduction: the issue of gender-based violence at work

2.1. In the age of globalisation, defining international standards to combat and prevent gender-based violence is necessary in the interests of workers, businesses and countries alike. Violence is a threat to physical and psychological health, are an affront to individuals’ rights and dignity, impairs the productivity of those affected and creates costs for the state and society. Tackling and preventing violence is imperative for all. Gender-based violence is one of the main impediments to development.

2.2. How the subject has been handled by the ILO:

2.2.1. Gender-based and sexual violence both reflect and reinforce inequalities between women and men and have a negative impact on the workplace. The need to combat these inequalities is addressed in a number of ILO conventions:

— Convention 29 on Forced Labour, 1930,
— Convention 97 on Migration for Employment (revised), 1949,
— Convention 100 on Equal Remuneration, 1951,
— Convention 111 on Discrimination (Employment and Occupation), 1958,
— Convention 189 on Domestic Workers, 2011.

Recommendation 200 on HIV and AIDS and the World of Work (2010) advocates that steps be taken to prevent and put an end to violence and harassment at work. Even more recently, Recommendation 204 concerning the Transition from the Informal to the Formal Economy (adopted by the International Labour Conference at its 104th session on 12 June 2015 in Geneva) requires Member States to ensure that an integrated policy framework is included in national development strategies or plans. This framework should address […] the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace (4).

However, there is currently no standard dealing specifically with the issue of gender-based violence at work.

2.2.2. The ILO Committee of Experts has tried to fill this gap: ‘[…] sexual harassment undermines equality at work by calling into question integrity, dignity and the well-being of workers. It damages an enterprise by weakening the bases upon which work relationships are built and impairing productivity. The Committee has earlier expressed its view that sexual harassment is a form of sex discrimination and should be addressed within the requirements of the Convention [111]. Thus, in accordance with the Convention’s requirements to prohibit sex discrimination and adopt a policy to promote equality of opportunity and treatment, measures should be taken to address sexual harassment’ (4).

(2) http://www.etuc.org/framework-agreement-harassment-and-violence-work
2.2.3. In 2008, the Committee noted: ‘Another important implementation gap concerns sexual harassment, which is a serious form of sex discrimination and a violation of human rights at work. The Committee therefore recalls its 2002 general observation highlighting the importance of taking effective measures to prevent and prohibit both quid pro quo and hostile environment sexual harassment at work.’ (5)

2.2.4. At the 320th and 323rd sessions of the ILO Governing Body (13—27 March 2014 and 12—27 March 2015), a number of governments (Germany, Canada, Cuba, France, India, Italy, Mexico, the Netherlands, Sri Lanka, Uruguay and the USA) expressed their support for the proposal for an international standard on violence against women and men in the world of work to equip governments, unions and employers with tools for tackling gender-based violence and sexual harassment and to send out a clear message that this behaviour is a breach of workers’ rights. The request was also supported by the ILO Workers’ Group and the International Trade Union Confederation.

2.3. And in Europe:

2.3.1. The European social partners signed a Framework Agreement on Harassment and Violence at Work in 2007, which should mean that they would support a similar regulation at international level (6).

2.3.2. In its opinions on gender equality and its opinion on domestic violence (7), the EESC has repeatedly expressed its views on the gender-based and sexual violence suffered by too many women around the world. Moreover, the problem is growing: the economic crisis, structural adjustment programmes and austerity measures have contributed to increase violence at work.

2.3.3. The EESC calls on the Member States of the European Union, which thanks to Directive 2002/73/EC (8) already have instruments for tackling sexual harassment in the workplace, to call with one voice on the ILO to draft an international standard to tackle gender-based violence at work.

2.4. Description of the situation

2.4.1. Gender-based violence in the workplace is a serious violation of human rights and an attack on dignity and physical and psychological integrity. Across the world, 35 % of women fall victim to direct violence at the workplace, and of these between 40 % and 50 % are subjected to unwanted sexual advances, physical contact or other forms of sexual harassment. 45 % of women in the EU say they have suffered gender-based violence at some point. Between 40 % and 45 % say they have suffered sexual harassment at work. It is estimated that in Europe, seven women die every day as a result of gender-based violence (9).

2.4.2. Such violence reveals unequal power relations between women and men and contributes to perpetuating inequalities. An expression of the desire to dominate, it is very much in evidence in societies where human rights are violated, but it also continues to exist in democratic societies. It must not be confused with seduction, which requires respect for the other party. Sexual and gender-based violence are not a private matter: combating them is a matter of law and order and public security.

2.4.3. Sexist jokes, insults, humiliating jibes, inappropriate gestures, pornographic images displayed on business premises and on the internet (which is a tool used by many workers in their work), psychological and sexual harassment, rape and other types of sexual assault, domestic violence — what woman can claim that she has never encountered at least one of these forms of sexist behaviour (10)?

(6) http://www.etuc.org/framework-agreement-harassment-and-violence-work
(8) See footnote 1.
(9) 2011 Barometer (National Action Plans on Violence against Women in the EU), European Women’s Lobby, August 2011 (www.womenlobby.org).
(10) A recent report (April 2015) by the French High Council for Equality between Women and Men argues that ALL women have been subjected to unwanted sexual advances in the street and on public transport. The majority are minors. http://www.haut-consel-egalite.gouv.fr/IMG/pdf/hcefh_avis_harcelement_transports-20150410.pdf
2.4.4. Regardless of where it takes place, gender-based violence can have an impact on the workplace. A European study shows the impact of domestic violence on work and the employability of those subjected to it\(^\text{11}\), and it is borne out by international studies\(^\text{12}\). According to four national surveys (Australia, Canada, New Zealand and the United Kingdom), domestic violence affects employees' engagement, productivity and security. Women who suffer domestic violence may be harassed by their husband or partner at work, raising safety issues for them and their colleagues. They may be absent from work for several days due to injury, or if they continue to go into work their productivity may be affected. In the Australian public services, victims of domestic violence are entitled to take leave. In the private sector, under collective agreements covering nearly 2 million workers, this leave is 20 days.

2.4.5. If violence occurs at work and is perpetrated by colleagues, superiors, customers or users, female workers will not feel safe. They may need to take leave to recover from physical or psychological injuries, seek medical assistance or attend civil or criminal court proceedings. Gender-based violence is thus also harmful for employers (loss of productivity, absenteeism, legal proceedings and bad publicity).

2.4.6. Violence may occur on the way to or from work. It is a frequent occurrence for women to be harassed, assaulted, manhandled and sometimes murdered in the street or on public transport. This kind of harassment, which targets young people in particular, has lasting repercussions: those affected are left feeling unsafe and vulnerable, which can result in an inferiority complex. For some of them, suffering such violence ends up seeming normal.

2.4.7. With the increase in the number of working women, and with more women than men in informal, precarious and domestic work, the number of women victims of violence is also growing. Single mothers are especially vulnerable. These circumstances may be exploited for the purpose of work-related blackmail.

2.4.8. High-risk groups are children and young people — both girls and boys — who work, victims of forced labour, women economic migrants, women domestic workers, people working in the health services and sex workers. Working alone and dealing directly with the public are additional risk factors.

2.4.9. Risk factors related to the working environment depend on women's place in the organisation of work and on how far the working culture is respectful of women. Greater representation of women in decision-making positions would be a good way of preventing violence against them.

2.4.10. Gender-based violence has a negative impact on worker productivity. Differences between exposure of women and men to the risk of specific forms of violence in the workplace are compounded by gender segregation. Some women are more exposed to this risk than others: those who are a minority in highly male-dominated environments or who work with people in distress (social workers, prison staff, public service front offices and hospital emergency services, etc.).

2.4.11. The risk of violence is also higher in environments where industrial relations are lacking and where there is no collective bargaining to resolve the problem. Trade unions can help victims to find out whom to turn to when their rights are violated. There are also other solutions: for example, under Belgian law, a person trusted by management and workers may be appointed, who is available to give advice and assistance.

2.5. **Defining and preventing violence**

2.5.1. Fighting this violence means looking at the specific forms it can take, in order to prevent it. It is necessary to understand the ways it works and condemn its effects in order to clamp down on it and move towards equality between women and men. Training management on gender-related inequalities is a good preventive measure.


https://www.arts.unsw.edu.au/research/gendered-violence-research-network/gendered-violence-work/
2.5.2. A binding legal framework needs to be established with a clear definition of the scope and a definition of the offence, specifying that those affected are in a relationship of subordination.

2.5.3. Gender-based violence at work, whether it occurs in the workplace or on the way to or from work, can take many different forms, including:

— physical violence;
— sexual violence, including rape and sexual assault;
— insults, rudeness, disrespect and contemptuous behaviour;
— intimidating behaviour;
— psychological abuse;
— sexual harassment;
— threats of violence;
— aggressive behaviour.

2.5.4. It is characterised by unwanted comments or actions relating to gender or sexual orientation, intended to create an intimidating, humiliating, degrading or offensive climate. Small daily attacks which appear to be innocuous cause victims to feel unsafe. Violence, assaults and humiliation of this kind create an unhealthy working environment.

2.5.5. The European social partners’ framework agreement states that 'Different forms of harassment and violence can affect workplaces. They can:

— be physical, psychological and/or sexual;
— be one-off incidents or more systematic patterns of behaviour;
— be amongst colleagues, between superiors and subordinates or by third parties such as clients, customers, patients and pupils, etc.;
— range from minor cases of disrespect to more serious acts, including criminal offences, which require the intervention of public authorities.'

The provisions of the agreement stress the need for confidentiality:

— ‘It is in the interest of all parties to proceed with the necessary discretion to protect the dignity and privacy of all,
— no information should be disclosed to parties not involved in the case.’

The agreement also provides for a complaints procedure and for prevention measures, which could be taken as a basis for the ILO debate.

2.5.6. The internet is used by many employees at work and may spread gender-based violence through degrading images being uploaded, including messages posted on social media. An atmosphere of intimidation, hostility and humiliation can be present in online as well as in real-life relationships. The new standard would have to cater for the fact that the internet is used in work relationships and that this form of gender-based violence has to be addressed as well.

3. Why we need an ILO standard on gender-based violence at work

3.1. Workplaces are unique environments when it comes to combat violence. An international labour standard could provide guidance on appropriate human resource policies on gender-based violence in a business environment and underpin social dialogue and collective bargaining agreements.
3.2. Neither the current international framework nor national laws provide sufficient protection against gender-based violence in the workplace. In most countries, the fight against gender-based violence focuses primarily on the criminalisation of perpetrators, usually by including sexual offences in the criminal code. Although they are vitally important, these solutions are not always appropriate for workplace relations. As stated by the ILO Committee of Experts, ‘Confining sexual harassment to criminal procedures has generally proven inadequate, as they may deal with the most serious cases, but not with the range of conduct in the context of work that should be addressed as sexual harassment, the burden of proof is higher and there is limited access to redress’\(^\text{(13)}\). Preventing sexual harassment means convincing employers and workers that sexist behaviour has no place at work. The European framework agreement stipulates that ‘Enterprises need to have a clear statement outlining that harassment and violence will not be tolerated’.

4. Why civil society should support an ILO standard on gender-based violence

4.1. Gender-based violence is an occupational health and safety issue and is the cause of depression, psychological distress and work-related accidents. The way work is organised must be examined, taking account of social gender relationships, and gender-based surveys must be carried out to clarify these risks.

4.2. The social partners are in a good position to listen to victims and help them put together their complaints. Corporate welfare or human resource departments, trade unions, occupational health doctors and specialist advisers are those most involved in protecting the staff concerned. Appointing a specialised person of trust to listen to the victims and to examine dossiers is an option recommended by the European social partners’ framework agreement. Women’s associations and associations which protect rights or support migrants, to name but a few, are essential to help victims and complement the work of the social partners. The conduct of the social partners themselves must be exemplary, and they must banish sexist and humiliating behaviour from their ranks.

4.3. An ILO standard on gender-based violence would benefit society, social dialogue, the working environment and working relations, by:

— ensuring that the social partners are consulted to establish rules and create a framework for dealing with cases:

— establishing a common definition of what constitutes gender-based violence at work;

— making employers’ and trade unions’ responsibilities clear as regards preventing, addressing and remedying gender-based violence at work;

— helping employers to develop human resources policies incorporating processes, and particularly training, to prevent gender-based violence and deal with its impact in the world of work, including the effects of domestic violence on the workplace;

— helping employers to establish procedures for reporting complaints and claims;

— giving employers guidance on how to listen to those affected and examine and process complaints relating to gender-based violence at work;

— defining employers’ responsibility (direct and for others) more clearly in the event of incidences of gender-based violence at work;

— creating a workplace culture where gender-based violence is not tolerated;

— improving safety at work and reducing employers’ economic losses related to gender-based violence (absenteeism, loss of productivity, legal proceedings, bad publicity, etc.).

5. Why governments should support an ILO standard on gender-based violence

5.1. The envisaged standard would help to:

— achieve decent work objectives;

— reduce the vulnerability of people exposed to gender-based violence and increase their financial independence and productivity at work;
— make savings: domestic and workplace violence cost millions in healthcare, legal proceedings, lost pay and sickness pay;
— improve health and safety at work, as well as working relations;
— increase consistency between legal frameworks for eradicating gender-based violence and promoting human rights;
— reduce the costs that arise from gender-based violence.

6. **Proposed content for an ILO standard**

— a broad definition of gender-based violence at work, including the different forms of violence perpetrated in the workplace;
— adoption of a definition of ‘workplace’ that covers the journey to and from work;
— provisions to prevent gender-based violence at work and measures to protect and support those subjected to gender-based violence;
— a description of the groups most affected by gender-based violence: homosexuals and transgender individuals, migrants, workers with HIV/AIDS or a disability, and people subjected to forced labour and child labour;
— safeguarding of a number of employment and social security rights for complainants, including the right to reduce or reorganise working time;
— guidance on drafting internal rules or codes of conduct for businesses and organisations, stipulating that inappropriate or humiliating behaviour towards women or other highly-affected groups will result in professional sanctions;
— guidance on preparing targeted surveys for collecting harmonised statistics;
— guidance on organising training to increase understanding of the mechanisms of domination and segregation of genders at work and develop a culture of non-violence;
— encouraging workplace health professionals to become involved in examining all cases of gender-based violence, as this poses a risk to the physical and psychological health of women workers;
— ensuring due regard for the provisions of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (14);
— particular focus on the role of the media in raising awareness, providing information and training: three things which are imperative in order to break the cycle of violence;
— taking account of the new risks related to use of the internet and new technologies.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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Opinion of the Economic and Social Committee and Committee on 'Delegated acts'

(additional opinion)

(2016/C 013/22)

Rapporteur: Mr Jorge PEGADO LIZ

On 19 February 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an additional opinion on:

Delegated acts.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 14 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 140 votes to 1, with 4 abstentions.

1. Conclusions and recommendations

1.1. The EESC discovered, halfway through its work on an additional own-initiative opinion on the delegation procedure, that the Commission had issued a proposal for a new binding interinstitutional agreement on the basis of Article 295 TFEU. This proposal is part of a general ‘Better Regulation’ package that addresses delegated acts in two specific annexes.

1.2. The Committee welcomes the Commission’s proposal, which marks a step in the direction it had recommended.

1.3. It considers that most of the proposed changes are positive.

1.4. The Committee is especially pleased to note the Commission’s efforts to achieve a fair balance between the fundamental values of respect for the rule of law, democratic participation, transparency, proximity to the public and the right to wide-ranging information on legislative procedures, on the one hand, and legislative simplification, more flexible rules that are better geared to the interests involved, and simplified procedures for updates and revision, on the other.

1.5. The EESC particularly welcomes the fact that the Commission is committed ‘to gathering, prior to the adoption of delegated acts, all necessary expertise including through the consultation of experts from the Member States and through public consultations’ and that it is proposing the same method of consultation for the adoption of implementing acts. Nevertheless, the EESC is concerned that all these consultations could cause the time taken to prepare acts to be prolonged excessively and unnecessarily.

1.6. The EESC is not however wholly in favour of the case-by-case approach taken to distinguishing between matters that should be subject to delegated or implementing acts, as the criteria used are ambiguous and leave too much room for discretion in interpretation.

1.7. The EESC disagrees with the Commission’s proposal on the following specific points:

(a) the absence of prior information on Member State experts and their technical competence;

(b) the absence of an appropriate timeframe for consulting experts, stakeholders, the European Parliament and the Council, except in urgent cases;

(c) the fact that consulting and sending meetings schedules to EP experts and stakeholders is optional;

(d) the inconsistency and incoherence of the information relating to the adoption of delegated acts: this information should be systematic and automatic, accessible via a website and updated in real time;
the principle of an unlimited timeframe for delegations: the EESC is of the view that the principle should be that of a precise duration, potentially renewable for the same duration, except in duly justified exceptional cases.

1.8. The EESC would like the guidelines to provide explicitly for all aspects of the delegations to be clearly defined, in terms of:

(a) their stated objectives;
(b) their precise content;
(c) their exact scope; and a
(d) strictly defined duration.

1.9. The EESC considers that it should be consulted for an opinion, in the same way as for the ordinary legislative procedure, when it comes to impact assessments and the amendment of delegated acts as well.

1.10. Finally, the EESC considers that the wording of Articles 290 and 291 TFEU is less than perfect and that, in the event of a treaty change, it should be improved. The framework within which they are applied should also be improved so as to prevent decisions on the choice of legal instrument from being more political than technical.

2. Why do we need an additional opinion on delegated acts?

2.1. In 2012, the EESC authorised an information report (1) on the procedure, with the aim of analysing its use and drawing conclusions on the workings of the control system designed to prevent or remedy any misuse of powers that could undermine the democratic rules of the EU as a ‘community based on the rule of law’.

2.2. Following that report and two Commission referrals concerning three proposals for regulations adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Article 290 TFEU (2), the EESC adopted two opinions (3) reiterating the comments and conclusions set out in the information report, including its ‘doubts as to the simplicity of the procedure, how the European public really perceives what is at stake here, the “correct” usage of this procedure and the effectiveness of the control mechanisms’. It recommended that the instrument be used carefully, given that ‘some aspects of the delegation procedure are still far from clear’.

2.3. Following the European elections in 2014 and the appointment of the new commissioners, including a first vice-president responsible for ‘better regulation, interinstitutional relations, the rule of law and the Charter of Fundamental Rights’, it seemed an appropriate moment to return to this matter, to establish the intentions of the new institutional players, and, most importantly, to take a stance on any new elements designed to do more to uphold the principles of transparency, legal certainty, democratic scrutiny and institutional balance. It is also an opportunity to renew debate between the European institutions, civil society, experts and academics, with a view to shaping new recommendations for the EU institutions.

3. Current situation

3.1. It is 2 years since the information report and the two aforementioned opinions were adopted. In the meantime, there has been no follow-up to the Commission’s Omnibus 1 and Omnibus 3 proposals. In its progress report submitted to Coreper on 20 June 2014, the Greek presidency criticised the automatic nature of these proposals as they deprived the legislator from exercising its discretion on a case-by-case basis. The Council then used its veto twice, against the rules for access to the public regulated services provided by the global navigation satellite system established under the Galileo programme (4) and the transmission format for research and development expenditure data (5).

3.2. The work programme of the current Commission provided for the revision of those instruments that enable it to improve regulation. The intention was to ‘identify a further set of new actions in the context of its Regulatory Fitness Programme’.

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(1) CES 248/2013.
(2) COM(2013) 451 final, 452 final and 751 final.
3.3. The proposal for a new interinstitutional agreement, whose adoption was initially planned for 28 April 2015 but was postponed to 19 May, includes both an Interinstitutional Agreement on Better Regulation (6) and two annexes on the central question of the legal regime for delegated acts: a Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts (Annex 1) and Standard clauses (Annex 2).

3.4. Whether or not Treaty Article 295 was a sound legal basis continued to be a matter of contention even as the package went to press. It nevertheless seemed certain that the impact assessments would be reinforced, as would stakeholder consultations, and the consultation of Member State experts before the adoption of a delegated act would be made mandatory. The intention was also to restrict delegated acts to key areas, although this notion has yet to be clearly defined. Furthermore, Mr TIMMERMANS is apparently to be personally responsible for validating any proposed delegated acts.

3.5. According to a number of sources, the European Parliament was swamped with proposals for delegated acts and had neither the means nor a method to enable it to exercise its scrutiny effectively. It was apparently looking into restructuring its services and introducing internal guidelines, as well as allocating additional human resources.

3.6. Within the Council, certain Member States were apparently concerned by the issue of the delegation of powers and their control and this was still considered a priority. There was however disagreement as to the need for a more precise demarcation of the scope of Articles 290 and 291 TFEU. The Council was moving towards a redrafting of the Common Understanding, with a greater role for national experts, who would have to be consulted as a matter of course during the preparation of delegated acts (ex ante consultation). The 2015 annual report of the Council presidency on impact assessments meanwhile reiterated the need to consult national experts sufficiently in advance.

3.7. Some stakeholders deplored the delegation procedure’s lack of transparency. It would appear to be extremely difficult to work out who to speak to within the European Commission, the Council’s expert committees, among the relevant European Parliament members or the officials concerned within the EU’s executive agencies, and it can be impossible when it comes to the experts who sit on the Council’s committees; and yet the issues dealt with in the context of the delegation procedure have a direct impact on organised civil society, industry, business, consumers and the public. These stakeholders also pointed out these people’s apparent lack of knowledge and training on the delegation procedure itself and its implications, with it often being seen as a neutral, procedural formality.

3.8. The Court of Justice, meanwhile, ruled on the concept of ‘essential elements’ in a judgment delivered on 5 September 2012 by the Grand Chamber (7), on a case brought by the Parliament against the Council, in which it held that ‘the adoption of rules essential to the subject-matter envisaged is reserved to the legislature of the European Union’, meaning that these essential rules must be ‘laid down in the basic legislation and may not be delegated’ (8).

3.8.1. The scope of this judgment regarding comitology could be transposed to the delegation procedure insofar as Article 290 TFEU refers to the concept of ‘non-essential elements’. The judgment also specifies that fundamental rights are a matter for the legislature alone. It states, furthermore, that the distinction between the legislative and executive powers ‘must be based on objective factors amenable to judicial review’.

3.9. More recently, the Court ruled on the distinction between implementing acts and delegated acts in the judgment of 18 March 2014 by the Grand Chamber in what is known as the Biocides case, brought by the Commission against the European Parliament and the Council (9). The Court found that delegated acts cover cases where the Commission adopts ‘rules coming within the regulatory framework as defined by the basic legislative act’ whereas the implementing act provides ‘further detail in relation to the content of a legislative act, in order to ensure that it is implemented under uniform conditions in all Member States’.

(8) Paragraph 64 of the judgment.
(9) Case C-427/12, Commission v European Parliament and Council, of 18 March 2014, the ‘Biocides case’. 
3.9.1. It also specifies that delegated acts may amend and supplement the basic act, whereas implementing acts may only confirm it \(^{(10)}\). It is regrettable that the Court did not develop its reasoning further with regard to the link between delegated acts and the exercise of political power, as recommended by Advocate General CRUZ VILLALON’s opinion \(^{(11)}\).

3.10. Lastly, on 21 February 2014, the Commission brought an annulment action \(^{(12)}\) regarding Regulation (EU) No 1289/2013 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

3.11. In bringing this action, the Commission sought the annulment of that regulation which provided for the use of delegated acts in the context of the reciprocity mechanism it introduced. Advocate General MENGOZZI delivered his opinion on 7 May 2015.

3.12. Analysing the scope of the discretion conferred upon the legislature by the ‘biocides’ judgment, he notes that the legislature enjoys complete political discretion, not amenable to judicial review, as regards whether or not to confer powers by way of legislative delegation and that this political choice may under no circumstances be delegated. He goes on to say that delegation is not an obligation, but an instrument to simplify and accelerate the regulatory process regarding ‘non-essential elements’ of the basic legislative act.

3.13. He also interprets the concept of ‘amendment’ \(^{(13)}\) as any change consisting of the deletion, addition or replacement of any element and considers that ‘the delegated regulatory function is characterised by the exercise, on the part of the delegate of the power, of a certain freedom of action, which, on the other hand, is not necessarily a feature of the executive function’ \(^{(14)}\), going on to highlight the difficulties of interpreting this concept and its consequences with regard to the institutional balance.

As regards the subject of the case, after a highly detailed analysis of the regulation in question, he concludes by rejecting the claims for annulment submitted by the Commission. The Court will give its ruling on 16 July 2015.

4. The proposal for a new interinstitutional agreement and the public hearing at the EESC on 26 May 2015

4.1. The issue of delegated acts, which is one of the most important dealt with by the Better Regulation Package, is included in the Commission’s Agenda \(^{(15)}\) (point 3.3), and also in the Better Regulation Guidelines \(^{(16)}\), the Toolbox \(^{(17)}\), the Regulatory Fitness and Performance Programme (REFIT) \(^{(18)}\) and, of course, the Proposal for a New Interinstitutional Agreement (IIA).

4.2. The EESC had already expressed its dissatisfaction with:

(a) the fact that the precise legal nature of delegated acts is unclear, that the concept of ‘non-essential’ measures is ambiguous and is interpreted by the Court in a variety of ways depending on the areas concerned, and that the Commission has extensive leeway regarding the scope and duration of delegations;

(b) the lack of transparency, the legal uncertainty and the insufficient political scrutiny of the prior consultation arising from a document that is not legally binding, entitled Common Understanding on practical arrangements for the use of delegated acts of 4 April 2011;

(c) the fact that provision for the implementation of Article 290 TFEU was only made in a legally non-binding communication from the Commission to the European Parliament and the Council of 9 December 2009.

4.3. The EESC had also expressed reservations and serious doubts regarding:

(a) delegations of unlimited duration;

(b) the very short deadlines for scrutiny by the Parliament and the Council;

(c) the effective involvement of the European Parliament;

\(^{(10)}\) Paragraph 40 of the judgment.

\(^{(11)}\) Paragraphs 75 et seq. of the opinion.


\(^{(13)}\) Paragraph 38 of the opinion.

\(^{(14)}\) Paragraph 45 of the opinion.


(d) the fact that the procedures are not rational;

(e) the absence of information, despite the Commission's pronouncements, both on the delegations themselves and on the appropriateness of the measures taken, at all stages of the procedure;

(f) the fact that the information is not fully accessible to the public and civil society;

(g) effective application of Article 10 TEU providing for decisions to be taken as closely as possible to the citizen.

4.4. Its prime concern was the need to strike the right balance between the principles of the rule of law, democratic participation, transparency, proximity to the public and the right to information on legislative procedures, on the one hand, and legislative simplification, more flexible rules that are better geared to the interests involved, with simplified revision, on the other.

4.5. The EESC has always considered that delegations of power are necessary for the purposes of EU legislation, but that they are different in the Member States, given the special characteristics and the gaps that need to be filled in the absence of a real European constitution.

4.6. It also argued that the rationale for these essential law-making values could be found in:

(a) Articles 4 and 5 TEU and Articles 2, 3 and 4 TFEU, on the conferral and sharing of EU competences and the principles of subsidiarity and proportionality;

(b) Article 10 TEU on the right of citizens to participate in democratic life, according to which decisions are to be taken 'openly and as closely as possible to the citizen';

(c) Article 11 TEU, to which the EESC has devoted several opinions and a roadmap on civil dialogue, transparency and stakeholder consultations;

(d) Article 15(1) TFEU on the principles of good governance, civil society participation and openness;

(e) Article 298 TFEU, which requires the European institutions to have the support of 'an open, efficient and independent European administration'.

4.7. The EESC public hearing, which was planned well before the publication of the Better Regulation Package, was held on 26 May and attended by representatives of the Commission, the Council, the Parliament, the European Ombudsman, the European Data Protection Supervisor and a speaker from the College of Europe, with an audience made up of representatives of the permanent representations of the Member States, academia and civil society (BEUC, EMI, EIM, ITG, GIZ, etc.).

5. Critical assessment of the Commission’s proposal

5.1. The EESC welcomes the fact that the Commission has complied with most of the principles referred to above.

5.1.1. First, it approves of the fact that the legal basis for the proposal is Article 295 TFEU, as it has always requested. It welcomes the references to the Community method, and to the principles of transparency, democratic legitimacy, subsidiarity, proportionality and legal certainty. It is also pleased that the Commission states that it will be guided in the drafting of legislative texts by the principles of simplicity, clarity and consistency.

5.1.2. The reference to the ‘role and responsibility of national Parliaments’ as mentioned in Protocol No 2 on the ‘application of the principles of subsidiarity and proportionality’ is also welcome. Nevertheless, the EESC would emphasise that national parliaments must be given sufficient time to give their opinions.

5.1.3. It approves of ‘the use of stakeholder consultation, ex post evaluation of existing legislation and impact assessments of new initiatives’.

5.1.4. Lastly, it endorses the goals of ‘simplifying Union legislation and reducing the regulatory burden […]’ without prejudice to the achievement of the policy objectives of the Union, as specified in the Treaties, or to safeguarding the integrity of the single market.

5.2. The EESC welcomes the fact that the Commission is undertaking to consult Member State experts before adopting delegated acts, and expert groups, stakeholders and the public, as necessary, at an early stage in the drafting of implementing acts.

5.3. When it comes more specifically to the common understanding between the three institutions on delegated acts (Annex I), the EESC agrees with the Commission in particular regarding:

(a) the definition of an ‘act of general application’ as being one that ‘applies to objectively determined situations and produces legal effects, either with respect to certain categories of persons or in general terms’ and the statement that a ‘legislative act may only confer on the Commission the power to adopt non-legislative acts of general application by means of delegated acts’;

(b) the fact that legislative acts ‘can only be amended by means of legislative or delegated acts’, this rule applying also to ‘amendments of annexes to legislative acts’;

(c) The fact that ‘essential elements of legislation must be determined by the legislator and cannot be the subject of a delegated or implementing act’;

(d) and its efforts to propose a new approach to the consultation of EP and Member State experts as well as those of interested parties.

5.4. The EESC is not however wholly in favour of the case-by-case approach taken when it comes to distinguishing between matters that should be subject to delegated or implementing acts, as the criteria used are ambiguous and leave too much room for discretion in interpretation. It would like to see an effort made to define concepts and for the understanding to lay down clear rules under which:

(a) the use of delegated acts should be the exception rather than the rule;

(b) where there is doubt as to the essential nature of the elements concerned, or in the case of a ‘grey area’, the Commission should refrain from proposing delegated acts and legislate within the basic legislative act;

(c) where there is doubt as to the type of measure to be taken, the Commission should preferably adopt implementing acts rather than delegated acts.

5.5. The EESC also disagrees with the Commission’s proposal regarding:

(a) the lack of prior information concerning Member State experts and their technical competence;

(b) the absence of a minimum timeframe providing experts, stakeholders, the European Parliament and the Council with the documents, except in urgent cases;

(c) the fact that inviting EP experts, consulting stakeholders and sending the experts’ meetings schedule to the EP committees are all optional;

(d) the inconsistency and incoherence of information regarding the delegated acts planned: it should be systematic, permanent and automatic (a website automatically updated providing immediate access to all to the preparatory stages for drafting delegated acts and to their content);

(e) the principle of an unlimited timeframe for delegations: the EESC is of the view that the principle should be a precise duration, potentially tacitly renewable for the same duration, except in duly justified exceptional cases.
5.6. Lastly, the EESC fears that the ill-considered use of means of consultation, *ex ante* and *ex post* studies and meetings with experts might cause the process of preparing acts to be prolonged excessively and unnecessarily.

5.7. The EESC agrees with the opinion voiced at the public hearing of 26 May 2015 that the drafting of Articles 290 and 291 could be improved and that, in the event of a future revision of the treaties, they should be drafted in a clearer and less ambiguous manner. Their application should also be better regulated within the EU’s legislative system, so as to prevent decisions on the choice of legal instrument being more political than technical.

5.8. Furthermore, the EESC would like the guidelines to state explicitly, at the very least, that all elements of delegations laid down in legislative acts must be strictly defined, in terms of:

(a) their stated objectives;
(b) their precise content;
(c) their exact scope;
(d) and their precise and fixed duration.

5.9. The EESC also considers that it too should be consulted for an opinion as part of the delegation procedure, in the same way as for legislative acts, and also for impact assessments and any amendments to delegated acts, given their economic and social repercussions.

5.10. Taking into account the conclusions of the public hearing, the EESC considers that the EU institutions should ensure that citizens have access to each stage of the preparatory work, and the institutions should equip themselves with the resources necessary for this.

Brussels, 16 September 2015.

*The President*
*of the European Economic and Social Committee*

Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Building a financial ecosystem for social enterprises’
(exploratory opinion)
(2016/C 013/23)

Rapporteurs: Ariane RODERT and Marie ZVOLSKÁ

In a letter dated 28 April 2015, and in accordance with Article 304 of the Treaty on the Functioning of the European Union, Nicolas Schmit, Minister for Labour, Employment and the Social and Solidarity Economy, acting on behalf of the future Luxembourg presidency, asked the Committee to draw up an exploratory opinion on:

Building a financial ecosystem for social enterprises
(exploratory opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 204 votes to 2, with 4 abstentions.

1. Conclusions and recommendations

1.1. The EESC welcomes the Luxembourg EU Presidency prioritising social economy and in particular its focus on creating a tailored financial ecosystem.

1.2. The EESC urges to the European Commission (EC) not to lose the momentum in supporting the social economy agenda and ensuring a continued and supportive policy framework for social economy development. This by renewing the Social Business Initiative (SBI) agenda including the tailored financial ecosystem needed.

1.3. The EESC stresses the need to see access to finance as one component in the full ecosystem needed for the development and growth of Social Economy Enterprises (SEE).

1.4. The ideal financial ecosystem for SEE includes features such as a multi-stakeholder approach, hybrid and patient capital solutions with guarantee schemes, often provided by social finance institutions sharing the values of the social economy.

1.5. The EC should support the emergence of new instruments, ensure that financial regulation enables the development, promote research on the societal added-value of investing in SEE and ask Member States (MS) for peer reviews on the subject.

1.6. The EESC welcomes that the social economy is an investment priority in the current Investment Plan for Europe (1) and urges the EC to fully make use of this provision.

(1) Recital 17 and article 9.2.
1.7. The EC should review if/how social impact investment can be a component of the financial ecosystem for SEE and if the policies behind really support SEE development.

1.8. The EU must equally recognise SEEs by providing a supporting factor in the CRR regulation (2). Bank lending to the social economy would benefit greatly from this, with no impact whatsoever on public finances.

1.9. Financial support from the EU level must be coupled with the EC providing guidance, training and capacity building for governments and key stakeholders.

1.10. MS should act as co-investors to support the establishment of ethical funds, social innovation funds and social venture capital funds and facilitate public guarantee schemes. Further, MS should consider reviewing the opportunities of tax rebate on income (individuals and businesses) as well as other tax incentives for both savers and investors to attract investments into SEE.

1.11. SEEs must themselves take initiatives in developing instruments such as auto-capitalisation, crowdfunding and engaging in social finance partnerships, gathering their own resources and initiating partnerships.

1.12. But, to fully unleash the potential of the SEE, all MS must develop and implement national action plans for the social economy based on a broad stakeholder approach including representatives from civil society.

2. **Introduction and context**

2.1. The EESC welcomes that the Luxembourg prioritises social economy during its EU Presidency, recognising the social economy's contribution to employment, social justice and sustainable development.

2.2. The EESC is pleased that the Luxembourg EU presidency request this exploratory opinion which aims to explore the concept of a financial ecosystem from the perspective of social enterprises, the main characteristics and necessary conditions needed to fully build an adequate and effective European framework for the financing and investment into social economy.

2.3. The EESC also notes that the Luxembourg EU presidency highlights the fact that limited access to finance (particularly access to tailored finance) is a barrier to the growth and development of the social economy, this in line with previous EESC opinions (3), the EC, SBI (4) and the work of the OECD (5).

2.4. A new social landscape is emerging in Europe as a result of the crisis and our society facing new complex challenges. There is an urgent need for social innovation mobilising all sectors in society. The social economy is a vital sector employing over 14 million people (6) and has a key role to play providing solutions for e.g. employment creation and social inclusion (7) contributing to smart, sustainable and inclusive growth. But the sector is still underdeveloped in many Member States (MS). To unleash its full potential an enabling ecosystem must be developed where access to tailored finance plays a central role.

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(4) COM(2011) 682 final.
(5) http://browse.oecdbookshop.org/oecd/pdfs/product/8409011e.pdf
(6) http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7523
2.5. In view of the EESC's continued commitment to the social economy agenda, this opinion aims to bring forward the particular perspectives of SEE, which by definition use profit making as a mean to achieve the primary social mission.

2.6. To frame this opinion, the EESC therefore reiterates the definition set out in the Rome Strategy (8), whereby social economy is described as a plurality of organisational forms shaped by diverse national and welfare contexts, but with shared values, characteristics and goals. SEE refers to a universe of organisations based on the primacy of people over capital, and includes organisational forms such as cooperatives, mutuals, foundations and associations, as well as newer forms of social enterprises. It must be underlined that SEE are enterprises belonging to people and/or created by people and not by the financial system.

2.7. It should also be noted that this opinion, while related to the subject, does not touch on the particulars of ‘social impact investment’, nor the EuSEF regulation, which are subjects expressed in previous EESC opinions (9).

3. Access to finance, a challenge for social economy

3.1. As pointed out by OECD (10), there is currently an incompatibility in the existing financing framework that does not correspond to the reality of SEEs and their requirements, indicating a need for cultural adaptation of the financial, legal, policy framework to design appropriate tools. It is vital that for social finance to become sustainable, an integrated approach, different from tradition finance, must be adopted.

3.2. One key issue is that SEE business models are insufficiently known and understood. Not fully recognising the specificities in these models (such as limited or no profit distribution, a user- or need-centred focus, shared decision-making, democratic governance or shared ownership) make it difficult for SEEs to access mainstream finance and instruments supporting SMEs generally.

3.3. SEEs are, more than other business models, confronted with the issue that financial market logic is not designed to support SEE development. Financial markets do not capture and reward the social added value of SEE nor their general interest mission. Today SEEs are often remunerated only for the cost of the service they provide but not for the social value they create. Return on investment for SEEs entails delivering primarily social impact and limited financial returns. This fact that the social mission overrides the maximisation of profit may result in the false impression that SEEs are higher risk and less reliable than other businesses. Research, facts and data actually show the opposite (11). Investment in SEE is in fact not a cost but an investment into the future, which contributes to increased employment rates and strengthens the competitiveness and overall economic contribution of a MS in the long run.

3.4. Several attempts have been made to promote social investment instruments building on the architecture of traditional financial instruments. However, since the logic of private capital often goes hand in hand with features such as short-term exit strategies, requesting ownership and high-return investment logic, these instruments fail to work for SSE since features like these often are in direct conflict with SEE business models and activities.

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(8) http://socialeconomyrome.it/files/Rome%20strategy_EN.pdf
(10) See footnote 5.
3.5. Issues such as difficulties in divesting (when working with people in need) and no or limited second-market opportunities, create additional complications for mainstream investors. While these instruments may successfully reach some enterprises (often as profit-maximising businesses with a social mission), SEEs still need specifically tailored financial instruments.

4. A supportive and sustainable financial ecosystem

4.1. This opinion focuses on the characteristics and conditions needed to improve access to finance for SEEs rather than providing a comprehensive review of the range of available finance instruments. The real potential of SEE can only be realised if access to finance is integrated into a tailored and fully integrated ecosystem together with components such as legal frameworks, business development and various support, demonstrating that social investment is both financial and non-financial investments.

4.2. While recognising that improving financing for SEE is crucial for development and sustainability, it is important to make a distinction between financing SEE structures and SSE activities. It is important to finance both these aspects but the approaches and instruments may differ. Certain is that when developing social finance tailored to SEE it must be in the context of promoting social initiatives and action and be seen as a means to realise the sector’s potential rather than being a purpose in itself.

4.3. It must be recognised that SEEs usually have a mixed revenue stream where sales of goods and services often are coupled with government funding. SEEs often rely on a mix of financing streams ranging from funds for a specific project or program based on a policy objective, to public contracts or raising funds for expansion or new investments.

4.4. In some MS, SEEs rely on continued public funding, working closely with public authorities in pursuit of a common policy or general interest objective. Furthermore, public funding is particularly important in the innovation process (often linked to preventive work) and the early development stages of SEEs. The EESC therefore stresses that this form of public cooperation and funding support must not be jeopardised when looking at external finance sources and that it is particularly important when supporting the emergence and building of a social economy sector in certain MS.

4.5. Using a range of finance sources

4.5.1. Public funding remains a key finance source in many MS and for many SEEs. The connection between the social mission of a SEE and public policy objectives building on a system of common goals and trust are at the core of public funding initiatives. In this context the EESC wishes to highlight the connection to and its support for a continuation of the EC Social Investment Package, which aims to promote social policy innovation with a strong role of SEE. In many MS a primary income source for SEE are public contracts. Providing a service of general interest is often a core activity for SEE to fulfil their social mission. This income contributes importantly to financial sustainability. In case of public contracting one criteria must be the respect of social standards and in particular application of collective agreements.

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(12) EC Mapping study: http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2149
(13) http://ec.europa.eu/social/main.jsp?catId=1044
4.5.2. **Private finance** instrument vary from traditional instruments such as commercial banks, business angels and venture capital to such as donations, venture philanthropy and social impact investors. While several of these instruments may be fitting the SEE, it appears that social finance provided by specialised social finance providers are better suited.

4.5.3. Attention should also be given to **individuals’ interest** to invest into SEE initiatives especially at community level. Crowdfunding platforms, donations and philanthropy provide a key finance resource for SEEs.

4.5.4. **The social economy sector** itself generates funds in the form of retained earnings often encouraged by the tax relief system. The option of accumulating profits that are not distributed to members (indivisible reserves) is used by cooperatives as the main instrument to finance their own growth. Another instrument is the option for cooperative members to participate in the financing of their own cooperative through the provision of voluntary loans (social lending) that in some MS are regulated by specific legislation (14).

4.5.5. **Specialised financial institutions, social, ethical and cooperative banks** as well as social venture philanthropy provide instruments specifically designed for SEE. For example the Italian cooperative development funds (15) is set up to promote and develop cooperatives specifically. These funds are formed using the 3 \% levied on the annual pre-tax profits of cooperatives. Other examples are CoopEst development fund and the CGM Finance Consortium, which are internal financial systems open only to members providing bridging loans and overcoming problems in gaining access to the ordinary banking system through the contractual capacity of a group.

4.5.6. Consideration must be taken when building a marketplace or platform for these **instruments** and incentives to attract capital must be evaluated. While public capital can be policy-motivated, private capital may be attracted through tax incentive schemes, the shared-risk element and engaging with the social economy sector. Regardless, any incentives given to private financial providers should be balanced with the expected financial and social return as well as how the financial profits are used. This should ensure that the public interest, the general interest and efficient spending (if public) remain at the heart of the initiative.

4.6. **Fundamentals to consider when creating a conducive financial ecosystem**

4.6.1. The creation of a financial ecosystem for SEEs relies on establishing a **multi-stakeholder approach** bringing together resources and instruments. This form of multi-stakeholder systems, or a social and solidarity finance system, brings together both monetary and non-monetary resources. It builds on trust and financing support involving several players (SEEs, savers, public sources, pension funds and financial institutions etc.) building relationships (financial intermediation, socialisation and support relationships) sharing common goals and rules. The success of this approach is clear in for instance Quebec and should be explored further for the European context (16).

4.6.2. It is fundamental that the financial support is developed from a **lifecycle approach**. Grants or funded pilot schemes often fail in the second phase due to the lack of appropriate instruments enabling SEE to scale up and be sustainable. Specific instruments and supportive policy frameworks must be designed for each development stage: pre-start-up, start-up/pilot stage, consolidation and growth, meeting the specific needs at each stage.

\(^{(14)}\) See for example Italian Law 127/71.
\(^{(15)}\) Italian Law 59/92.
\(^{(16)}\) [http://www.reliess.org/centredoc/upload/FinanceQc_va.pdf](http://www.reliess.org/centredoc/upload/FinanceQc_va.pdf)
4.6.3. Traditional risk capital is based on a quick return on investment usually tied to influence through ownership. This is particularly difficult for the social economy to utilise and in conflict with SEE business models and activities. Therefore providing guarantee schemes and co-investment mechanisms to share responsibility and risk-taking are crucial in this context. Building on good practices of guarantee schemes already in place (often from public funds) should be reviewed when developing schemes alleviating the first ‘risk’ of the financing.

4.6.4. Social economy finance providers are often ideal to provide both financial and non-financial support such as investment readiness programmes and general guidance and business development support. This form of support is crucial to reduce the risk of failure. Here general ‘financial coaching’ as well as ‘financial education’ must be considered.

4.6.5. It is central that at the heart of social finance is social impact measurement to demonstrate the social impact created in parallel with financial return. This is the only way to capture the full value created by the SEE activity and the full scope of Return on Investment (ROI) — both social and financial.

4.7. An ecosystem based on blended capital

4.7.1. Particular attention should be given to hybrid forms of financing, which are seen as being more suitable for social economy enterprises as they combine elements that evaluate the common good with financial incentives. The hybrid capital combines a grant component (public grants, philanthropic funds, donations) with equity and debt/risk-sharing instruments. Financing instruments of a hybrid capital nature include recoverable grants, forgivable loans, convertible grants and revenue share agreements. Hybrid capital often involves close interplay between public and private capital and a common policy objective but also co-dependence balancing interests between stakeholders.

4.7.2. Other finance solutions, suitable for SEE are patient forms of capital. In for instance France and the province of Québec in Canada social/solidarity guarantee and investment funds bring together capital from various sources and stakeholders such as individuals, public funds and pension funds providing debt and equity instruments that are based on principles of lower returns (than regular venture capital) over a longer period (7 years plus). This latter is being particularly important, since SEE activated often relies on continuity of service.

5. Policy recommendations

5.1. Given the differences across Europe and the broad range of needs in the social economy sector, the following recommendations are grouped based on responsibilities for different level of policy makers.

5.2. The European institutions

5.2.1. The EU institutions should play a supportive, catalytic, enabling and mobilising role for all stakeholders in the SEE financial ecosystem. Further they must continue to demonstrate their commitment to the development of the social economy in Europe by ensuring a supportive policy framework for social economy development generally by renewing the SBI agenda.

5.2.2. The EC should further channel funding towards the SEE through intermediaries to support the emergence, experimentation and innovation of new instruments ensuring that financial regulation enables and not hinders this development.

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(18) http://capfinance.ca
5.2.3. The EC should also consider trialling a lighter regulatory regime to motivate capital to the social economy sector.

5.2.4. The EC should review how crowdfunding or collaborative economy instruments can support SEE. The EC could consider hosting a ‘showroom’ of crowdfunding and participative initiatives aimed at SEE. Examples exist at MS level and could potentially tie into the social innovation platform as well as Horizon 2020 programmes.

5.2.5. The EC should promote research on the societal added-value of investing in SEE. Issues to explore could be how social and economic value is created and captured and the effectiveness of various financial instruments.

5.2.6. The EESC welcomes that the social economy is an investment priority in the current Investment Plan for Europe and urges the EC to fully make use of this provision. In particular capital intensive investments, such as health and social care should be considered. Important for all investments are to include a general interest criterion into the investment rating and selection to better capture the social added value.

5.2.7. The Capital Markets Union (CMU) stresses the emergence of environmental, social and corporate governance investment and that public and private funding can work together to improve the supply side of investments. It is important that the EC ensures in its regulatory activity that there is a link between the promotion of SEE development and the CMU proposals.

5.2.8. The European funds play a particular role to support SEE. ESIF could be used as an enabler for MS action by providing guarantees or financial leverage to stimulate the emergence of social welfare funds across Europe. EaSI and COSME funds should be used by the EC to boost the investment capacity of financial intermediaries and the investment readiness of SEE. EC should secure a balanced participation in the Horizon 2020 program, enabling the SEE to participate in mainstreaming projects. The EC should closely monitor and report on the uptake of these funds for SEE both from a political and technical viewpoint.

5.2.9. The EC and the EIB/EIF should ensure that EU-level financial mechanisms including the SME financing action plan are accessible for SEEs by consistently mainstreaming SEE into SME policy and finance facilities and by simplifying procedures. Key here is to specifically mention the expression ‘social economy enterprise’ to fully ensure diverse enterprises are considered and raising visibility.

5.2.10. The EC should review if/how social impact investment can be a component of the financial ecosystem for SEE and under which conditions. Here the experiences and trials of the EIF social investment accelerator as well as the recent launch of the EC guarantee schemes (19) will provide interesting experiences. In addition the recent OECD (20) and EMES (21) reports provide important input on weather instrument of social impact bonds and the policies behind really support SEE development.

5.2.11. The Basel III financial regulations are threatening the financial ecosystem for the social economy. It is vital that the regulations preserve the ‘biodiversity’ of the financial system, rather than applying arbitrary rules. A relevant issue to be tackled is the treatment of loans to the social economy according to current prudential rules (Basel III, CRD IV/CRR). At present, no relief on balance sheet is provided for lending to social enterprises, even though the sector is not considered risky, nor is lending to the sector encouraged. On the contrary, according to the SME balancing factor included in the CRR, the EU has recognised capital relief for banks lending to SMEs and households. The EU must equally recognise SEEs by providing a social economy enterprise-supporting factor, for example by amending the present Article 501.1 of the CRR. Bank lending to the social economy would benefit greatly from this, with no impact whatsoever on public finances.

5.2.12. Since financial innovation for the social economy primarily happens at local, regional and national levels, the EC is in an ideal position to gather and share innovative instruments and solutions to provide evidence for policy decisions. Here, EU-wide synthesis and monitoring of sharing new finance initiatives and instruments at MS would be useful.

5.2.13. Financial support from the EU level must be coupled with the EC providing guidance, training and capacity building for governments and key stakeholders. Therefore, the EESC calls for a handbook with guidance on how to build the financial ecosystem and how to design and implement financial instruments for the social economy. Similarly, good practices of general guidance at MS level such as investment readiness programmes should be shared and built on.

5.2.14. The EESC welcomes the EC’s interest to sets up a social finance working group in cooperation with the GECES (European Commission Expert Group on Social Enterprise) which could act as one resource base for policy development and monitor Member-State situations and action.

5.2.15. Peer-reviews on financing SEE activities and structures should be considered to encourage sharing instruments and best practices among MS.

5.2.16. The EC should review the benefits and challenges of MS providing tax incentives. This is relevant both for SEE generally but also as an incentive to attract capital from private savers and social finance providers. This aspect should be reviewed out from the fact that SEEs today are disadvantaged in relation to access to finance (public or private) compared to other enterprises.

5.3. Member States, Local and Regional Authorities

5.3.1. MS at national, regional and local level play a central role in providing enabling policy and support to develop and grow the social economy. Few MS have an adequate support system in place, calling on MS to develop and implement national support systems for the social economy, in accordance with the SBI. Particular emphasis should be put on access to tailored financial support both at national and local/regional levels. These initiatives could potentially be presented in the GECES context.

5.3.2. MS could act as co-investors to support the establishment of ethical funds, social innovation funds and social venture capital funds. A key element is to provide public guarantee schemes or, by providing policy, to motivate capital from pension funds, credit unions, etc.
5.3.3. MS should evaluate the possibilities of securing finance through state owned guarantee funds in order to give the social economy access to traditional finance.

5.3.4. MS can consider capitalising social investment funds by reviewing the opportunities of tax rebate on income (individuals and businesses), as well as other tax incentives for both savers and investors to attract investments into SEE. However the drive behind these tax advantages should be the social value creation by SEE.

5.3.5. The EESC urges the MS to develop suitable social economy regulations regarding microfinance, as already pointed out by the EC (22).

5.3.6. Financial intermediaries play a crucial role in social economy development. MS should encourage the emergence of social finance intermediaries, whether cooperative or ethical banks, or commercial banks with a specific subsidiary targeting the social economy, which provide social finance funds and instruments by providing a favourable regulatory environment.

5.3.7. Local and regional authorities play a key role in providing local infrastructure and implementing initiatives. In addition they should be urged to take initiative for multi-stakeholder cooperation to support local/regional development. Here the ERDF provides a vital support.

5.4. Other stakeholders

5.4.1. SEEs must themselves take initiatives in developing instruments such as auto-capitalisation, crowdfunding and engaging in social finance partnerships, gathering their own resources and initiating partnerships.

5.4.2. Important is also for SEEs to consider more cooperation with external partners such as private commercial banks and various intermediaries. This may not be suitable for all situations but could be valuable at some stages of development. Central is to build interest and knowledge of SEE among the financial community under the right conditions.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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In a letter dated 29 June 2015, and in accordance with Article 304 of the Treaty on the Functioning of the European Union, Nicolas SCHMIT, Minister for Labour, Employment and the Social and Solidarity Economy, acting on behalf of the future Luxembourg presidency, asked the Committee to draw up an exploratory opinion on:

‘The effects of digitalisation on the services sector and employment in relation to industrial change’ (exploratory opinion).

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its exploratory opinion on 15 July 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 139 votes to one, with eight abstentions.

1. Conclusions and recommendations

1.1. Digitalisation transforms all segments of society and the economy and thus logically affects work and employment as well. Digital technology has the potential to increase wealth to unprecedented levels and can boost the quality of work and employment in Europe. However, these opportunities come with risks attached, as is evident in all economic sectors, also including the private service industry (1).

1.2. On the one hand, the innovative services and business models that digitalisation makes possible yield previously unimagined gains in service productivity and enhance consumer choice (2). On the other hand, they have considerable consequences for the labour market and work organisation, such as greater income disparities and reduced access to social security systems, which can be prove negative for some workers if not properly countered.

1.3. The employment effects of service digitalisation therefore warrant political attention and management. Pro-active policymaking at the EU and national levels can and must ensure that the evident potentials of digitalisation can be unlocked while its pitfalls are avoided. With its Digital Agenda for Europe and the Digital Single Market initiative, the EU is an active player in the field of digital policy. However, most of the employment effects of digitalisation remain unacknowledged and thus are poorly addressed by relevant policies.

1.4. Digitalisation certainly is one of the most dynamic developments of our age, in which opportunities and risks are closely intertwined. Future developments are likely to be of a complex nature, with start-ups, small companies, and flexible operations emerging alongside traditional companies and industries. To date, the employment effects of such developments are not fully understood and cannot be predicted with precision. Therefore, fears about declining employment rates are mounting at the same time as skills mismatches persist in EU labour markets. Constructive collaboration and increased awareness among the main actors, i.e. governments and the social partners, are key in this situation. The broad variety of socio-economic structures and different levels of economic development in the EU may well require specific analyses and approaches to manage the effects of digitalisation on labour markets and employment.

(1) This opinion refers to private services sectors as defined in standard statistical classifications (e.g. NACE Rev. 2 F-N; Q-T).

1.5. The EESC highlights evident challenges in the area of service sector employment stemming from digitalisation and sets out the following recommendations for their political management:

1.5.1. In order to provide the EU workforce with the skills it requires in the digital age, public and private investment in vocational education have to be promoted and it must be examined whether European measures are required in order to generalise across the EU the positive experiences in Member States regarding training leave.

1.5.2. A broad dialogue should examine in more detail whether and to what extent employees' private lives require additional protection in a time of ubiquitous digital mobile communication and which measures, whether at national or European level, are appropriate in order to limit this universal availability/reachability. Similarly, smart measures will have to be considered to empower the growing number of self-employed in this respect.

1.5.3. Better statistics and research on the service industry are needed (at global and European level) to deliver detailed forecasts of developments in the labour market and of the polarisation of work, employment and income. Horizon 2020 should therefore provide adequate funding for research into employment in the service industry. Moreover, detailed and frequently updated statistics are urgently needed depicting the proliferation and growth of non-standard forms of employment, including data on practices such as crowdsourcing.

1.5.4. In order to counter the rise in income inequalities that are partly driven by digitalisation, collective bargaining should be promoted at all levels, especially in sectors and businesses that are affected by digitalisation. This can ensure that new forms of digitalised work organisation improve rather than deteriorate job quality.

1.5.5. Robust provisions concerning the protection of personal employee data are needed to protect established standards of privacy at work. European legislation on data protection should set high minimum standards and must not prevent Member States from regulating further. The EU data protection regulation currently being negotiated should therefore contain an 'opening clause' allowing Member States to go beyond EU minimum standards.

1.5.6. The EU and Member States, in consultation with the social partners, should consider strategies for adjusting the scope of social and labour standards so that they reflect the conditions of a digitalised working environment.

1.5.7. The new Industry 4.0 industrial cycle and digitalisation affect the whole of society. Constructive dialogue between the social partners, the Member States and the EU is called for to discuss the consequences for the labour market and possible and necessary adjustments in the field of social and labour law. Some very promising initiatives have been introduced recently by governments and the social partners — in Germany, the Netherlands and Austria, for example. In each case the specific features of national developments and their prospects will have to be taken on board. Best practices should be disseminated.

1.5.8. The EU, national governments and the social partners should initiate debates with a view to defining political measures and legislation that ensure appropriate levels of mandatory social protection for the entire workforce — including those in non-standard forms of employment.

1.5.9. The general macroeconomic conditions vary considerably between Member States. The general macroeconomic conditions vary considerably between Member States. In order to bolster employment despite declining demand for labour, potential problems need to be identified through discussion involving all stakeholders and the corresponding strategies established in line with individual Member States' requirements (e.g. including in the sphere of public investments, job-creating innovation and distribution and reduction of work).

1.5.10. Reforms of the tax systems need to be reviewed carefully to ensure similar levels of taxation for all forms of income, whether it is generated in conventionally organised sectors or in the sharing economy. To ensure the sustainability of the social security systems in the future and to reduce the burden on the labour force, it should be examined whether part of the digitisation dividend could be used for this purpose.
2. Introduction: structural change in services

2.1. Recent years have seen major breakthroughs in the development of digital technologies. The new and extremely powerful capabilities of digital technologies allow for the automation of ever more tasks and occupations (e.g. the self-driving car, the Internet of Things, Industry 4.0). Additionally, digital technologies are leading to drastic reductions in search and transaction costs and thus enabling the development of entirely new and highly scalable business models in services (e.g. online marketplaces and platforms including the so-called sharing economy, Uber, Airbnb). This is encouraging the digitalisation of business models and processes in a wide range of economic sectors. Some of them have already been addressed in previous EESC opinions (\(^3\)).

2.2. Digitalisation entails major change processes and restructuring in almost all sectors of the service industry (\(^4\)), which, until very recently, was thought to be resistant to technological rationalisation. Services were long seen as supporting other parts of the economy (e.g. agriculture, mining, manufacturing and construction), households and consumers and as a mostly passive user of new technologies. However, the advent of the internet combined with the liberalisation of telecommunications services has changed the role of services substantially.

2.3. The impact of these developments on employment in the affected sectors has built up slowly over the past decades but is now gaining pace. Some of the effects of digitalisation on employment in services are already visible, including:

— new skills requirements applying to the service workforce,

— labour-shedding investments as technology is becoming cheaper and is increasingly able to take over tasks that were previously reserved for human labour. At the macro level, this has led to declining demand for labour in traditional industries, with a lower share of GDP going to labour (\(^5\)),

— declines in the demand for medium- to high-skilled labour, which is expected to drop even further in the near future. According to various estimates, roughly 50% of today's jobs are at risk of being replaced by digital technology in the next 20 years (\(^6\)). However, experience shows that predictions of this kind have to be treated with caution.

2.4. Digitalisation currently promises to boost productivity to unprecedented levels and thus yielding a 'digitisation dividend' as well as — and this is the other side of the coin — reducing the demand for labour — particularly for medium-skilled workers — substantially. The latter goes hand in hand with rising unemployment, the ‘erosion of the middle class’ and further increases in income inequalities (\(^7\)).

2.5. Currently, US-owned firms are dominating the digital economy, while Europe has largely lost out in the development of digital technologies. Likewise, Europe seems to be ill-prepared for the fundamental changes induced by digitalisation affecting our economy and society (i.e. the already-mentioned massive productivity gains and the threat of creating imbalances that may lead to stark rises in unemployment among certain categories of workers and a further polarisation of society), which is cause for concern.

\(^{1}\) Including: Impact of business services in industry (rapporteurs: van Iersel and Leo) — (OJ C 12, 15.1.2015, p. 23), which outlines the specific characteristics of the fourth industrial revolution.

\(^{2}\) Definition of service industries as commonly used in statistical classifications.

\(^{3}\) See, for instance, Brynjolfsson and McAfee (2014): The Second Machine Age, New York, W.W. Norton & Company, Ch. 11.

\(^{4}\) e.g. Bowles, J. 'The computerisation of European jobs — who will win and who will lose from the impact of new technology onto old areas of employment?', 2014; 'The computerisation of European jobs', Frey, C. M., Osborne, M., 'The future of employment: How susceptible are jobs to computerisation?', 2013; Pajarinen, M., Rouvinen, P., Ekeland, A., 'Computerization Threatens One-Third of Finnish and Norwegian Employment', ETLA, 2015.

\(^{5}\) See footnote 10.
2.6. While it is impossible to forecast the outcome of technology-induced change at such a large scale, it is clearly necessary to call on the EU to take on an active role in shaping these developments and in managing their effects on employment and society — especially as such an active role is currently very far from being a reality (\(^8\)). This opinion seeks to rectify this by discussing the impact of digitalisation on employment in services and issuing related policy recommendations.

3. Transformation of skills needs

3.1. As a logical consequence of digitalisation, digital technologies are being introduced into a growing number of workplaces in the service industry. For instance, almost 60% of employees in the banking sector report the introduction of new technologies into their workplaces during the past three years (\(^9\)). Employees require specific competences, i.e. ‘e-skills’, to become proficient operators of such technology. This means that curricula in vocational education and training need to be updated accordingly and related training measures implemented.

3.2. However, official Commission data points to major bottlenecks in the area of skill formation, estimating that 47% of the EU workforce lack sufficient e-skills — although marked differences exist between countries (\(^10\)). Along with wasting opportunities for job creation, this ‘skills mismatch’ may hamper the development of the digital economy and thus harm EU competitiveness if left unresolved.

3.3. Reliable knowledge concerning skills needs and gaps is required in order to address this skills mismatch in curricula. Indeed, the EU is already active in this field, particularly through agencies such as Cedefop. Allowing the social partners to take the lead in such ‘skills intelligence’, for instance in the form of sector skills councils, has already proved a successful practice. Against this background, it is regrettable that the Commission is considering weakening their role by replacing social partner skills councils with multi-stakeholder skills alliances. However, as the problem of the skills mismatch persists despite the skills intelligence available, the lack of strategic implementation and investment would seem to be the chief problem.

3.4. The promotion of public and private investment in vocational education and training is key. Some Member States have introduced minimum entitlements to paid educational leave. It should be examined whether this is a useful instrument for employers and employees alike to gear skills towards needs and whether European measures are needed to introduce this possibility across the EU.

4. The polarisation of work organisation and income

4.1. Changing skills requirements are entwined with transformations in work organisation, i.e. the tasks that employees fulfil and how they fulfil them. In this area, digitalisation is currently leading to the gradual polarisation of service employment in terms of work autonomy and wages, meaning that service jobs are more likely to be situated at either the high or the low end of the wage and autonomy scale, with a declining number of jobs between the extreme poles. At the same time, we are also seeing new developments resulting from spontaneous adjustments in the labour market.

4.2. A digitalised service industry creates demand for labour performing knowledge-intense tasks, especially in professional and technical service occupations that, for instance, manage IT networks. The tasks performed by such professionals can typically be carried out remotely and at any time by using mobile digital devices.

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4.3. Such flexible work organisation typically provides employees with high levels of work autonomy and entails the potential to improve job quality, increase and facilitate the reconciliation of work and family life. However, such flexible forms of work also create risks if employees are or feel obliged to remain available for work at all times. Such ‘work without boundaries’ may cause stress and burnout.

4.4. A broad dialogue should examine in more detail whether and to what extent employees’ private lives require additional protection in a time of ubiquitous digital mobile communication and which measures, whether at national or European level, are appropriate in order to limit this universal availability/reachability. Smart measures should also be considered to strengthen the position of the growing number of self-employed workers in this respect.

4.5. In other sectors, job autonomy is decreasing through services digitalisation. This is occurring, for instance, in e-commerce logistics centres, where routine-heavy jobs are created. In such forms of work organisation, employees typically receive detailed instructions through digital devices concerning which item to pack into which box.

4.6. Due to their standardised and relatively simple nature, such routine forms of work create accessible job opportunities for low-skilled people and labour market entrants. However, the quality of such work is often perceived as low because employees feel their skills and abilities are not fully harnessed.

4.7. Digitalisation certainly is one of the most dynamic developments of our age, in which opportunities and risks are closely intertwined. Future developments are likely to be of a complex nature, with start-ups, small companies, and flexible operations emerging alongside traditional companies and industries. To date, the employment effects of such developments are not fully understood and cannot be predicted with precision. Therefore, fears about declining employment rates are mounting at the same time as skills mismatches persist in EU labour markets. Constructive collaboration and increased awareness among the main actors, i.e. governments and the social partners, is key in this situation. The broad variety of socio-economic structures and different levels of economic development in the EU may well require specific analyses and approaches to manage the effects of digitalisation on labour markets and employment.

4.8. Better statistics and research on the service industry are needed (at global and European level) to deliver detailed forecasts of developments in the labour market and of the polarisation of work and employment. Adequate funding for research into service sector employment and work organisation should therefore be provided under Horizon 2020. Research findings must be put into effect by active employment policies that ensure that opportunities for high quality digital jobs are taken while risks are avoided. Additionally, the introduction of new forms of work organisation should be made subject to negotiation between the social partners in order to ensure that new forms of digitalised work organisation improve and do not deteriorate job quality.

4.9. With such tendencies towards polarisation in work organisation comes the polarisation of income, as also noted by the European Parliament (11). In some cases, this is facilitated by the absence or circumvention of collective agreements. For instance, this is the case where providers of digital services insist on the special nature of their business models to dispute the applicability of existing collective agreements to their employees. To that effect, some e-commerce companies insist that their workforce do not qualify as retail workers and are thus ineligible for collectively agreed retail sector wages.

4.10. In order to counter the rise in income inequalities that are partly driven by digitalisation, collective bargaining should be promoted at all levels, especially in sectors and businesses that are affected by digitalisation.

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4.11. Workers in digitalised forms of work organisation produce large quantities of personal data, which contain information relating to where employees do what, when and with whom. Besides creating opportunities for highly efficient work in seamless flows of information, this also enables intrusive practices of employee surveillance that jeopardise established standards of privacy at work.

4.12. Robust provisions concerning the protection of personal employee data are needed to protect established standards of privacy at work. European legislation on data protection should set high minimum standards and must not prevent Member States from regulating further. The EU data protection regulation currently being negotiated should therefore contain an ‘opening clause’ allowing Member States to go beyond EU minimum standards.

5. Transformation of employment and labour market institutions

5.1. As information can be shared across large distances and among vast audiences at very little cost, digital technologies enable highly fragmented business models. This reduces the need for rigid, functionally and geographically integrated company structures with clearly defined staff, hierarchies, and premises.

5.2. Such developments increase companies’ ability to rely on flexibly contracted labour, for instance in the form of self-employed workers. Especially in services sectors, such as in ICT, media, or administrative and support services, recent growth in self-employment has been substantial (12). Practices such as crowdsourcing, i.e. online platforms allowing companies to publish tenders for work assignments for which freelancers compete, are expected to lead to further growth in self-employment. Moreover, competition for job opportunities on such crowdsourcing platforms is global, implying a competitive advantage for bidders from locations characterised by a low cost of living, low income tax rates and a low level of social security cover.

5.3. Some workers appreciate the flexibility offered by such employment arrangements. However, the strong growth in non-standard forms of employment could render established labour market institutions (such as employment protection legislation, occupational health and safety regimes, collective bargaining and social dialogue structures) partly ineffective. Additionally, with increased cross-border competition between jobseekers, for instance on crowdsourcing portals, such labour market institutions are coming under competitive pressure. It is for the national social partners and governments to find solutions to this by means of constructive dialogue in order to guarantee a fair and inclusive labour market for all employment arrangements in the future in the light of digital change.

5.4. Employment in the sharing economy proves particularly delicate in this respect. In many cases, the employment relationship and legal status of the parties involved remains unclear. The question of whether the driver of a private vehicle that can be hired via an online platform is self-employed or dependently employed, and if so, by whom — the passenger or the operator of the online platform — frequently remains unclear. This makes the identification of relevant legislation in terms of both employment and liability law, and collectively agreed provisions, a legal challenge. If none of the established categories of law and collective agreements were applicable, the sharing economy would indeed operate in legal grey areas. This may exert competitive pressure on employment and businesses operating within established categories of law and collective agreements.

5.5. Currently, reliable and up-to-date information on which to judge what employment policy measures are right for the sharing economy is missing. Detailed and frequently updated employment statistics on non-standard and new forms of employment are urgently needed to rectify this.

5.6. The EU and Member States should consider strategies for adjusting the scope of social and labour standards so that they reflect the conditions of a digital world of work. Related initiatives should take the form of structured dialogue with the social partners, in order to bring about practicable and evidence-based solutions that also take the interests of service users into account. Promising initiatives are already under way in Germany, the Netherlands and Austria.

5.7. As these developments also challenge established practices of social dialogue and collective bargaining, constructive dialogue between the social partners is called for to ponder possible and necessary adjustments. The European Union can be instrumental in encouraging such dialogue by providing funding for related social partner projects and by encouraging related research projects under the Horizon 2020 programme.

5.8. Digitalisation enables business models in service sectors to become much less labour-intensive. This is for instance the case in banking, where business processes have been partly automated and shifted into the digital realm. This renders part of the workforce redundant. Frey and Osborne (University of Oxford) expect that medium-income jobs and occupations, including some liberal professions, will be particularly affected by such automation (\(^{13}\)). Digitalisation will also have a considerable impact on employment in the area of public administration and institutions, as well as on services of general interest as a whole — something that has not been given enough consideration to date. The EESC will therefore take a position on the matter in a separate own-initiative opinion.

5.9. The Bruegel think-tank estimates that EU Member States are at risk of losing between 40 % and 60 % of jobs during the next 20 years due to digitalisation-induced automation (\(^{14}\)). Moreover, it seems that in the digital age, unlike in previous stages of industrial development, overall productivity gains in the economy no longer translate directly into employment growth (\(^{15}\)). It therefore remains doubtful whether a fully digitalised economy produces sufficient demand for labour to make up for the estimated job losses brought about by service automation. On the other hand, there is still a skills mismatch throughout Europe, and it is difficult to make predictions.

5.10. Shifts in demand for labour in a digitalised service industry, measured in terms of hours worked, need to be monitored. In order to bolster employment despite declining demand for labour, and to avoid jeopardising social cohesion, a discussion among all stakeholders is urgently needed in order to draw attention to the potential problems and, according to need in the individual Member States, to develop strategies to solve them (e.g. in the area of public investments, job-creating innovation, job creation, and distribution and reduction of work).

6. Impact on welfare states and tax regimes

6.1. The strong growth in new, non-standard forms of employment that is caused by digitalisation implies that a growing share of the workforce does not contribute to or benefit from established social security systems such as public unemployment, health and pension insurance. In some Member States, this is already the subject of debates between social partners and governments. Combined with declines in overall employment rates, such developments may erode revenue for, and thus the overall effectiveness of, established tax and welfare regimes that rely on revenue mainly generated through levies on wages and systems of employer-employee co-financing and thus depend on high rates of standard employment.

6.2. This loss of effectiveness would pose serious threats to the fabric of the European social model, which is built on strong public engagement in the financing and provision of services of general interest and effective social security nets. However, successfully mastering the process of digitalisation is largely dependent on the effective provision of services of general interest, such as modern education systems and broadband infrastructure.

\(^{13}\) Frey and Osborne (2013) cited in footnote 6.

\(^{14}\) Bruegel (2014): The computerisation of European Jobs.

6.3. The EU, national governments and the social partners should initiate debates with a view to defining political measures and legislation that ensure appropriate levels of mandatory social protection for the entire workforce — including the self-employed, crowd workers and workers in the sharing economy. It should be taken into account that diverging views may be represented within these groups.

6.4. Likewise, reforms to the tax systems need to be carefully examined to ensure similar levels of taxation for all forms of income, whether generated in conventionally organised sectors or in the sharing economy. The EU should encourage and coordinate corresponding reforms at Member State level.

6.5. In order to ensure the future sustainability of welfare systems and take the pressure off the labour factor, the possibility could be considered of using part of the 'digitisation dividend' for this purpose.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on an ‘Integrated EU Aviation Policy’
(exploratory opinion)
(2016/C 013/25)

Rapporteur: Mr Jacek KRAWCZYK

On 2 March 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on an:

Integrated EU Aviation Policy
(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 97 votes in favour with 3 votes against and no abstentions.

1. Conclusions and recommendations

1.1. The competitiveness of EU aviation is at stake if the entire European aviation value network cannot compete in a globalised economy. To this end, ‘more intermodality, better connectivity, better use of secondary hubs and regional airports, as well as optimisation of current processes are of utmost importance’ (1).

1.2. The European Commission (Commission) has developed several regulatory initiatives for the aviation value network within the EU; it reviewed the Guidelines on state aids for airlines and airports, introduced an airport package, legislation to promote progress towards a Single European Sky; but further work will be needed to ensure complete implementation of EU legislation in the field of aviation by Member States.

1.3. EU aviation is at a crucial junction: without a compelling and coherent strategy, it runs the risk of further difficulties in providing for reliable connectivity for its citizens and trade and tourism, and thereby losing its economic clout and growth potential. This does not, however, require new legislation in all cases. The EESC again urges the Commission to do more to ensure that current EU legislation is implemented.

1.4. In light of the fragmented airline landscape, the increasingly competitive non-EU hubs, the slow progress towards implementation of a Single European Sky and the increasing risk of insufficient connectivity to smaller and/or peripheral regions, the Commission’s strategy for EU aviation should be driven by a compelling vision of how best to promote European competitiveness without distorting competition or undermining the social and labour relations.

1.5. The EESC believes that the Commission should identify the drivers of competitiveness and base its strategy on the economic benefits that aviation creates for Europe, as well as the social and environmental values, which characterise European Union.

1.6. The EESC urges the Commission to ensure that comparable international norms and standards will be applied to EU and non-EU competitors. This includes promoting the international application of principles of fair competition as well as ILO fundamental conventions. This may involve a review of the current provisions governing stakeholder involvement in international negotiations.

(1) OJ C 230, 14.7.2015, p. 17.
1.7. The EESC believes, that the aviation strategy to be developed must be based upon a constructive social dialogue. At EU level the Sectoral Social Dialog Committee for Civil Aviation should be consulted on initiatives by the EU institutions concerning the sector. Several provisions exist at national level, which should be implemented to secure social and labour conditions and prevent distortions to competition through flags of convenience. Although the European Union’s jurisdiction is limited in this area, the Commission should do its utmost to build strong support from social partners at EU and MS levels for its initiatives.

1.8. The EESC also recommends that the Commission consults with the Committee on the ongoing development and implementation of the Commission’s aviation strategy. The EESC will launch a separate project to allocate appropriate resources and expertise.

1.9. The EESC calls upon all aviation stakeholders to commit to the implementation of a new EU aviation strategy. Only if particularisms in the European aviation value network are overcome, can it regain momentum and restart to build new valuable economic and social contributions to EU development. Strong political leadership of the European Commission is a must.

1.10. For more detailed recommendations please look also into point 3 of this opinion.

2. Introduction: The economics of aviation drive strategy and urgency

2.1. The air transport system generates benefits beyond the immediate aviation industry. Apart from providing connectivity and mobility to people and businesses, these include: trade and tourism, securing investments, supplying labour and improving productivity and innovation, thus contributing to society’s welfare.

2.2. In 2012, the air transport industry in Europe directly generated an estimated 2,6 million jobs; the spending of tourists arriving at their destination by air were estimated to have added 4,7 million jobs and USD 279 billion in GDP.

2.3. Manufacturing of aviation hardware and software in Europe matches the world’s highest innovative standards. The same is now true for innovation in air traffic organisation and procedures and business development and management.

2.4. Given that air traffic is an enabler of economic growth, SESAR (the technological part of Single European Sky — SES) is expected to create a combined positive impact on GDP of EUR 419 bn over the period to 2020 and approximately 42 000 additional jobs.

2.5. The EU has developed a regulatory framework for the European aviation market:

2.5.1. The Single European Sky — a project started in 2004, updated in June 2008 with the SES II regulation, and in 2013 with SES II+. The main objective is to reform ATM in Europe in order to cope with continued air traffic growth and air traffic operations under the safest, and yet more cost- and flight-efficient and environmentally friendly conditions. (See EESC Opinion TEN/504 (*) and TEN/354 (**)).

2.5.2. The Airport Package — On 1 December 2011, the European Commission adopted a comprehensive package of measures to address capacity shortage at Europe’s airports and improve the quality of services to passengers. The European Parliament approved the legislative proposals in December 2012. (See EESC Opinion TEN/475 (*)�).

(*) OJ C 198, 10.7.2013, p. 9.
2.5.3. **Inclusion of aviation in the EU Emission Trading System (ETS) in 2012.** The European Commission introduced a scheme based upon trading of emission certificates. After an unsatisfactory result of ICAO 2013 Assembly, the EU adopted a modified version of the ETS, to be temporarily applied for intra-EU flights only subject to the outcome of the 2016 ICAO Assembly.

2.5.4. The **review of State Aid rules** — adopted by the Commission in February 2014 to update and modernise earlier regulations from 1994 and 2005. The key features of the current guidelines define new criteria for airports eligible for state aid, as well as for start-up aid to airlines launching new routes (See EESC opinion CCMI/125 (5)).

2.5.5. **Airport capacity** — The Community Observatory on Airport Capacity was set up for a period of 5 years under the Commission’s 2007 ‘Action plan for airport capacity, efficiency and safety in Europe’, and from 2008 to 2013 played a crucial role in the plan’s implementation. The Observatory enabled stakeholders to provide valuable feedback for the Commission, including exchange of best practices and policy solutions for problems (See EESC Opinion TEN/552 (6)).

2.5.6. **Consumer protection** — In March 2013 the European Commission announced a package of measures updating air passengers’ rights that focused on four key areas: clarifying grey areas, new rights, enforcement, complaint procedures and sanctioning, disproportionate financial burden.

2.5.7. These are only some of the measures, policies and projects carried out by the EU on aviation. The Commission has also intensified cooperation with EU and European agencies such as EASA and Eurocontrol, as well as a broad range of activities related to the international dimension of EU air transport.

2.6. The EESC is of the opinion, that the EU needs an integrated aviation strategy:

2.6.1. Politically, therefore, the EU aviation strategy must increase the efficiency of the aviation sector within Europe, and increase negotiation leverage internationally. This requires political will, vision and courage to balance the requirements of sovereignty with the need for compromise.

2.6.2. Economically, the strategy should lead to an improved aviation value network that will drive economic prosperity and growth across Europe.

2.6.3. Legally, the strategy should deliver a robust regulatory framework at the macro level, planning stability at the micro level, and procedurally all stakeholders should be encouraged to contribute to its development and implementation.

2.7. In the EESC view, the EU aviation sector requires such a strategy as a matter of urgency, because the European value network is inefficient. Aviation is not providing the possible impulses to economic growth; many non-EU governments, however, are adapting their aviation systems to the geopolitical shift of growth and to the requirements of a globalised economy. This trend can only be stopped if a robust, market-oriented strategy is implemented which is based upon European values.

2.7.1. European hubs and European airlines are not participating in traffic growth as they would, if they too benefitted from a favourable regulatory environment. The lack of efficiency in the coordination of air space leads to circuitous routings and unnecessarily high levels of CO₂.

2.7.2. The multiplicity of certification processes with potentially divergent outcomes hinders innovation to flourish, and discourages investment in European products or the use of such new products in Europe.

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2.7.3. In the absence of a shared strategy, opportunities to secure growth for European airlines outside of the EU are missed and EU Member States will remain inclined to pursue their own national interests even if the total advantage to be gained by EU mandates would be greater than the sum of its parts.

2.7.4. In the context of a globalised economy, and a geopolitical shift of traffic growth to Asia, a fragmented EU will continue to lose clout and international relevance. European standards, the shared values of its citizens, companies and Member States, would lose attractiveness as international standards.

2.7.5. The EESC commends the EU Commission for having initiated a public consultation on the 'Aviation package for improving the competitiveness of the EU Aviation sector'. The broad range of responses will add credibility and clout to the Aviation package Communication proposal.

3. The way forward: aviation strategy to promote drivers of competitiveness

The EESC has identified six factors which determine the degree of European competitiveness. An EU strategy should leverage these factors to ensure its successful implementation.

3.1. Safety

3.1.1. The key pillar for a sustainable EU aviation strategy is safety. Although aviation in general, and European aviation in particular is by far the safest mode of transportation, there is no room for complacency.

3.1.2. It is of utmost importance to further strengthen EASA’s role and resources as the central agency for safety management, certification of aviation products, and the oversight of the pertinent organisations at national level. In this context, EASA’s ability should be enhanced to coordinate with all stakeholders, not only in the context of aviation-related incidents, to improve safety standards by, for example, reviewing safety rules, stressing the role of training, avoiding undue overregulation and promoting ‘just culture’.

3.1.3. The professionalism and expertise of EASA is internationally recognised, it has established itself as a quasi-counterpart of the US FAA. The implementation of the so-called blacklists of non-compliant non-EU airlines and/or governments is of paramount importance not only for the safety of European airspace and passengers, but as a pre-requisite for adherence to the highest international safety standards. The Aviation strategy should build on these achievements. The Commission should also re-assess work standards and the possible risk of social dumping (See EESC Opinion TEN/565 (7)).

3.2. Sustainability

3.2.1. A further factor determining the soundness of the EU aviation strategy is its ability to ensure that aviation can deliver sustainably.

3.2.2. Social partners, stakeholders, and international partners in the public and private sector need to be able to rely upon a credible and reliable EU aviation policy based upon a coherent and robust strategy. Sustainability thus covers economic factors, as well as the ability of the individual competitors to succeed in their respective markets; however, even economic and commercial success is short lived, if the aviation strategy is not also environmentally and socially sustainable.

3.2.3. Meeting the challenges of sustainability in a global context, whilst also recognising the need to comply with EU specific requirements and provisions and structures is only possible if a holistic approach is pursued and the EU stakeholders coordinate their activities with a shared understanding of the strategic objectives.

(7) EESC Opinion TEN/565 — Social dumping in civil aviation, see page 110 of this Official Journal.
3.2.4. The creation of the Single European Aviation Market has created a dynamic which is rapidly impacting structural market changes, such as: cross-border acquisitions, quasi mergers of airlines; creation of holdings and strategic investments into airports and airlines by non-EU companies. This also impacts the role of EU institutions. As a consequence, the Commission should review its current governance models and develop proposals to adapt them to the institutional and market reality.

3.2.5. In the field of air traffic management, the relationship between the Deployment Manager and the Network Manager should be reviewed. The Performance Review Body should operate under clear leadership of the Commission.

3.3. **Competitiveness through innovation and digitalisation**

3.3.1. Digitalisation is a primary driver of innovation, changes to passenger expectation, increased utilisation of drones, product customisation and innovation. It is essential that the Commission embraces the positive effects of digitalisation as a main priority of the aviation strategy to promote and implement a comprehensive and integrated transport policy.

3.3.2. Airlines and airports have developed innovative business approaches to access new sources of revenue, increase operational efficiency and unbundle and rebundle their services to limit the commoditisation of their product and offer customised services.

3.3.3. The EU aviation strategy should build on these developments with the objective of securing a leadership role for the EU in the fields of a thus more broadly defined innovation. The use of SESAR as a technological tool should be further enhanced to boost competitiveness and promote growth.

3.3.4. Drones currently present the most challenging dimension to the need for and limitations of innovation. The proliferation of drones for military, commercial and private use poses several requirements, particularly with regard to safety of air traffic, security, personal privacy, and legislation on certification and licencing of their use, to name but a few. If the development and use of drones are promoted appropriately, Europe can assume a leadership role (See EESC Opinion TEN/553).

3.3.5. Europe should indeed be promoted as the world bio jet hub, R & D should foster up-scale production of bio jet fuel in EU.

3.4. **Social dimension**

— In line with the Commission Work Programme 2015, the creation of jobs in the EU economy including aviation should be a priority. Both existing and newly created jobs should be based on the best European standards.

— The success of European aviation depends on the skills and qualification of its employees. Therefore, measures should be adopted to increase the attractiveness of this sector and prevent a skilled workforce from leaving the sector or looking for work in other parts of the world (‘brain drain’).

— As a joint voice of the employers and employees in the sector, the EU Sectoral Social Dialogue Committee for Civil Aviation shall be consulted on initiatives by the European institutions concerning the sector. This will ensure that the voice of social partners is heard and increases the likelihood of their support.

— Any agreements in the field of EU External Aviation Policy should seek to ensure that principles of the ILO are addressed and mutually acceptable means of securing adherence sought (See EESC Opinion TEN/500).
3.5. **Operational excellence**

3.5.1. The success of the EU aviation strategy can be measured by the degree to which individual stakeholders from the public and private sector are encouraged to deliver their best. The larger the gap between the status quo and optimal operational excellence, the less competitive European aviation will be internationally. This principle applies to air space management, airport and airline efficiency and seamless interinstitutional cooperation within Europe.

3.5.2. Key Performance Indicators reveal suboptimal performance levels because of the divergence of national approaches, which contributes to a fragmentation of the Single European Aviation Market. A trade-off is required between legitimate legal and political national interests and the ability of stakeholders to achieve optimal operational excellence.

3.5.3. ‘We must do our homework’. A functional and efficient Single European Sky is a *conditio sine qua non* for the sustainable competitiveness of the European aviation sector. Solving airport capacity crunch must be an integral part of this.

3.5.4. EU aviation policy cannot be limited to EU air space; by its very nature EU aviation affects the entire geographic region of Europe. Non-EU European governments and stakeholders should therefore be seen as natural partners of the EU, who, under the leadership of the EU Commission, will be consulted and included in the comprehensive EU aviation policy. The continued development of Eurocontrol's databank and experience in central flow management is a prime example of building bridges between the EU Member States' air navigation management tools and those of other European nations.

3.5.5. The principle of One-Stop Security, which should be implemented across the EU, should also be considered with regard to other countries. Mutual recognition of standards should also be possible with 'like-minded' countries and this would again contribute to a balanced global security regime where all efforts are targeted at the real threat (8).

3.6. **Connectivity**

3.6.1. The aviation sector has in itself matured into an aviation value network, companies which are inter-linked to jointly deliver value. The Single Aviation Market has facilitated the growth of highly efficient pan European airlines and airline-groups; likewise niche carriers are developing. These 'next generation' airlines as well as other airlines based on different business models, all depend upon a network of efficient and market-oriented suppliers for their sustainable success.

3.6.2. Such an inter-dependent network of airlines, airports, ground handling companies, air traffic management organisations etc. not only generates employment as a sector, but for the regions and communities this industry connects. The higher the degree of connections, the more relevant such connections are for a region or a community because of their attractiveness for tourism and trade, the greater the value of connectivity for the economy.

3.6.3. Efficient aviation is thus a facilitator of economic growth. A successful EU aviation strategy should therefore seek to improve economic growth by providing for a reduction of the external costs affecting the sector's activity in the EU, and for growth opportunities for aviation internationally.

3.7. **International aviation**

3.7.1. Aviation is one of the few service sectors that compete not locally, but globally. Therefore, production costs, available political support and funds granted to non-EU airlines, but denied to EU carriers, affect Europe's competitiveness.

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3.7.2. The European Union has globally unparalleled strengths. Despite and because of its internal diversity, it has established conflict resolution mechanisms, approval schemes for state aids, social dialogue, and security standards these together with other standards form a set of values which are shared by its over 500 million citizens, and companies, of one of the most powerful, stable and influential economic regions of the world. Accessing this market is a highly attractive option for non-EU companies.

3.7.3. The EU aviation strategy should be built on these standards and in concerted and coordinated negotiations strive to seek their acceptance by third countries. The EU has already established a functioning EU-US Aviation Agreement, which contains provisions that enable both Parties to further develop consensus on enhancing, jointly implementing and even extending these standards to third countries. A comprehensive and integrated aviation policy should therefore seek to use current instruments, such as the EU-US Joint Committee, as a means of establishing a shared understanding with other like-minded nations across the world that sustainable aviation depends upon respect for basic values. The EU and the USA could take a lead role in establishing global standards (including SESAR/NextGen).

3.7.4. Particularly in the field of external relations, it is insufficient to ensure that all Member States and all stakeholders from the private sector can be involved in all phases of all talks; key should be to ensure that particularly stakeholders with specific interests in given markets regionally, globally or sectorally, should be consulted and involved so as to ensure a continued buy-in for an integrated, comprehensive aviation policy. Aviation can only foster economic growth if DG MOVE is fully supported by other Directorates, such as REGIO, TRADE and COMP.

3.7.5. In a globalised economy, ownership and control provisions should certainly be carefully reviewed and reconsidered. Future-oriented EU aviation strategy should consider codifying the European Union’s principles for fair competition leveraging acceptance of such standards by non-EU carriers as a means to ensure fair competition in liberalised markets. To gain better understanding the EESC recommends that the Commission considers different options of possible modification of the current ownership and control requirements separately. Proposals should be based on further research and analysis.

Brussels, 17 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on the 'Internal market of international road freight: social dumping and cabotage'  
(exploratory opinion)  
(2016/C 013/26)

Rapporteurs: Stefan BACK and Raymond HENCKS

On 6 July 2015, the future Luxembourg EU Council Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

The internal market of international road freight: social dumping and cabotage
(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 170 votes to 3 with 5 abstentions.

1. Conclusions and recommendations

1.1. The EESC reiterates its support for the Juncker Commission's objective to fight social dumping as expressed in its 2015 opinion on the Roadmap to a single European transport area, as well as its call for the Commission to propose preventive measures (1).

1.2. The EESC notes with satisfaction the support of the Luxembourg Presidency of the Council for the Commission's initiatives to fight all forms of social dumping, such as those related to undeclared work (2).

1.3. The EESC regrets that the notion of social dumping while extensively used is not defined. For the purpose of this Opinion the EESC considers as social dumping practices that endeavour to circumvent or are in breach of social or market access regulations (letterbox companies) in order to gain competitive advantages. This opinion will focus on ways to deal with this kind of action.

1.4. The EESC welcomes the Commission's plans:

— to simplify and clarify EU regulations on access to the occupation of road transport operator and on access to the international road haulage market, particularly regarding cabotage in order to facilitate implementation,

— to strengthen the establishment criteria to prevent abusive use of 'letterbox' companies,

— for a labour mobility package to facilitate the free movement of workers and to improve the Member States' capacity to fight social dumping, fraud and abuse regarding the posting of workers and access to welfare benefits.

1.5. The EESC reiterates its support for the Commission proposal for a European platform to enhance cooperation in the prevention and deterrence of undeclared work and asks the Council and the European Parliament to adopt this proposal rapidly (3).

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(2) Programme of the Luxembourg Presidency, p. 12.
1.6. The EESC believes that there is an urgent need for EU-level action to avoid the risk of fragmentation of the internal market in road transport through unilateral national measures to combat social dumping. Successful EU action may create favourable conditions for further market opening (\(^4\)).

1.7. The EESC asks the Commission and Member States, who are mainly responsible for the enforcement of both road transport and social legislation to prioritise the following:

— ensuring full cooperation between labour and road transport surveillance authorities in the EU Member States,

— consolidating the data of the national electronic registers for road transport undertakings (see Regulation (EC) No 1071/2009 of the European Parliament and of the Council (\(^5\), Article 16) with social and labour records of professional drivers to improve cross-border enforcement and counteract abuse or fraud,

— urgently implement the interconnection of the national registers through the European Register of Road Transport Undertakings (ERRU), which should have been in place in December 2012, to improve cross-border enforcement and cooperation between Member States; using the Internal Market Information System (IMI) could be considered in this context (\(^6\)),


1.8. The EESC underlines that reinforced compliance control must not mean disproportionate requirements that hamper normal competition between European transport companies and completion of the internal market in the road transport sector.

1.9. The EESC also points out that when proposing simplification of market access provisions, including cabotage, the Commission might consider the option of aligning the rules on road freight transport with those applicable to temporary provision of services in general, bearing in mind the specific character of the transport sector. Simplification of market access rules would provide a basis for more coherent enforcement and an enhanced culture of compliance which would limit the possibilities for social dumping. Simplification should be closely linked to vigorous enforcement of decided measures to avoid social dumping.

1.10. The EESC asks the Commission and Member States to foster the exchange of information and best practice on effective enforcement to combat abuse and social dumping. To this end, a high-level EU conference will be organised to present and share best practice.

1.11. The EESC asks the Commission to invite Member States to engage in projects to encourage and stimulate compliant undertakings via effective and operational risk rating systems.

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\(^4\) The EESC, in this context, refers to the assessment made in the Commission’s 2014 report on ‘The State of the Union Road Transport Market’ (COM(2014) 222 final).


\(^7\) OJ L 177, 4.7.2008, p. 6.


\(^9\) OJ L 159, 28.5.2014, p. 11.
2. State of play of the sector and market

2.1. Road freight transport is the engine of the European economy. It accounts for 73% of inland freight transport. Freight represents almost 2% of European GDP. The share of international transport increased moderately between 2004 and 2012 from 30% to 33%. The number of cabotage operations increased by 50%, but their market share is still low (only 5%). From 2005 to 2012 national haulage operations decreased by 9.1% while cross-trade was the fastest-growing segment of road haulage market: more than 80% between 2004 and 2012 (10).

2.2. In 2013 alone, cabotage operations went up by 20%. Western Europe hosts the largest percentage of cabotage operations. Thus, 86% of total cabotage takes place in Germany, France, Italy, the United Kingdom, Belgium and Sweden (11). According to a study (12) for the European Commission, most national transport is undertaken by domestic hauliers based within that Member State.

2.3. A European Commission report on the state of the market published in 2014 asserts that, all in all, wages, absolute levels of labour costs and other remuneration elements are converging across the EU (13). Persisting divergences are said to correspond to the general difference in wage levels between EU-12 (EU-13) and EU-15 (EU-15 means Member States that joined EU before 2004 and EU-12 or EU-13 are the states that joined the EU in 2004 and later).

2.4. These differences must be regarded in the specific context of the road haulage sector, characterised by a high mobility of the workforce and by strong cross-border activity. While these wage differentials are inevitable across the internal market as a whole, if exploited in a way that circumvents or is contrary to the law, they may have an impact on competition conditions in the sector, and on the drivers’ situation, as shown in the following sub-section (14).

2.5. It is acknowledged that the road freight transport sector faces a number of other challenges. As well as suffering from a shortage of skilled drivers, the sector remains unattractive for youth and women, mainly due to poor working conditions, poor remuneration, lack of career prospects and the poor work-life balance record (15). While this opinion focuses on the need to address social dumping in the sector, it is recognised that progress in meeting the above challenges can also contribute positively to mitigating social dumping.

3. EU rules applicable to the road haulage sector

3.1. The following EU legislation and jurisprudence is particularly relevant for this opinion.

(a) Access to the profession and market access:

— Regulation (EC) No 1071/2009 establishing common rules on access to the occupation of road transport operator,


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(10) Employment Conditions in the International Road Haulage Sector, Study for the European Parliament EMPL Committee, 2015.
(11) Idem.
(15) See footnote 12.
(b) Social legislation specific for road transport:

— Directive 2002/15/EC of the European Parliament and of the Council (17) on the organisation of the working time of persons performing mobile road transport activities,


(c) Other pertinent EU legislation (social, etc.) applicable to all industrial sectors:

— Regulation (EC) No 593/2008 (Rome I Regulation) on the law applicable to contractual obligations,

— European Court of Justice (ECJ) rulings on the Koelzsch case (15 March 2011) and the Vugggeerd case (15 December 2011), clarifying the application the Rome I Regulation to the specific circumstances of the road transport sector,


— Directive 96/71/EC on the posting of workers in the framework of the provision of services,


3.2. The Posting of Workers Directive and its Enforcement Directive apply wherever all the conditions set forth in the Posting of Workers Directive are met. Hence, the Directives apply only regarding temporary postings outside the country where the driver habitually works. Where applicable the Posting of Workers Directive grants the minimum pay and certain other social provisions of the Member State where the work is carried out. Otherwise the applicable law will be governed by contract and the Rome I Regulation on the law applicable to contracts (Regulation (EC) No 593/2008). The Rome I Regulation will give preference to mandatory employment rules applicable in the country where or from which work is habitually done, irrespective of the home base of the employee or the law selected in the employment contract. Reference is made to the ECJ decisions quoted above under 3.1.

3.3. In a number of situations it will be difficult to demonstrate that the Rome I Regulation or the Posting of Workers Directive will grant precedence to provisions other than the law of the home base or the law contractually agreed. When deciding on the applicable law, enforcement bodies will then consider all relevant elements, including the requirement for a real link with the home base for that law to apply.

3.4. The EESC points out that the Posting of Workers Directive 96/71/EC has been applied in different ways regarding the road transport sector. It is therefore important to scrutinise the implementation of that Directive and the enforcement Directive 2014/67/EU in the context of the planned worker mobility package to ensure coherent and efficient enforcement.

3.5. As already pointed out in particular rules on market access in the road transport sector, including cabotage are unclear and complex and are interpreted and implemented in different Member States. This creates legal uncertainty for all concerned and makes it difficult to check compliance.

3.6. The above implementation problems, together with a wish to urgently deal with the issue of social dumping has led to a situation where a number of Member States have adopted national legislation to deal with the problem of wages and social standards. Such measures are already causing problems for the proper functioning of the internal market, for instance regarding national minimum wages and driving and resting time regulations (20).

4. The problem and whom it affects

4.1. This exploratory opinion deals with social dumping and cabotage in road freight transport. For Western European hauliers, labour is by far the largest part of their operational costs. By contrast, for operators based in Central and Eastern Europe the highest average cost is fuel. A different cost structure may also enable more investment. Against this background, some EU-15 hauliers experience a competitive disadvantage and seek to use low-wage labour. This is sometimes done by EU-15 as well as EU-13 hauliers through schemes that circumvent or breach EU or national legislation (i.e. Regulation (EC) No 1071/2009, Directive 96/71/EC, letterbox systems, etc.). Loopholes in legislation and the mobile character of transport activities may make it difficult to detect illegal schemes. As pointed out in 4.6 below, labour costs may also be reduced in a perfectly legal way. It will however, in any case, often cause tensions.

4.2. The parties negatively impacted by social dumping practices are, in particular, road haulage undertakings that do not resort to such practices, and professional drivers, at least in EU-15. Also serious actors suffer damage to their image and are exposed to negative effects of such unilateral measures as evoked above in 3.6. This is why the European Commission plans proposals in 2016 to address the problem of social dumping in road transport. However, without a sound and thorough analysis of the road haulage market one can hardly expect a pertinent proposal. Data exists already at national level via the national electronic registers (NERs) for road transport undertakings. At EU level data should as a rule have been available via the European Register of Road Transport Undertakings (ERRU), which should have connected the NERs and facilitated exchange of data on the repute of undertakings by December 2012, as foreseen in Regulation (EC) No 1071/2009. The ERRU has still not been implemented. The EESC regrets this and considers that this shortcoming has negative effects on compliance control.

4.3. With regard to professional drivers unlawful practices mainly concern:

— pay: while remuneration according to the driver’s home-base country (‘country of origin’ principle) is perfectly normal and acceptable when the legal conditions are fulfilled, there are cases, especially in cabotage, where improper use is made of this principle, in contradiction with the mandatory provisions in the Posting of Workers Directive or the Rome I Regulation,

— working conditions: inappropriate planning of the driver’s journeys, which leads to an excess in driving time; remuneration of driving time only, and not of working time activities such as loading and unloading,

— social security: non-payment of social security contributions by the employer, with a critical impact on the rights and benefits of drivers and their families,

— health benefits: company charging the driver for medical insurance, and/or medical care, etc.

4.4. A number of undertakings have developed complex and ambiguous employment schemes, taking advantage of the cross-border and high-mobility nature of the sector, resorting to agencies, manning companies or fictitious companies (the ‘letterbox’ system) based in Member States with low protection and low labour and social standards. Depending on the circumstances such arrangements may be borderline or illegal, in particular where the links of the employment contract to a country with low wages and low social standards are fictitious.

4.5. The complex employment schemes in road transport make it harder to track down the undertaking and hold it liable, for instance, in case of claims related to unpaid wages or social security. Inversely, these shady employment practices make it much more difficult for non-resident — let alone third country — drivers to understand, manage and access their rights and benefits.

4.6. Examples of practices that may be in breach of law are:

— operating via a letterbox company — this has been prohibited since 2011 following the adoption and entry into force of Regulation (EC) No 1071/2009, which stipulates that the right to establish a business in a Member State is granted and maintained only if the company has ‘stable and effective establishment’,

— applying the pay and conditions of the home-base country, and not mandatory rules of the country in which or from which the driver habitually carries out the activity — when in breach of the Posting of Workers Directive and Rome I Regulation (with the ECJ ruling on the Koelzsch case), as explained in Section 3 above,

— remuneration per kilometre-driven — this is in breach of Regulation (EC) No 561/2006, which forbids this type of payment insofar as it represents a road safety risk,

— living for months in and around the truck, with limited or no access to sanitary facilities, hot food, etc. — in breach of the Charter of Fundamental Rights of the European Union, Article 31 ‘Every worker has the right to working conditions which respect his or her health, safety and dignity’.

Clearly there will also be situations where costs can be reduced in a perfectly legal way, for instance by establishing a daughter company or using an independent manning company.

4.7. Cabotage is defined as the national carriage of goods performed by non-resident hauliers, on a temporary basis, in a host Member State. ‘Temporary’ is defined by Regulation (EC) No 1072/2009 as three cabotage operations within a period no longer than 7 days following an international journey to the host state. Enforcement and control of cabotage are difficult because the market access regulation does not make enforcement easy. It prevents enforcers from asking for additional documents in order to check compliance with cabotage rules. Furthermore, the rules themselves are not clear on a number of points and understood differently in different Member States. This is for instance the case regarding the definition of a journey. This has led to a low rate of controls, both at the roadside and at the company's premises.

4.8. The EESC considers that a different cost structure in the EU-13 will attract companies. This as such is not a problem from an internal market point of view. It must however be noted that to the extent that activities said to be based in EU-13 states are in fact established in the form of letterbox companies with no real activity in the EU-13, a case of social dumping may be at hand. In 2013, faced with the European Commission’s plans to liberalise cabotage rules, the European Social Partners from the road sector, the ETF and the IRU, signalled that the market was not ready for the full opening of domestic haulage to competition, precisely because of the social and fiscal disparities across the EU. The IRU and the ETF called for the rules not to be changed but to be enforced more effectively instead.

4.9. The EESC also draws attention to the need to make sure that third-country drivers employed by EU companies are recruited with full respect for applicable immigration rules, work under conditions that respect mandatory legal provisions and are issued with a driver certificate as required by EU legislation.

4.10. It is against this background that one should view the Commission’s current focus on social dumping, as stated in President Juncker’s political priorities and the 2015 work programme and the Council expressed, inter alia, in the programme of the Luxembourg Council Presidency.

Apart from the pending proposal for a platform to combat undeclared labour and social dumping, the Commission has announced two significant initiatives:

— a review of road transport legislation to clarify rules on establishments, and cabotage and facilitate controls,
— a labour mobility package to prevent circumvention and abuse.

Success on these points is essential to avoid fragmentation of the internal market in transport through national implementation measures and to create conditions for further market opening in this sector.

4.11. The EESC would raise the option of simplifying the market access rules on cabotage by introducing a rule similar to that which applies regarding cross border service provision in general. This means clearly linking the right to provide cabotage services to their temporary character. This would avoid the endless and systematic piling up of 7 day cabotage periods that currently seems possible, and make it clearer where a duty to create an establishment in the host country appears. It would also avoid the current divergences on interpretation of the fairly detailed but unclear provisions in the present rules.

Brussels, 17 September 2015.

The President of the European Economic and Social Committee
Henri MALOSSE
Opinion of the European Economic and Social Committee on ‘Improving the functioning of the European Union building on the potential of the Lisbon Treaty’ and on ‘Possible evolutions and adjustments of the current institutional set-up of the European Union’

(2016/C 013/27)

Rapporteur: Luca JAHIER

Co-rapporteur: José Isaías RODRÍGUEZ GARCÍA-CARO

On 19 May 2015, the European Parliament decided to consult the European Economic and Social Committee, under Article 304(1) of the Treaty on the Functioning of the European Union, on:

Improving the functioning of the European Union building on the potential of the Lisbon Treaty

and on:

Possible evolutions and adjustments of the current institutional set-up of the European Union

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted its opinion by 185 votes to 4 with 4 abstentions.

1. Introduction

1.1. This opinion is drafted at the request of the European Parliament, within the context of the two reports of the Committee on Constitutional Affairs, namely: Improving the functioning of the European Union building on the potential of the Lisbon Treaty (rapporteurs Ms BRESSO and Mr BROK) and Possible evolutions and adjustments of the current institutional set-up of the European Union (rapporteur Mr VERHOFSTADT).

1.2. The EESC welcomes the initiative of the European Parliament. It is expected that it will constitute a significant contribution towards relaunching the debate on the future of the European Union. The EESC has already adopted several opinions on the subject and is committed to contribute further to the work of the European Parliament.

1.3. The EESC is the institutional representative of organised civil society (1) at the European level and its members are ‘completely independent in the performance of their duties, in the Union’s general interest’ (2). As a consultative body of the European institutions, the EESC has assured, since its creation, effective, wide and consistent participation of organised representative European civil society in EU policy-shaping and decision-making. Therefore, it contributes to ensuring that decisions are taken as openly as possible and as closely as possible to the citizen (3), thus contributing to the implementation of the principles of subsidiarity and proportionality, which govern the use of Union competences (4).

2. Europe at a turning point: seizing the opportunity

2.1. Almost six years since the entry into force of the Lisbon Treaty, the European Parliament has raised the question as to whether the European Union can overcome its challenges by fully exploiting the existing provisions of the Lisbon Treaty, and/or whether it would be necessary to review certain policy areas and the current institutional set-up of the European Union.

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(1) Organised civil society can be defined as the sum of all organisational structures whose members have objectives and responsibilities that are of general interest and who act as mediators between the public authorities and citizens. See opinions on The role and contribution of civil society organisations in the building of Europe of 22 September 1999 (OJ C 329, 17.11.1999, p. 30) and on Organised civil society and European governance: the Committee’s contribution to the drafting of the White Paper of 25 April 2001 (OJ C 193, 10.7.2001, p. 117).

(2) See Article 300(4) TFEU.

(3) See Article 1 TEU.

(4) See Article 5(1) TEU.
2.2. The crisis which was triggered in 2008 revealed serious failings in the architecture of the euro area and in the institutional set-up of the EU, which spurred on rapid steps to adapt and innovate. These changes have demonstrated the resilience of the European institutions and their capacity to overcome the threat of a general break-up of the euro area. Moreover, the result has been the introduction of mechanisms of solidarity and assistance which have no precedent in the history of the EU. Nevertheless, the EU needs to regain a sufficient level of growth to improve the environment for enterprises and maintain jobs, to reduce unemployment, social inequalities and the asymmetric development between the Member States and regions. To date, the growth supporting measures have been insufficient to attain these objectives.

2.3. However, the economic problems have led to a concentration of urgent economic and fiscal initiatives designed to tackle the deep financial and economic crisis. These measures have generated serious concerns about democratic accountability and their social impact, which have not been sufficiently taken into consideration. Crucially, the response to the crisis has highlighted concerns over the transparency, accountability and sustainability of European decision making, due, inter alia, to the repeated recourse to inter-governmentalism.

2.4. During the crisis, a large majority of EU Member States resorted to the signature of intergovernmental treaties, which are legal instruments concluded outside the procedures of EU Treaties. These are the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) and the Treaty on the European Stability Mechanism (TESM). These Treaties have been enacted without significant transparent or public debate. Such an intergovernmental approach, represented by the European Council, can be explained by the financial dimension of the crisis and the urgency to quickly put in place significant instruments to overcome this crisis. This raises the issue of potential conflicts between the intergovernmental nature of these Treaties and the EU’s own ‘rule of law’.

2.5. Today, the EU is forced to overcome increasing fragmentation, a very divisive economic, social and political crisis, coupled with increasing civic unrest, all of which are creating growing divergences. Today’s Europe is one of revived prejudices, national stereotypes and increasing divisions between people and countries, with the rise of populist and anti-European movements. Thus, there is an urgent need to promote what unites the people of Europe as opposed to what divides them. This will be a long process and should begin immediately.

2.6. It is also a Europe where citizens have limited trust in the European institutions and where mainstream democratic politics are under severe scrutiny. This is principally reflected at the national level, as we have seen from recent election results. However, the impact is felt very much at the European level. In the 2014 elections to the European Parliament, approximately one-quarter of all seats were won by candidates of parties that were sceptical either of the European project, or of some EU policies. For despite national responsibilities for the crisis, citizens feel either that ‘Europe’ is responsible for the socio-economic problems or that EU institutions are not doing enough to improve their daily lives. Nevertheless, there is still a significant majority of voters who favour further European integration.

2.7. The risk of a British withdrawal from the EU through a referendum in or before 2017 and the continued instability in Greece further compound the fact that the EU is at a political crossroads. Indeed, one could argue that Europe has lost its sense of direction in relation to the deepening of European integration and that there are considerable question marks with regard to its current and future evolution and identity. Whereas in the past European integration was driven by a vision (peace, reconciliation, prosperity, etc.), today we have an EU which is ‘reacting’ to threats and challenges, instead of driving the process.

2.8. In contrast, as was stated by Mr Van Rompuy, former President of the European Council, today the EU needs to strive for the right balance between an ‘enabling’ Europe capable of opening new opportunities and a ‘caring’ Europe able to support its citizens (%). It is precisely this synergy, reinforced by a new participatory dimension, that will encourage European citizens and by consequence politicians, to regain confidence in the European project, in the spirit of the Preamble of the Treaty on European Union.

2.9. To the internal difficulties facing the EU must be added an increasing number of crucial external challenges. These include mounting fears and insecurities relating to terrorism, migratory pressures, energy security and territorial cohesion, in addition to a growing instability along the EU’s eastern and southern borders.

2.10. Within this deeply challenging context, it is now urgent to reopen the debate on the efficient functioning of the EU and on the role of the Treaties within this process. It is an opportune moment to examine how to deliver better results for the citizens of Europe and to adapt and reinforce the current institutional set-up.

2.11. Equally important is the necessity to rebuild trust by concentrating more on explaining to citizens the advantages of the EU and, also, by listening to them and to representative civil society organisations. The prevailing perception is that the EU has not been successful neither in formulating nor in implementing sustainable, inclusive and balanced strategies focussed on investment and growth, and the reduction of inequalities. Moreover, the EU has failed to deliver concrete results to its citizens, for which Member States carry part of the responsibility. The end result is an increasing lack of confidence by citizens in the EU, a sense of inappropriate intrusions by EU institutions in local affairs and a widening gap of misinformation. Rebuilding trust and confidence in the EU is crucial. The EU is at a turning point and acceptance by its citizens will be crucial to moving forward in this respect.

3. Better exploiting the existing European Treaties

3.1. Without doubt, the existing European Treaties provide unexploited opportunities which could be employed to improve policies and thus to strengthen the EU internally and externally. Whether exploring deeper policy action or improving implementation, there is a wide scope of policy areas and technical instruments which could be tapped into. This should be the current priority of the European Union and its institutional architecture.

3.2. Despite the necessity to review certain elements of the existing institutional framework of the European Union through specific Treaty changes, it must be considered that the conditions for doing so are not met today. Thus, the EESC will only address the issue of changes and adjustments to the Treaties as and when appropriate.

3.3. Central to regaining the confidence of citizens in the EU is the necessity to ensure coherence and consistency between all EU policies and activities, as stipulated in Article 7 TFEU, thus improving the implementation of the existing treaties. This would imply balancing territorial cohesion with the economic and social dimensions of the Treaties. In particular, it would necessitate the full application of Article 3 TEU, which states, inter alia, that the EU must be based on a ‘… highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment … (which) shall promote economic, social and territorial cohesion, and solidarity among Member States’.

3.4. Further examples of under-used existing provisions within the Treaties include the five horizontal clauses of the TFEU, which relate in particular to promoting equality between men and women (Article 8), ensuring a high level of employment, the guarantee of adequate social protection and the fight against social exclusion (Article 9), combatting discrimination (Article 10), environmental protection (Article 11) and consumer protection (Article 12). In the future these clauses should be used to promote greater inter-connectivity between European policies and more accountability with regard to EU citizens.

3.5. Moreover, there is a large range of policy areas which have been insufficiently used. The main instrument for integration of the 28 Member States has been the internal market (6). It should be complemented by further integration, to drive growth, competitiveness, employment and benefits for all EU citizens and regions. In order to achieve this, substantial

(6) Titles I to IV TFEU.
EU initiatives are needed primarily in product markets, energy, transport, services, labour markets, public procurement, intellectual property and the digital economy. Moreover, national reforms should be more transparent in the tax area, address unfair tax competition and be complemented by a greater breadth of EU policy action (7).

3.6. Two main sectoral clusters to be subject to reinforced European policies should be the Energy Union and the Digital Single Market. The latter is the subject of a specific EESC opinion in preparation and hence will not be dealt with in detail in this opinion.

3.7. In order to overcome the external threat of energy insecurity, the EU could apply the existing provisions of Article 194 of the TFEU and move towards an Energy Union. The EESC has consistently advocated ‘More Europe’ in energy policy and has called for solidarity to become the driving force for developing a European energy policy. Article 194 would enable the establishment of an effective and transparent governance system for the Energy Union, which would make EU energy policy more efficient, reduce costs, bring value to citizens and raise the EU’s profile vis-à-vis its international partners. Promoting renewable energy and supporting businesses in their energy transition are integral to this process.

3.8. In addition, real progress to drive inclusive growth, competitiveness, employment and benefits for all EU citizens and regions could be achieved via the next mid-term review of the Europe 2020 Strategy. This would require reforms to be focussed on EU investments, in order to enhance competitiveness in innovation, employment, resource efficiency, sustainable re-industrialisation, more and decent jobs, equality in the labour market, social and regional cohesion, inclusion and a well-functioning internal market. The EESC underlines that the EU does not need a completely new strategy, but a much more effective Europe 2020 (8), including an increasingly efficient, balanced and democratic design of the European Semester.

3.9. A contribution to achieving economies of scale and realising the political objectives of the EU could be reached through the reform of the EU own-resources system, simplifying the current system of contributions and payments for Member States, presenting a new own resource system and reforming the corrections system. A change to own resources would mean that the original Article 201 of the Treaty of Rome, now Article 311 of the TFEU, would be properly and fully implemented for the first time. For the EESC, it is crucial that the own resources system meets a number of criteria. These should include fairness, efficiency, stability, transparency, simplicity, accountability, a budgetary discipline, a focus on European added value, subsidiarity and fiscal sovereignty. In order to achieve these objectives, it is proposed to seize the opportunity of the next mid-term revision of the EU budget, in order to adopt the relevant proposals of the Monti High Level Group. The principal objective must be to reinforce the autonomy of the EU budget, to enable it to have leverage and greater complementarity to national budgets. This will directly contribute to achieving economies of scale and realising the political objectives of the EU (9).

3.10. The EU also needs reforms to reinforce the sense of common citizenship at the European level. But the sense of common European citizenship will not be created without citizens’ involvement in decision-making at the European level. This implies creating the sense of participation in the joint process for the common cause in all Member States across Europe. One possibility to achieve this would be to give citizens the opportunity to elect Members of the European Parliament from transnational lists, i.e. from several Member States but from European parties, instead of voting for national parties only. However, this may require Treaty change by amending Article 223 TFEU.

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3.11. Within this context, the EESC has highlighted the necessity to implement effectively the **EU Charter on Fundamental Rights**, by means of new, targeted initiatives (10). The Committee stresses the need to ensure equality for all, with specific focus on vulnerable groups. It underlines that, at the EU level, the Charter’s obligations apply to all institutions, agencies and bodies. The EESC urges Member States to build a protection- and promotion-oriented fundamental rights culture at all government levels and across all policy and legislative areas. In addition, it should examine and identify the specific impact on fundamental rights during the transposition process. The EESC strongly encourages the Commission to act effectively in its role as guardian of the Treaties and to use the infringement procedure without taking political considerations into account. In addition, the EESC has called on all EU institutions, agencies, bodies and Member States involved in enacting fundamental rights to promote them with civil society participation. Any regulation related to economic governance and the functioning of the internal market must take into account the provisions of the EU Charter, via a specific assessment (11).

3.12. Ultimately, over the last 10 years, the EU of 28 Member States has faced key challenges and socially divisive issues, which no individual Member State can face effectively alone. It is only through coordinated policies and common action at the European level that positive results can be attained. This is particularly the case in the areas of **migration and asylum policies**, and the **common foreign and security policy (CFSP)**. In both of these policy areas, the existing EU Treaties provide a large scope for manoeuvre and many provisions have not been exploited due to the absence of a common and converging political will (12). To this end, Articles 21 to 46 of the TEU and Articles 76 to 81 of the TFEU should be exploited further.

3.13. In order to move forward there has to be a combination of ambition, pragmatism and innovation. The EESC is of the opinion that there is today an opportunity to leverage the EU’s challenges and to work towards a new phase in the EU’s development. It is an opportunity to devise a new pact, between Member States and between the EU and its citizens, for a Europe which will reinforce cooperation, competitiveness and growth, integration and solidarity.

3.14. Without doubt, an under-used tool is ‘Enhanced cooperation’ (defined in Article 20 TEU). This procedure was used for the first time in the area of divorce and legal separation and subsequently for the creation of unitary patent protection in the EU, as well as the proposed introduction of a financial transaction tax. Secondly, the ‘Passerelle’ (bridges) clause (i.e. Article 48(7) TEU), may be used. However, such revisions would require unanimity among the governments of Member States in the European Council or Council, which may be difficult to implement. Both these tools could, in principle, simplify and speed up European decision-making.

3.15. Hence, it is of foremost importance to build on the conclusions of the European Council, which at its meeting on 26 and 27 June 2014 agreed that: ‘...the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not wish to deepen any further’ (13). This statement provides the basis for a differentiated European Union where all 28 Member States participate, if necessary to varying extents, thus facilitating reinforced cooperation in strategic fields, but which remains open to all Member States to participate fully.

3.16. In addition, the EESC believes that macro-regional strategies have an increasing role to play in the future of the EU. Strengthening and extending them could help develop a European intermediary level able to bring EU convergence and to achieve the systemic involvement of organised civil society, including the economic and social partners.

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(13) Paragraph 27 of the conclusions.
4. Reinforcing the euro area and completing EMU

4.1. Improving the failing architecture of EMU and strengthening economic governance have been at the heart of the EU’s crisis strategy over the last few years. Urgency measures to keep EMU afloat have led to a number of developments, but these have resulted from an intergovernmental process of decision-making. It is now important to ensure that these intergovernmental solutions do not become a permanent additional legal framework to the EU Treaties.

4.2. Within this context, it is imperative to move rapidly from the current system which is based on rules to ensure budgetary discipline, to a process of greater convergence between the countries of the euro area.

4.3. In the first instance, given that the euro is the currency of the EU, Member States which are members of the euro area need to accelerate and to deepen integration via the completion of EMU, a process which must stay open to all EU Member States. This could be achieved by robust governance and the strengthening of the institutional framework of the euro area, to be based on:

— a monetary and financial pillar, which is largely in place and which should include the implementation of a fully-fledged EU-driven Banking Union to bring about a pan-European capital market, while also protecting taxpayers from excessive risk-taking and disorderly defaults,

— an economic pillar, to strengthen the decision-making process in economic policy, thus fostering growth, employment, competitiveness, convergence and European solidarity,

— a social pillar, inseparable from economic progress and efficiency, so as to ensure the full implementation of the European Treaties, in the light of Article 3 TEU, and improve social and territorial cohesion,

— a political pillar, including greater accountability and democratic legitimacy, to foster credibility and confidence.

4.4. Moreover, steps should be taken towards introducing a budget for the euro area, which would contribute towards absorbing shocks that may occur in the future, as long as this potential fiscal capacity is designed as a conditional help for striving for reforms. As stated in the EESC own-initiative opinion on completing EMU (14), such a euro area budget could be financed by a financial transaction tax covering the whole euro area, a carbon tax, a temporary levy or by issuing joint bonds. However, an agreement is still required on any of these options.

4.5. Progress in European economic governance will be possible by enhancing the social dimension of the EU. This should be based on more balanced application of Article 3 TEU, which stipulates that the EU must find equilibrium between economic efficiency, social and territorial cohesion. Moreover, Articles 151 and 153 of the TFEU aim to support a harmonisation of social systems of Member States, an issue explored by the EESC in 2013 (15).

4.6. At the same time, we need to strengthen the EU democratic legitimacy in order to reinforce its political framework, and in particular the role of the European Parliament. To that end, concrete steps can be undertaken within the framework of the current Treaty and rules. In the medium to long term, a possible revision of the Treaty should bring the institutional provisions in line with the indispensable requirements of a real political Union. The EESC has already approved a very detailed roadmap for the realisation of the political pillar of EMU, which outlines a wide range of possible actions (16).

4.7. The EESC takes note of the Five Presidents' Report of 22 June 2015 to the European Council on Completing Europe's Economic and Monetary Union and it expects that it will serve as a basis for more decisive action, as indicated above (17).

5. Consolidating civil participation, democracy and accountability: the way forward

5.1. The citizen should be at the centre of the entire debate on the future of the EU. Democracy and accountability are fundamental concepts for European citizenship. In order to implement these principles, a key role has to be played by the European Commission, which is the guardian of the Treaties. The Commission, as the institution which has the monopoly of legislative initiative, also plays a pivotal role of balancing the various forces and interests that make up the EU. This balancing act must be carried out in parallel with the more effective implementation of the principles of subsidiarity and proportionality, in pursuit of more democratic and participatory governance of the EU.

5.2. The Lisbon Treaty entails a more significant role for the European Parliament and a proactive attitude by Member States via a strengthened Council. However, in the future, it will be necessary to extend the competences of the European Parliament further, for instance through an increased role in European economic governance and the European Semester, and to put in place a more balanced share of responsibilities and interinstitutional cooperation between the three institutions, which would ensure a more solid EU method. In that context, an issue of particular interest is the extensive use that is made of ‘trilogues’ for the adoption of acts in first and second reading of the ordinary legislative procedure (18). ‘Trilogues’ have to a large extent become the norm, thus going against the democratic principles of transparency and accountability and the necessary balance to be maintained between the three institutions in the framework of the ordinary legislative procedure. Therefore, the EESC advocates a return to the spirit, if not the letter, of the ordinary legislative procedure, ‘trilogues’ remaining exceptions.

5.3. Moreover, the EU method will also be more effectively applied via ‘horizontal’ subsidiarity. This term, as well as that of ‘vertical’ subsidiarity, is not explicitly defined in the Treaties. Nonetheless, it gives recognition to the public role of private players e.g. citizens and representative civil society organisations and to their participation in policy-shaping and decision-making processes, through their specific consultative role, as well as the autonomous legislative role of social partners in the context of European social dialogue.

5.4. In fact, this concept of ‘horizontal’ subsidiarity, sometimes also called ‘functional’ subsidiarity, is already implicitly recognised by the Treaties under Articles 152, 154 and 155 TFEU on social dialogue and the role of social partners.

5.5. Article 11 TEU, as well, embodies the principle of participatory democracy as a key complementary component to representative democracy, as expressed in Articles 10 and 12 TFEU (19), which is the fundamental basis of democracy. Article 11(1) and (2) TEU (20), as the EESC has stressed on numerous occasions, opens up significant prospects for the development of European democracy by laying the foundations for the long-term establishment of a structured civil dialogue at European level, alongside political dialogue between the EU institutions and the Member States.

5.6. In addition, this EU Method must be complemented by enhanced ‘vertical’ subsidiarity with a reinforced role for national parliaments in EU policymaking and increased cooperation between the former and the European Parliament.

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(19) On the role of national parliaments and the European Parliament, respectively.
(20) Article 11(1) and (2) states that: ‘The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.’ ‘The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.’
5.7. Crucially, all of the above could already be attained within the existing Treaties. In particular, as regards civil participation, democracy and accountability, a great deal could be achieved by further developing European policies, improving processes and implementation. However, as already indicated in two EESC opinions (21)(22), there has been limited progress in implementing the provisions of Article 11 effectively and in giving full substance to the concept of participatory democracy.

5.8. This is also true in relation to the European Citizens’ Initiative (ECI) under Article 11(4). The ECI should be a pivotal instrument for participative democracy and active citizenship, but in its current format it is largely ineffective and its modalities of implementation have to be substantially revised.

5.9. The concept of ‘horizontal’ subsidiarity must be reinforced and extended to wider policy areas in the future, via structured civil dialogue, for instance in the fields of environment and consumer protection. This would enhance the role of representative civil society organisations in European processes, by enabling them to contribute fully to policy areas that concern them, thus giving substance to the principle of participatory democracy. To achieve this objective and as the EU institutional representative of organised civil society, the EESC has a key role to play in realising the full potential of participatory democracy and in developing and strengthening civil dialogue, in partnership with the EU institutions.

5.10. As the institutional representative of organised civil society at the European level, its role is threefold: (i) to facilitate and support dialogue between representative civil society organisations and with the European institutions; (ii) to ensure the lasting involvement of organised civil society in the EU political processes; and (iii) to monitor the implementation of Article 11 TEU.

5.11. Thus and as a consultative body to the EU institutions (23), the EESC has the opportunity to fully act as (i) a catalyst and a coordinator in dialogue between and with civil society organisations; (ii) as a key intermediary between civil society organisations and the EU’s decision-making bodies; and (iii) as an effective bridge between the national and European levels. Should the Treaties come to be revised, the EESC would ask that this role be explicitly acknowledged (24).

5.12. The relaunch of the ‘Better regulation’ agenda reflects the new Commission’s desire to put a strong emphasis on its assessment work, involving other institutions, national authorities and civil society at large in the process. As an advisory body, EESC involvement in policy evaluation is fundamental because it is based on its legitimate role in the EU institutional set-up: (i) to protect what the EU has achieved to meet the needs of European citizens; and (ii) to warn of impediments to the implementation of EU policies and legislation or possible shortcomings.

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(21) Opinion on Principles, procedures and action for the implementation of Articles 11(1) and 11(2) of the Lisbon Treaty of 14 November 2012 (OJ C 11, 15.1.2013, p. 8).
(23) Paragraph 4 of Article 13 TEU on the Union’s institutional framework provides that ‘The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity’.
(24) This proposal was already made by the Committee to the European Council in an opinion in 2006, during the period of reflection which followed the failure to ratify the Constitutional Treaty. See opinion on Contribution to the European Council of 15-16 June — Period of reflection of 17 May 2006 (OJ C 195, 18.8.2006, p. 64).
5.13. As part of the role assigned to it under Article 13(4) TEU, both the EESC Protocol on cooperation with the European Commission of 22 February 2012 and the EESC Cooperation Agreement with the European Parliament of 5 February 2014 acknowledge the significant added value the EESC can bring to 'Better law-making', by feeding civil society’s input throughout the EU policy cycle (25). Thus, the EESC demands that its institutional role be clearly recognised in any future revision of the Interinstitutional Agreement on Better Regulation (26).

5.14. In order to contribute effectively to all this, the EESC itself should fully use its potential and reinforce its role, its operating and working methods, and its operational links with the main European civil society organisations and networks. The EESC is also increasing the relevance of its work by focusing more on clusters of EU priority policies, in the context of the consultative function assigned to it by the Treaties.

5.15. In so doing, the EESC can make a significant contribution to building on the potential of the Lisbon Treaty in policy areas of direct concern to citizens and to identifying possible shortcomings that would require changes and adjustments to the policies concerned in order to better meet their needs.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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(25) Paragraph 18 of the Protocol on the cooperation with the Commission stipulates that 'the Committee contributes to the process of evaluating the implementation of Union legislation, in particular in relation to the horizontal clauses, as provided for under Articles 8 to 12 TFEU.'

The Cooperation Agreement with the European Parliament stipulates that the EESC shall systematically provide the Parliament with 'impact assessments on European legislation', alongside 'information and relevant materials from civil society on how existing legislation and spending programmes are effectively working and what are the deficiencies to be taken into account in making and revising legislation and EU policy'.

Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Better regulation for better results — An EU agenda

(COM(2015) 215 final)

(2016/C 013/28)

Rapporteur: Bernd DITTMANN

On 1 June 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Better regulation for better results — An EU agenda


The Subcommittee on Better Regulation, set up under Rule 19 of the Rules of Procedure, which was responsible for preparing the Committee’s work on the subject, unanimously adopted its draft opinion on 2 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 174 votes to 3, with 9 abstentions.

1. Conclusions and recommendations

1.1. Better and smart regulation is a common task for all the European institutions and the Member States, the main aim being to improve the quality of European legislation to the benefit of the public, business, consumers and employees. Better regulation does not, however, replace political decisions. Better regulation is a process under constant development. In this way much has been achieved, but there is still room for improvement.

1.2. The EESC has been closely concerned with the issue of better regulation for some considerable time, as can be seen from the list of the main opinions on better regulation (1). It therefore has a special responsibility for securing civil society’s support for and acceptance of European law and better regulation.

1.3. The EESC notes that the role and function assigned to it in the EU Treaties and the cooperation agreements with the European Commission and the European Parliament (EP) have not been given sufficient consideration within the better regulation agenda. It calls for the EU’s consultative bodies to be included in the Interinstitutional Agreement on Better Regulation (IIA).

1.4. The EESC supports the comprehensive involvement of stakeholders through consultations throughout the lifecycle of a political initiative and therefore refers to its opinion on the evaluation of consultation guidelines. It wishes to stress that, in its view, selecting the right target groups and taking account of the representativeness of stakeholders are key elements of better regulation which should be improved.

(1) http://www.eesc.europa.eu/hi=portal.en.int-opinions&itemCode=36193
1.5. In selecting experts for the Regulatory Scrutiny Board, REFIT platform and for all other bodies, hearings, workshops and other situations, the EESC believes that the greatest possible independence, impartiality and transparency should be ensured.

1.6. The EESC calls for the inclusion of self- and co-regulation in the IIA, which should be considered on an equal footing alongside regulatory measures in order to resolve political issues.

1.7. The EESC calls for informal trilogues to be reserved for particular emergencies and for the majority of legislation to be decided via the ordinary legislative procedure.

1.8. The EESC calls for a stronger Commission focus on shortcomings in the transposition and application of EU law by the Member States and urges the use of regulations instead of directives.

2. **The better regulation agenda — a general assessment**

2.1. The EESC is convinced that better regulation measures and instruments should help to improve the quality and effectiveness of European legal acts and to establish simple, easily understandable and consistent rules that contribute to the achievement of the objectives set out in the EU Treaties and, in particular, to strengthening and completing the European single market, while providing added value for the public, businesses, consumers and employees in Europe.

2.2. Europe is a common legal area, which must guarantee an effective, reliable and applicable legal framework. The concept of better regulation, which is intended to focus both on ex ante measures at EU level and on the consistent transposition and application of EU law in the Member States, and which provides for better regulation measures throughout the entire life cycle (2) of a legal act, will be of value to European integration and to the public, as long as not only are new technocratic procedures and instruments introduced, but in addition all European institutions and Member States commit to establishing a better regulation culture.

2.3. The Commission is presenting its communications and the related documents as a new beginning. The proposals can certainly be described as ambitious. The Committee would like to point out, however, that better regulation is not a new issue, but has been discussed and developed for many years. Improvements achieved through it have helped to ensure that EU law is generally of high quality, to the benefit of the public, business, consumers and employees in Europe. The EESC considers that, in comparison with the national legislators or the international level, the mechanisms and established procedures at EU level work well in ensuring high-quality legislation (3). As this opinion will show, however, there continues to be room for improvement. The EESC acknowledges, however, that, with the help of better regulation, much has already been achieved.

2.4. Against the background of increasing criticism of the concept of better regulation, the EESC stresses that, in its view, it is not intended to be about ‘more’ or ‘less’ regulation in the EU, or about deregulating specific policy areas or giving other areas greater priority and thus calling into question the values for which the EU stands: social protection, environmental conservation and fundamental rights (4). Better regulation is first and foremost a tool for ensuring that evidence-based political objectives can be achieved effectively, in the light of these values, without environmental or consumer rights or social standards being restricted or the shifting of responsibilities within the institutional structure by the establishment of new bodies. Better regulation cannot and must not be substituted for political decisions.

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(2) The life cycle embraces the emergence of an initiative at the Commission from the preparatory stage, through the drafting stage, the adoption of the proposal by the Commission, the legislative procedure, the entry into force of the legal act, transposition and application by the Member States, evaluation by the Commission, scrutiny under the REFIT programme and, if appropriate, the updating, revision, withdrawal and resubmission of a proposal.

(3) European Court of Auditors Report 2010: Commission’s system represents EU and international best practice in terms of its transparency and its comprehensiveness.

2.5. The EESC is actively cooperating in the area of the democratic shaping and implementation of EU law. The EESC has for many years done extensive work on the subject of better regulation and has drawn up a series of opinions that contain specific recommendations for the further development of this concept. A list of these recommendations is available (5) and is intended to be used as a source of ideas and inspiration for the further improvement of the better regulation agenda. This shows that the EESC has a special responsibility for securing civil society's support for and acceptance of the objectives of better regulation. The Committee is also willing to make its contribution to transparent, democratic and consistent better regulation.

2.6. The EESC finds it regrettable that the Commission Communication and the entire better regulation package take insufficient account of the role, function and representative nature of the EESC, as enshrined in the Treaties, and thus fail to exploit the potential for making use of the expertise and knowledge of the Committee's members and doing justice to the EESC's function. The EESC is involved in the better regulation agenda only in the context of the REFIT platform (ex post), which inadequately reflects the Committee's tasks and its responsibility for strengthening the democratic legitimacy and effectiveness of the institutions.

2.7. The EESC therefore asks to be appropriately taken into account in the better regulation agenda. This opinion contains proposals as to how and in which areas the EESC should be involved.

3. Interinstitutional Agreement — towards a common culture of better regulation

3.1. The Commission communication looks at the planned IIA measures. The EESC considers the proposal for an IIA to be one of the key elements of the better regulation agenda. The European Commission should be supported in its efforts to constantly promote the objectives of better regulation, involving the whole of civil society. But for this, the support of the legislative authorities, the Council and the EP, is in particular required. The proposal for an IIA is ambitious and can only succeed if there is a clear commitment on the part of all institutions to the objectives and content of better regulation and to consistent application of the proposals contained in the IIA in the light of the EU Treaties. Failure of the negotiations would be a major setback, potentially undoing even the commitments of the IIA of 2003.

3.2. Although the role and importance of the EESC is recognised by the EP (6), no account is taken in the IIA of the EESC or the CoR or of the function and role assigned to them by the Treaties. This is unacceptable.

3.3. Provided it is consulted in good time by the Commission, the Committee is ready to support the EU institutions with measures for improving regulation, to develop new ideas, to comment extensively on planned initiatives within its remit, to ensure they are of high quality and, where appropriate, to follow up the EU initiatives or, in specific cases, to act as a testing body for planned initiatives.

3.4. The EESC therefore calls for both EU consultative bodies to be included in the IIA in relation to the better regulation measures assigned to them in the EU Treaties and in the cooperation agreements with the Commission and the EP.

3.5. The specific substantive content of the IIA will be assessed in an own-initiative opinion once the IIA has been adopted by the Council and the EP.

4. Assessment of the communication on the better regulation agenda

4.1. Change in the way of working at European level

4.1.1. With its new internal configuration and the gearing of its measures to political guidelines, the establishment of a consistent EU-level work programme and greater interaction with the institutions, the Commission is seeking to achieve better regulation and better results.

4.1.2. The EESC is pleased that the Commission has entered into a structured exchange with the Council and the EP on the annual work programme and multi-annual programming and, in accordance with the cooperation agreement, is consulting the EESC prior to the publication of the annual work programme. The exchange should cover the entire programming cycle and, through a regular dialogue between the EESC, the EP, the Commission and the Council, generate synergy effects, by ensuring that the work programme’s measures can be monitored after their adoption and general cooperation improved. The EESC suggests that the planning of new initiatives and priorities should also take account of existing strategies and integration plans (such as, for example, the Europe 2020 strategy, the annual growth programme and the European Semester/country-specific recommendations) and include detailed information on how the planned measures are to be integrated into the existing strategies and can reflect their objectives. This will prevent certain policy areas and objectives being assigned higher or lower priority than existing strategies.

4.2. Better consultation, more openness and transparency

4.2.1. The Commission is planning to involve stakeholders throughout the entire life cycle of a policy measure through consultations. Road maps, initial impact assessments, legislative acts adopted by the Commission, ex post evaluations and fitness checks, as well as draft delegated legal acts and implementing acts, should be the subject of consultation with stakeholders. Statements of the reasoning behind legal acts are also to be improved.

4.2.2. The objective of greater transparency and a stronger involvement of stakeholders throughout the whole life cycle of a legal act is in principle welcomed by the EESC. The EESC has consistently stressed the importance of intensive and comprehensive consultation of all stakeholders (7), which can contribute to the quality and suitability of legislation and make it possible to find a middle way between the achievement of political objectives on the one hand and streamlining administration on the other. Better consultation will raise awareness and so improve application (8).

4.2.3. In July 2015, in an opinion on evaluation of European Commission stakeholder consultations (9), the EESC put forward proposals for improving arrangements for consulting stakeholders, which are referred to in detail in this opinion. The EESC acknowledges, in this connection, that the guidelines are on the whole a good basis for carrying out high-quality consultations. As the opinion referred to above clearly shows, however, there are still many (also current) cases in which the new guidelines are not being consistently applied by the Commission’s responsible departments. The EESC therefore urges that the application of the guidelines as quality standards for the consultation of stakeholders be made mandatory within the Commission.

4.2.4. Properly determining the target group of a consultation is essential to obtaining the necessary information. Within the limits of its remit and by cooperating effectively with the organisations concerned and the Commission, the EESC could help identify representative organisations within certain target groups (10). The EESC considers that the enhanced mechanisms for consultation of stakeholders make it necessary to ensure transparency in the selection of experts in forums, conferences, workshops, etc. Similarly, there must be greater emphasis on the representativeness of the stakeholders and qualitative and quantitative weighting in the assessment of findings, depending on whether a response comes from an individual or an organisation representative of civil society. A correspondingly higher weighting should be given to feedback from an organisation.

4.2.5. The quality of questions (often suggestive), their selection and the Commission’s feedback mechanisms often leave much to be desired (11). The EESC has tabled a comprehensive set of proposals on how these shortcomings can be remedied (12). When questionnaires for consultations are being drawn up, it could, for example, influence the questions by submitting proposed questions, or be used regularly as a testing body to check whether the questions are relevant. Examination and monitoring of consultations and the development of an appropriate observatory by the EESC (13) could make a suitable contribution to enhancing the quality of consultations.

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(9) See footnote 8.
(10) See footnote 8.
(11) See footnote 8.
(12) See footnote 8.
(13) See footnote 8.
4.2.6. Appropriate time-frames for consultations are also important. The regulatory process should not be unnecessarily lengthened by consultations; otherwise periods of four, eight or 12 weeks for consultations on complex or very technical initiatives could be too short to collect relevant feedback. Structured and constantly updated planning of consultations (in the Commission’s roadmaps) and the publication of their objectives, including a reliable time-frame, could help stakeholders to prepare their participation.

4.2.7. In order to further increase transparency and clarity for stakeholders, the EESC suggests that all current consultations by EU institutions, agencies and downstream bodies (14), including consultations on delegated and implementing acts, be presented in a clear and uniform way on the central Commission website for consultations (15) and be more effectively publicised throughout Europe in the framework of a comprehensive communication strategy.

4.2.8. Consultation on delegated acts (Article 290 TFEU) and implementing acts (Article 291 TFEU) is particularly welcomed. Lack of transparency, obvious legal uncertainty and inadequate political control of the system of prior consultation on regulatory acts are quite rightly often criticised (16). The EESC also calls for the introduction of a register of delegated acts, on the model of the comitology register. The use of delegated and implementing acts must be strictly limited and properly justified. Downstream measures must be consistently guided by the basic legal act. Political decisions must not be undermined by delegated and implementing acts.

4.2.9. Care should also be taken to ensure that there is no overlap between consultations or content of delegated and implementing acts and consultations on guidelines of EU agencies or their content.

4.2.10. In principle, consultations of the social partners — in accordance with the procedures on social dialogue laid down in the EU Treaties (Article 154, 155 TFEU) — should be distinguished from public consultations of all civil society stakeholders under Article 11(3) TEU. Both have their specific roles and different forms of legitimacy.

4.2.11. It is true that the text of the better regulation toolbox points out that social partner consultations must not fall below the minimum standards for consultations and thus the requirements for public consultations. The EESC would, however, like to emphasise that the communication must under no circumstances be used as a pretext for consultations of European social partners or their results being subject to ex ante or ex post checks by public consultations. Social dialogue is a special procedure provided for in the TFEU (17), which must be respected. Public consultations cannot therefore be a substitute for social partner consultations (18). The implementation of the results of the social partner agreements must be ensured in accordance with the requirements of Article 155 TFEU (19).

4.3. Better tools for better solutions

4.3.1. The Commission will apply the new integrated guidelines on better regulation (20) to new measures, commits itself to testing non-legislative measures, such as co- and self-regulation, and will pay particular attention to the ‘think small first’ principle, the ‘SME test’ and the possibility of exempting micro-enterprises from certain European requirements.

4.3.2. The EESC welcomes the fact that the better regulation guidelines have been drawn up, revised and clarified in a consolidated version, complemented by a toolbox. The EESC considers that these instruments could make a significant contribution to better regulation, provide broad support to, and enable consistent application by, Commission staff through their uniform presentation in a document. The Secretariat-General should ensure compliance by all the Commission’s departments.

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(14) In particular, for example, the European supervisory authorities (EIOPA, ESMA, EBA).
(15) http://ec.europa.eu/yourvoice/consultations/index_en.htm
(16) EESC opinion on Delegated Acts (see page 145 of this Official Journal).
(17) Articles 154(2) and (3) TFEU.
(19) Negative example: Hairdressing Agreement.
(20) SWD (2015) 111.
4.3.3. The Commission reiterates that the guidelines on better regulation should ensure that ‘keeping the EU competitive and the EU’s sustainable development remains a priority in all we do’ (21). EU action should strike a balance between the overarching objectives of the EU and promoting competitiveness. For its part, the EESC calls for any legislative or non-legislative proposal to be subject to effective and consistent scrutiny, in line with the objectives of Article 3 TEU, and for regular ‘competitiveness checks’ to be carried out.

4.3.4. The EESC has always called for the procedure to be made more transparent and for economic, social, environmental and consumer considerations always to be considered in a more balanced way (22). This should be consistently checked in the context of each impact assessment. The EESC could contribute to a balanced assessment of these instruments and procedures in the context of its competences.

4.3.5. Legislation should in principle be drawn up in such a way that it may be applied to all businesses equally. The Commission’s renewed commitment to the ‘think small first’ principle and taking account of SME interests (including micro-enterprises) is to be welcomed.

4.3.6. It is beyond dispute that regulation by legislation is necessary for businesses of any size but it often causes problems when setting up and managing small companies, especially micro-enterprises. The EESC points out that micro-enterprises should not be given blanket exemptions. Rather, a case-by-case approach should be adopted to legislative proposals, following on from a thorough impact assessment exercise (23). The interests of micro-enterprises must be respected in this process, and the rights of employees and consumers must not be restricted.

4.3.7. The EESC welcomes the replacement of the Impact Assessment Board by a Regulatory Scrutiny Board and urges that the greatest possible transparency, impartiality and independence of the experts be ensured. The presence of external experts is a step in the right direction. This will make the body more impartial; at the same time, the extension of its remit to include evaluations and fitness checks should make for greater coherence and synergy in impact assessments. But the aim must still be to establish a single independent impact assessment body acting for all EU institutions, engaging in exchange with the established consultative bodies, the EESC and the CoR. This independent body should make use of external experts, have an external chair and carry out checks on Commission proposals (24). The Commission should make it clear that its goal is an independent, external body and that the current composition should be regarded only as a further interim step. This could ensure transparency and expertise and prevent EU legislation from being driven by special interests.

4.3.8. The EESC has highlighted the importance of self-regulation and co-regulation and their specific features in studies (25) and opinions (26) as a case of ‘horizontal subsidiarity’ (27). The 2003 IIA on better law-making contained a specific chapter on this issue. The Committee also considers that, in some cases, self-regulation or co-regulation might prove to be an effective means of prevention or useful complement to legislation duly framed in a broad legislative framework that is clear, well-defined and rooted in the principles of transparency, independence, efficiency and accountability (28).

4.3.9. More transparency through the application of better regulation measures is needed, particularly in the light of the huge increase in the use of informal trilogues (29). This could be achieved if the results of a trilogue meeting were published before adoption by the Council and the EP. Whilst recognising that the legislative process is intended to be accelerated by the use of trilogues, this gives rise to the fundamental problem of the current legislative practice, the fact that ‘negotiating boxes’ containing different legal acts are repeatedly put together by the Member States in the Council in order to obtain majorities for individual directives. Too often, this happens in a non-transparent way under great time pressure and without sufficient involvement of experts from the Member States, the EP or the Commission, and without adequate analysis of the effects of key elements of these ‘negotiating boxes’. This is not without implications for the quality and transparency of legislation.

(22) OJ C 230, 14.7.2015, p. 66.
(23) OJ C 327, 12.11.2013, p. 33.
(24) See footnote 23.
(26) OJ C 291, 4.9.2015, p. 29.
(27) See footnote 23.
(28) OJ C 230, 14.7.2015, p. 66, point 5.10.
(29) This applied to 80 % of legislation during the last EP term of office.
4.3.10. Therefore, in the context of the better regulation procedure, it needs to be ensured that informal trilogues are reserved for particular emergencies and that the great majority of legislation takes place via the ordinary legislative procedure. Only this will ensure full democratic legitimacy and participation.

4.4. **Strengthening of ex post evaluation, the REFIT programme and the REFIT platform**

4.4.1. The Commission also suggests placing an increased focus on evaluation and assessment of legislative acts throughout their whole life-cycle, making the REFIT programme more goal-orientated, embedding it in the work programme and carrying out fitness checks. The transposition of legislative acts is to be improved and a REFIT platform established, on which the EESC will have a seat.

4.4.2. The EESC welcomes the Commission’s proposal to place emphasis on evaluations and to involve other EU institutions and civil society in this process. Ex post evaluations, in which the stated objectives are compared with the observed results, are important analytical tools, especially in the light of the fact that, in accordance with the life cycle model of a legal act, the conclusions drawn from evaluations can flow directly into a possible impact assessment of the revision of a legislative act. It welcomes the fact that the representatives of organised civil society, representatives of business, employees and consumers, who are normally the addressees of legislative acts, are to be involved in this process through targeted public consultations. The EESC points out, however, that evaluations should only be carried out after a reasonable period of implementation of a legal act to enable relevant data and information on its effect to be collected (30).

4.4.3. The EESC’s involvement in this process is essential. The cooperation agreements with the Commission and the EP provide for involvement of the EESC in this respect, which could moreover lead to synergies in cooperation with the EP. In the light of the life cycle model of a legal act described above, this would ensure that the EESC’s input is taken into account at an early stage. The EESC could, where necessary, carry out its own assessments, present the results in the REFIT platform with other stakeholders and the Member States, as well as the Commission, and thus improve its cooperation with the institutions and provide suggestions for evaluations for the REFIT programme. The inclusion of the REFIT programme in the Commission’s successive annual work programmes would ensure a further EESC contribution to programming.

4.4.4. The EESC welcomes the Commission’s efforts to improve the procedures and instruments of the REFIT programme. In this connection it refers to its previous opinions (31).

4.4.5. It is already everyday practice for the Commission to repeal certain obsolete legal acts, and this should be continued. The carrying-out of fitness checks is also endorsed in principle (32). The Commission should present and publish all completed, ongoing and planned fitness checks on a website in a transparent way.

4.4.6. The establishment of a REFIT platform involving the EESC is expressly welcomed. The platform is to collect and analyse proposals on streamlining administration arising from Union rules and their transposition and application in the Member States. The EESC calls for balanced composition of the group of stakeholders; the success of the platform will depend on this. The EESC is represented by a high-level expert in the stakeholder group. However, the Commission should clarify how the representative mandate of the EESC and the CoR will relate to the REFIT platform. The specific institutional role of the EESC and the CoR should be taken into account, in comparison with other stakeholders. The participation of Member States in this body is in principle welcome; this should make it possible to engage in an exchange with the Member State representatives at any given moment. The EP should be regularly informed of the work of the REFIT platform and have the possibility to participate in the annual meeting of the platform.

(30) See footnote 22.
(31) See footnote 22.
(32) See footnote 23.
4.4.7. In the view of the EESC, one of the main weaknesses of the European better regulation agenda is that the Member States are not sufficiently involved. This is not only a problem for the Member States but also for the EU; it is therefore hardly surprising that the Member States, in the absence of careful, evidence-based transposition measures and plans, as well as measures for effective application, sometimes transpose legislation hesitantly, late or not at all.

4.4.8. It is regrettable that the Commission communication does not address this issue or make proposals as to how these problems can be remedied. In 2013, for example, 1,300 Treaty infringement proceedings were brought against Member States. Currently infringement proceedings for late implementation are less of a problem (at the end of 2013 there were 390 cases pending); rather, as in 2012, most infringements (62% of all cases) concerned non-compliance with EU law in the areas of the environment, taxation, transport and the single market and services (33).

4.4.9. One option would be for the Commission to place more emphasis on public information, as ultimately it is the governments of the Member States, which are transposing legislation incorrectly, late or not at all, which also adopted this same legislation in the Council. They are responsible for the universally poor application of the Community acquis, which is confirmed anew every year in the reports on the application of EU law. The Commission should also examine systematically what measures are essential for effecting a radical change in the current situation and should take account of earlier EESC proposals (34).

4.4.10. Where there is a need for regulation, it should be assessed on a case-by-case basis (depending on the relevant content and background) whether directives or regulations are more suitable. In order to avoid differing transposition measures or gold-plating (35), for example, greater use should be made of regulations as opposed to directives (36). This would make for greater legal clarity and certainty.

4.4.11. The transposition and application of EU legislation are key indicators for its later evaluation, which should be carried out by the respective governments. The requirement for the Commission to draw up implementation plans for major directives (37), where supporting Commission measures are intended to facilitate transposition in the Member States, is a welcome aspect of the new better regulation package. This includes the possibility for the Commission to ask Member States to submit explanatory documents on the national transposition strategy and to carry out a two-stage conformity assessment. The EESC considers that this is definitely a step in the right direction. How successfully these measures will function in practice remains to be seen.

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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(34) See footnote 22.
(35) The EESC is finalising its own study on the subject, which deals with it in a comprehensive manner.
(36) Compared with the 2000-2004 legislative period, when more directives than regulations were used (155 regulations: 191 directives), in the last legislative period (2010-2014) there was a clear shift towards the use of regulations (383) in place of directives (136).
(37) Better Regulation Guidelines (SWD(2015) 111 final), Chapter IV:
Text of the Committee's draft opinion which was rejected in favour of an amendment adopted by the plenary assembly:

Point 4.3.10

The EESC acknowledges the initiative whereby relevant amendments tabled in the Council and the EP would be subject to impact assessments (an element of the 2003 IIA), as this could significantly improve quality of legislation. At the same time, it regrets that the Commission communication does not sufficiently address this issue. Therefore, in the context of the better regulation procedure, it needs to be ensured that informal trilogues are reserved for particular emergencies and that the great majority of legislation takes place via the ordinary legislative procedure. Only this will ensure full democratic legitimacy and participation.

Outcome: rejected by 106 votes to 59, with 19 abstentions.
Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (recast)’

(COM(2015) 294 final — 2015/0133 (COD))

(2016/C 013/29)

Rapporteur working alone: Brian CURTIS

On 2 July 2015 and 6 July 2015 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 43(2) and 304 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (recast)

(COM(2015) 294 final — 2015/0133 (COD)).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 2 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 141 votes in favour with 2 abstentions.

1. Conclusions and recommendations

1.1. The EESC agrees in general with the Commission intent of building onto those things that work well, therefore maintaining a large degree of continuity, whilst at the same time responding to the new requirements, and considers that the proposed changes do not go beyond what is necessary and appropriate for the achievement of the basic objective of improving data quality, access and availability in the fisheries sector.

1.2. Data availability is the area where most progress should be made. The process through which end users request data from Member States (data calls) is too burdensome and resource-intensive; accessibility to fishing activity data varies across Member States due to differing access rules, based in part on limitations of the multi-purpose use of these data; Data Collection Framework (DCF) data are underutilised due to difficulties in accessing them, leading to great opportunities lost in the potential use of these data and to unnecessary investments when collecting the same data for other purposes (e.g. in maritime spatial policies). The revision of the DCF is an opportunity to, on the one hand, ensure better availability of fisheries data to a wider circle of interested parties and, on the other hand, reduce the burden of data requests on Member States by using the most recent technical developments.

1.3. Improvements in quality and reliability still need to be achieved. One way to guarantee a high quality of data will be to apply the European Statistics Code of Practice and the Quality Assurance Framework of the European Statistical System.
2. Background

2.1. An EU framework for the collection and management of fisheries data was established in 2000 (1), and then reformed in 2008 resulting in the Data Collection Framework (DCF) (2). The DCF represented major progress in establishing a harmonised set of EU rules governing the collection of biological, environmental, technical and socioeconomic data on the fishing, aquaculture and processing sectors.

2.2. At the adoption of the 2013 reform of the Common Fisheries Policy (CFP) (3), the Council and the European Parliament requested the Commission to fast track a proposal to amend the DCF in order that the principles and objectives for data collection that are essential to support the reformed CFP can be given practical effect as early as possible. The present proposal is intended to reach this objective through strengthening regional cooperation and adjusting to new data needs.

2.2.1. The DCF is to be aligned with the needs arising from the new CFP Regulation: the gradual move to Maximum Sustainable Yield (MSY), the impacts of fisheries on ecosystems (e.g. protected species, seabed habitats), the environmental and other impacts of aquaculture (illustrated by information on mortality/losses or use of medicines) and the effects of the landing obligation.

2.2.2. The revision of the DCF should also ensure that data are collected according to a cost/benefit or a cost/use analysis of the precision obtained by scientific models and the associated level of risk (for example, instead of conducting surveys every year, doing them every three years). Such an analysis should be based on a discussion between the fisheries managers, the data collectors and the providers of scientific advice.

2.3. The Commission proposal aims to align the DCF and other relevant EU legislation relating to fisheries data collection so as to remove overlaps and therefore reduce the cost of the entire system of marine data. A separate, dedicated impact assessment has not been deemed necessary because the DCF was subject to the impact assessment for the CFP since the intention was clear that the DCF should be a part of it.

3. Comments

3.1. The DCF is too complex, both the legal framework and in terms of implementation arrangements. One source of complexity and inefficiency is the duplication between data requirements covered by the DCF and other EU legislation such as the control regulation (4) and the specific statistical regulations (5). The fact that the same raw data has to be sent in differently aggregated forms to different end users is another source of complexity and inefficiency.

3.2. The legal setup of the DCF is excessively prescriptive and detailed, resulting in a system which is cumbersome and insufficiently responsive to evolving needs. It is therefore necessary to incorporate end users in the elaboration of the data requirements to ensure that these respond to their needs.

3.3. Another area of interest is the need to increase synergies with the objectives of other EU policies. This is primarily the case for the Marine Strategy Framework Directive (MSFD).

Brussels, 16 September 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

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Opinion of the European Economic and Social Committee on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed on their territory

(rolling programme)

(COM(2015) 177 final — 2015/0093 (COD))

(2016/C 013/30)

Rapporteur: José María ESPUNY MOYANO
Co-rapporteur: Martin SIECKER

On 30 April 2015 and 17 June 2015 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed on their territory (rolling programme)


The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 2 September 2015.

At its 510th plenary session held on 16 and 17 September 2015 (meeting of 16 September 2015), the European Economic and Social Committee adopted the following opinion by 138 votes to 6 with 7 abstentions.

1. Conclusions and recommendations

1.1. The EESC welcomes the European Commission’s plans to address an issue that has sparked considerable interest among the production sectors and public opinion in general.

1.2. The EESC welcomes the fact that the Commission is taking action on its mandate to find solutions to an approval system for GMO crops which has proved inadequate in practice.

1.3. The EESC regrets that the proposal does not give enough attention to key aspects such as traceability and legislative consistency between the food and feed sectors, or provide a socioeconomic impact study of the proposals.

1.4. The EESC also has reservations about the real possibility of implementing these rules in the single market and about certain legal aspects; this is not to mention the political problems and problems of public perception that run alongside these legal questions.

1.5. The EESC therefore advises the Commission to withdraw the proposal, as currently worded, and to draw up an improved proposal that addresses the shortcomings pointed out in this opinion and in other similar recommendations made by the European Parliament.

2. Background

2.1. Biotech crops (genetically modified organisms or GMOs) began to spread throughout the world in 1996. Since then, the area covered by this type of crops has steadily increased at an annual rate of 3-4%. Between 2013 and 2014 the area covered by biotech crops increased by 6.3 million hectares to comprise a total of 181 million hectares, cultivated by more than 18 million farmers in 28 countries. The largest cultivated areas are in the USA, Brazil and Argentina; there are also large areas in developing countries such as Burkina Faso, Sudan and Bangladesh. The main crops are maize, soya and cotton, although there are others such as aubergines, tomatoes and peppers.
2.2. GM crops are grown in five countries within the European Union (Portugal, Czech Republic, Romania, Slovakia and Spain), with a total coverage of approximately 148,000 hectares (including 137,000 hectares in Spain, 8,000 hectares in Portugal, 2,500 hectares in the Czech Republic, 800 hectares in Romania and 100 hectares in Slovakia (2013 data (1))).

2.3. Food and feed product labelling has, for over a decade, been legally required to disclose the presence of GMOs as a matter of course. At present, 85% to 90% of industrial feed produced in the EU are labelled as GMO or containing GMO, as such feed contains a significant quantity of raw materials of GMO origin, both imported and produced in the EU. These represent on average 20-25% of the total composition of industrial feed. If this proposal comes into effect, it may affect demand and supply for food and feed in the EU seriously. The effect this may have on European agriculture and subsequently on the CAP has to be assessed thoroughly. The EU rules to ensure reliable GMO traceability in food and animal feed should be extended to also label these products as non-GMO when they truly are GMO-free.

2.4. However, the EESC regrets and emphasises that similar efforts have not been made in EU legislation on traceability for food.

3. Existing regulatory framework

3.1. Since the entry into force of Regulation (EC) No 1829/2003 of the European Parliament and of the Council (2), there has never been a qualified majority among Member States in the Council in favour of or against a draft Commission decision authorising GMOs and genetically modified food and feed. The outcome has been a permanent ‘no opinion’ at all administrative stages of the procedure. As a result, authorisation decisions have been adopted by the Commission, in accordance with applicable legislation, but without Member States’ backing.

3.2. The return of the file to the Commission for final decision has become standard practice, although it should be very much the exception.

3.3. In the absence of a qualified majority among Member States, the Commission, as risk manager, must take a decision (to grant or refuse authorisation) within a reasonable period of time.

4. Commission proposal

4.1. The Commission’s proposal is to insert a new Article 34a into Regulation (EC) No 1829/2003. According to this Article, Member States may adopt measures to restrict or prohibit the use of GMOs provided that such measures are:

— reasoned and based on compelling grounds in accordance with Union law which shall, in no case, conflict with the risk assessment carried out, and

— proportional and non-discriminatory.

4.2. Where a Member State intends to adopt measures under the new rules, it shall submit the draft of those measures, and the corresponding justification, to the Commission.

4.3. The measures adopted shall not affect the use of food and feed containing an adventitious or technically unavoidable presence.

4.4. These measures shall not apply to GMOs for cultivation.

4.4.1. However, a similar procedure has already recently been adopted with Directive (EU) 2015/412, thereby allowing Member States more freedom to decide to restrict or prohibit the cultivation of GMOs in their territory (3). The present Commission proposal now seeks to create a similar procedure for GMO food and feed products, consistent with the solution recently agreed for GMO cultivation.

5. **Initial remarks**

5.1. GMOs are a thorny issue and they provoke intense passions, both positive and negative. This EESC opinion will thus be strictly limited to the pros and cons of the proposal and will not produce a more general evaluation of whether GMOs are inherently ‘good’ or ‘bad’ as has been previously done by the Committee (\(^4\)).

6. **Arguments in favour of the Commission proposal**

6.1. **Restoring the balance between national and EU competences**

6.1.1. It is well known that due to the current common agricultural policy's operational and budgetary constraints, many countries are now questioning the competences conferred by the Treaties in this area, causing political damage to the European institutions.

6.1.2. Furthermore, some Member States that are not ‘natural’ beneficiaries of the CAP often criticise the budgetary importance attached to this common policy and to other common policies under the third pillar. This political opposition is finding increasing support in certain Member States, a fact which cannot be ignored by legislators or the EESC.

6.1.3. In practice, the Commission proposal would hand back powers, satisfying the demands of some Member States (and public opinion in those countries) to restore the balance between national and EU competences, especially in an area where Member States still have powers (with respect to GMO crops).

6.2. **The proposal’s inclusion of legal precautions and safeguard clauses to prevent misuse by Member States**

6.2.1. The requirement that measures taken by Member States must be justified on a case-by-case basis means that these measures cannot be arbitrary and must also be compatible with the Treaties and, in particular and expressly, with the principles of the internal market and the Union's international obligations.

6.2.2. These precautions, together with the principle that government should be accountable, a key element of modern national governments, should ensure that exclusion decisions are exceptional and proportional.

6.3. **Removing an anomaly in the EU’s legal practices**

6.3.1. As the Commission states when providing the background to the proposal, the provisions of Regulation (EC) No 1829/2003 have never been completely fulfilled, as much due to national positions that are not based on science as due to the legal anomaly of the Commission making decisions directly (comitology).

6.3.2. This situation — truly exceptional in the context of the European regulatory system — would be limited if the proposal as presented by the Commission were to be adopted. Those Member States that have hitherto been determined that no decisions should be taken, or have been systematically opposed to sufficient majorities being formed, might no longer deem it necessary to mount political opposition within the Council if they can use other tools at national level to counteract or void the Council's decisions on this subject within their borders.

6.4. **Fulfilling its mandate**

6.4.1. By drafting the proposal amending Regulation (EC) No 1829/2003, the Commission is fulfilling the mandate it was given to submit a proposal that overcomes the limitations of the existing regulatory framework for authorising GM feed and food. The Commission's proposal is therefore necessary and timely.

\(^4\) OJ C 68, 6.3.2012, p. 56.
7. Arguments against the Commission proposal

7.1. Universal opposition from all the sectors concerned

7.1.1. The Commission proposal has met with widespread opposition, subsequently echoed by the media, both from sectors that have been in favour of using GMOs in food and feed and from all those who have usually argued against the use of GMOs. Significantly, it is worth noting the Committee on the Environment, Public Health and Food Safety of the European Parliament's public criticism of the proposal, on which basis its withdrawal has been recommended; a formal vote will take place in October (5).

7.1.2. The strong reservations expressed by these sectors, albeit the expression of different and even conflicting visions, will inevitably lead to a difficult parliamentary debate with an uncertain outcome that it may be wise to avoid by submitting the proposal to a more carefully thought-out review.

7.2. Risk of lack of transparency in national decision-making

7.2.1. The Commission maintains a common system of risk assessment relating to GMOs, set out in Directive (EU) 2015/412. However, the possibility granted to Member States to use national reasons as a way of restricting risk assessments and Community authorisations (and the lack of a mandatory and transparent system of public information regarding the reasons and justifications that lead Member States to pursue exclusion clauses) may seriously compromise pledges to make public decision-making transparent that were established and publicised as a priority in the Juncker Commission's policy guidelines. It would therefore be wise to demand that the regulation establish such national public information systems and ensure they are transparent and publicly accessible.

7.3. Risk of unpredictability

7.3.1. If the Commission proposal were adopted in its current form, the result might be an anomalous situation whereby Europe-wide public decisions taken according to scientific criteria may have different legal and economic implications for different Member States. This fact may undermine the predictability and credibility of EU decision-making.

7.3.2. There is no socio-economic impact assessment of the proposal, with a detailed description of the impact on costs for the food chain, cultivation, the supply of raw materials or any market distortions.

7.3.3. There is no mention of measures for ensuring GMO traceability in the labelling of food intended for human consumption.

7.4. Risk of international trade distortions

7.4.1. Although the Commission proposal requires compliance with the EU's international obligations, the regulations do not set out specific and definite limits to Member States' actions (opt-outs) that may contravene those obligations and do not establish mechanisms to enable EU institutions to overturn national decisions if they fail to observe the principle of compliance with international obligations. It is important to note that the Union's trading partners, in particular the US, have publicly expressed their reservations regarding the legislative proposal, and have even made the adoption of high-level trade talks (TTIP) subject to overcoming these reservations.

7.4.2. International agreements that are potentially affected or restricted by the possible implementation of the proposal (as it may create distortions equivalent to international trade barriers) contain generic WTO obligations or provisions such as the generalised system of preferences (GSP) for developing countries and even the 'Everything but arms' initiative.

7.5. **Doubts about compliance with the principles of free movement**

7.5.1. The Commission proposal refers to the need to uphold the principles of the internal market, which should not be changed by national measures taken in accordance with this proposal, especially since it is likely that in practice different EU regions would apply different provisions to cultivation, marketing and transport within the EU.

7.5.2. However, the lack of an exhaustive definition of the reasons that might justify the adoption of exclusion clauses — the absence of a positive or a negative list — as well as the lack of provision of legal mechanisms to suspend national measures that could be considered unfair, not sufficiently justified, or discriminatory, makes legal uncertainty a real risk.

7.5.3. Only the Court of Justice of the European Union will be able to resolve these uncertainties, unnecessarily tying up Member States’ administrative work in legal battles and potentially causing delays and higher costs.

7.5.4. It is this last argument that raises the most doubts regarding the timeliness and appropriateness of the Commission proposal in its current form.

Brussels, 16 September 2015.

*The President of the European Economic and Social Committee*
Henri MALOSSE