

Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and the Council on persistent organic pollutants (recast)

[COM(2018) 144 final — 2018/0070 (COD)]

(2018/C 367/18)

Rapporteur: **Brian CURTIS**

Council referral	13.4.2018
Parliament referral	16.4.2018
Legal basis	Articles 192(1) and 304 of the Treaty on the Functioning of the European Union
Bureau decision	19/09/2017 (in anticipation of the referral)
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	26.6.2018
Adopted at plenary	12.7.2018
Plenary session No	536
Outcome of vote (for/against/abstentions)	157/0/4

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the Commission proposal which aims to recast the POPs (Persistent Organic Pollutants) regulation in order to ensure coherent and effective implementation of the EU's obligations under the Stockholm Convention.

1.2. The Committee points out that in the EU, the placing on the market and use of most POPs have already been eliminated. However, due to the extremely dangerous impact of POPs on human beings and the environment, the manufacturing of such substances must be banned and exemptions restricted to specific applications. For this reason, the EESC encourages the Commission to establish stricter control measures, in line with the precautionary approach and the Rio Declaration on Environment and Development.

1.3. The EESC endorses the proposal to transfer tasks from the Commission to ECHA in order to establish a more appropriate setting in which to provide administrative, scientific and technical support for implementation. Nevertheless, the Committee flags up the need to establish a solid working method involving the Commission, ECHA, Member States and stakeholders.

1.4. The EESC recommends proper and limited use of delegated acts in order to maintain open dialogue with all stakeholders, with a specific focus on public awareness and transparency.

1.5. The EESC encourages the EU to be a global leader in the fight against POPs. EU action should be focused on harmonisation of national strategies and legislation for POPs monitoring and control. In particular, the Committee believes that the EU should promote sustainability and the upholding of POPs provisions in bilateral and multilateral trade agreements.

1.6. The Committee supports the proposal to organise a broad awareness campaign on POPs at EU level in the framework of sustainable development. The EESC considers that an open data bank on POPs could be a useful tool for enterprises and consumers.

1.7. The EESC remarks that training courses on POPs should be compulsory and available for all European workers whose jobs are directly or indirectly related to these substances. In particular, the EESC recommends that education and training initiatives should be harmonised and considered part of the same strategy according to a life-long learning approach.

2. Introduction

2.1. **Persistent Organic Pollutants (POPs)** are organic compounds that are resistant to environmental degradation through chemical, biological and photolytic processes. Because of their persistence, POPs bioaccumulate with potential adverse impacts on human health and the environment. Many POPs are currently or were in the past used as pesticides, solvents, pharmaceuticals and industrial chemicals. Although some POPs occur naturally, for example volcanoes and various biosynthetic pathways, most are manmade through total synthesis.

2.2. The effect of POPs on human and environmental health was discussed by the international community at the Stockholm Convention on Persistent Organic Pollutants in 2001 ⁽¹⁾. The Stockholm Convention, ratified by 180 Parties and based on the *precautionary principle*, is a global treaty that provides a legal framework to eliminate the production, use, import and export of POPs. The Convention, which included a list of 12 elements (including DDT), was signed by the EU in 2005.

2.3. The European Union commitment consisted of introducing measures to reduce the release of POPs into the environment in order to lower human and wildlife exposure. The European Union has been very active in nominating new substances under the Convention ⁽²⁾. **Regulation (EC) No 850/2004 (or 'POPs Regulation')** is the legal instrument that implements the commitment of the EU and its members under the Convention.

2.4. A second convention, the Aarhus Protocol on Persistent Organic Pollutants (last amended in 2009), relates to the long-range transboundary transmission of air pollutants. It directly prohibits the production of some of these pollutants, while setting a time limit for the elimination of others. Currently, 22 substances are on the protocol's list.

3. Gist of the proposal

3.1. The Commission proposal aims to recast the POPs Regulation. This initiative does not alter current legislation in terms of principles (precautionary principle) and goals (protection of the environment and human health), but rather responds to the need for full legislative alignment and improved implementation.

3.2. In particular, the proposal faces the following challenges:

- Aligning the POPs Regulation, which refers to Directive 67/548/EEC and Directive 75/442/EEC, with Regulation (EC) No 1907/2006, Regulation (EC) No 1272/2008 and Directive 2008/98/EC. Specifically, the POPs Regulation refers to a regulatory committee which no longer exists ⁽³⁾ and needs to be aligned with the Lisbon Treaty (TFEU). Lastly, it should be specified which rules are subject to implementing acts and which conditions apply to the adoption of delegated acts.
- Transferring tasks from the Commission to the ECHA ⁽⁴⁾ in order to establish a more appropriate setting in which to provide administrative, scientific and technical support for implementation. It is also proposed that enforcement of the POPs Regulation by the Member States should be supported by including a coordination role for the Forum for Exchange of Information on Enforcement established by Regulation (EC) No 1907/2006 of the European Parliament and of the Council ('REACH') ⁽⁵⁾.
- Including technical amendments to the operative provisions, such as clarifying existing definitions and adding the definitions of 'manufacturing', 'use' and 'closed-system site-limited intermediate' in order to improve and simplify current procedures.

3.3. The proposal includes a specific focus on transparency and public access to information. Public awareness programmes on POPs should be promoted and facilitated, especially for vulnerable groups, as well as training of workers, scientists, educators, and technical and management personnel. Moreover, the public should have the opportunity to participate in drawing up, implementing and updating *implementation plans* at national level.

⁽¹⁾ <http://chm.pops.int/>

⁽²⁾ In recent years, 16 more elements have been added to the initial list. <http://chm.pops.int/TheConvention/ThePOPs/TheNewPOPs/tabid/2511/Default.aspx>

⁽³⁾ Since 1 June 2015.

⁽⁴⁾ Regulation (EC) No 1907/2006.

⁽⁵⁾ Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

4. General comments

4.1. The EESC welcomes the Commission proposal which aims to recast the POPs Regulation in order to ensure coherent and effective implementation of the EU's obligations under the Stockholm Convention. Such measures are fundamental to establish a common legal framework, within which measures can be taken to eliminate the manufacturing, placing on the market and use of intentionally manufactured POPs, as well as to introduce annual checks by individual countries and to develop comparative data for the EU.

4.2. The Committee points out that in the EU, the placing on the market and use of most POPs have already been eliminated. Nevertheless, in order to minimise the release of POPs, the manufacturing of such substances must be banned and exemptions restricted to those which fulfil an essential function in a specific application. For this reason, the EESC encourages the Commission to establish stricter control measures than those under the Stockholm Convention, in line with the *precautionary approach* to environmental protection as established in the Rio Declaration on Environment and Development ⁽⁶⁾.

4.3. The Committee is aware that the Commission decision to skip any formal consultation with stakeholders and Member States is motivated by a general consolidated agreement with all public and private stakeholders on the measures to take to recast the POPs Regulation. Nevertheless, the EESC recommends that the Commission undertake an effective and inclusive approach for the next implementing steps.

4.4. The EESC endorses the proposal to transfer tasks from the Commission to ECHA in order to establish a more appropriate setting in which to provide administrative, scientific and technical support for implementation. Nevertheless, the Committee flags up the need to establish a solid working method involving the Commission, ECHA and Member States to ensure effective cooperation and better results. One cornerstone of this new working framework should be consultation of stakeholders.

4.5. The EESC considers that some aspects of the recast are completely technical. In line with its previous opinions ⁽⁷⁾, the Committee considers POPs to be a serious threat to the environment and public health. The EESC therefore recommends proper and limited use of delegated acts (where strictly necessary) in order to maintain open dialogue with all stakeholders, with a specific focus on public awareness and transparency.

5. Specific comments

5.1. The Committee would encourage the Commission to define more accurately the proposal whereby Member States should provide opportunities for public participation when drawing up, implementing and updating national *implementation plans*. In particular, the EESC considers that participation methods should be clear and common for all Member States. The Committee is convinced that more than individual people, organised civil society itself could play an important role. Moreover, it is not clear whether and how these initiatives will receive financial support from the Commission and how this important opportunity will be communicated.

5.2. POPs are a global threat. At present, the main challenge at global level is to harmonise national strategies and legislation for POPs monitoring and control. For this reason, the EESC endorses the Commission proposal for a more proactive EU role towards third countries with a view to tackling POPs emissions.

⁽⁶⁾ Rio Declaration, 1992. Principle 15: 'In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation'.

⁽⁷⁾ EESC opinion on *Persistent Organic Pollutants* (OJ C 32 of 5.2.2004, p. 45).

5.3. Nevertheless, the Committee considers that 'exchange of information'⁽⁸⁾ with third countries not party to the Stockholm Convention, or 'timely technical assistance upon request and within available resources'⁽⁹⁾ to implement the Convention are still too vague to eradicate POPs. In particular, the EESC believes that the EU should promote sustainability and the upholding of POPs provisions in bilateral and multilateral trade agreements⁽¹⁰⁾. Even international facilitator bodies, such as the Implementation and Compliance Committee established by the Minamata Convention, could be an important reference point here⁽¹¹⁾. The EESC firmly believes that the EU can be a front runner in sustainable innovation.

5.4. The Committee supports the proposal to organise a broad awareness campaign on POPs at EU level. At the same time, Europe should be more active in promoting education about sustainability and spreading information about best practices in the field of sustainability⁽¹²⁾. In particular the EESC recommends the creation of an open data bank on POPs in order to provide a useful tool for enterprises and consumers.

5.5. The Committee considers that training courses on POPs should be compulsory and available for all European workers whose job is directly or indirectly related to these elements. The EESC would point out that these aspects are already part of ongoing legislation, but uncertain and weak implementation means that new tools need to be identified for more effective implementation. In particular, the EESC recommends that information, education and training initiatives should be harmonised and considered part of the same strategy according to a life-long learning approach.

Brussels, 12 July 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁸⁾ COM(2018) 144 final, point 18.

⁽⁹⁾ COM(2018) 144 final, point 21.

⁽¹⁰⁾ EESC opinion on *Transition towards a more sustainable European future* (OJ C 81 of 2.3.2018, p. 44).

⁽¹¹⁾ The Minamata Convention on Mercury is a global treaty to protect human health and the environment from the adverse effects of mercury. It was agreed in Geneva (Switzerland) on 19 January 2013, adopted on 10 October 2013 at a Diplomatic Conference held in Kumamoto (Japan) and entered into force on 16 August 2017. It reflects an innovative and comprehensive approach, addressing mercury throughout its lifecycle from mining to waste management. <http://www.mercuryaction.org/>. Article 15.

⁽¹²⁾ EESC opinion on *Rio+20: towards the green economy and better governance* (OJ C 376, 22.12.2011, p. 102). See point 4.13.